



**National Assembly, New Assembly Building,**

**Reginald Pyne Lane, Banjul, The Gambia**

**P A R L I A M E N T A R Y   D E B A T E S**

**[HANSARD]**

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**OFFICIAL HANSARD REPORT**

**FOURTH SESSION – THIRD MEETING**

**MONDAY 21<sup>st</sup> September, 2020**

*SESSION – 2020*

**DAY 2 OF THE DEBATE ON THE CONSTITUTION OF THE REPUBLIC OF THE GAMBIA, 2020**

**(PROMULGATION) BILL, 2020**



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

**VOLUME: 8**

**NUMBER: 3**

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Fourth Meeting of the Third Session of the Fifth Assembly  
of the Second Republic of The Gambia.

Proceedings of the Sitting of the House on Monday 21<sup>st</sup> September, 2020

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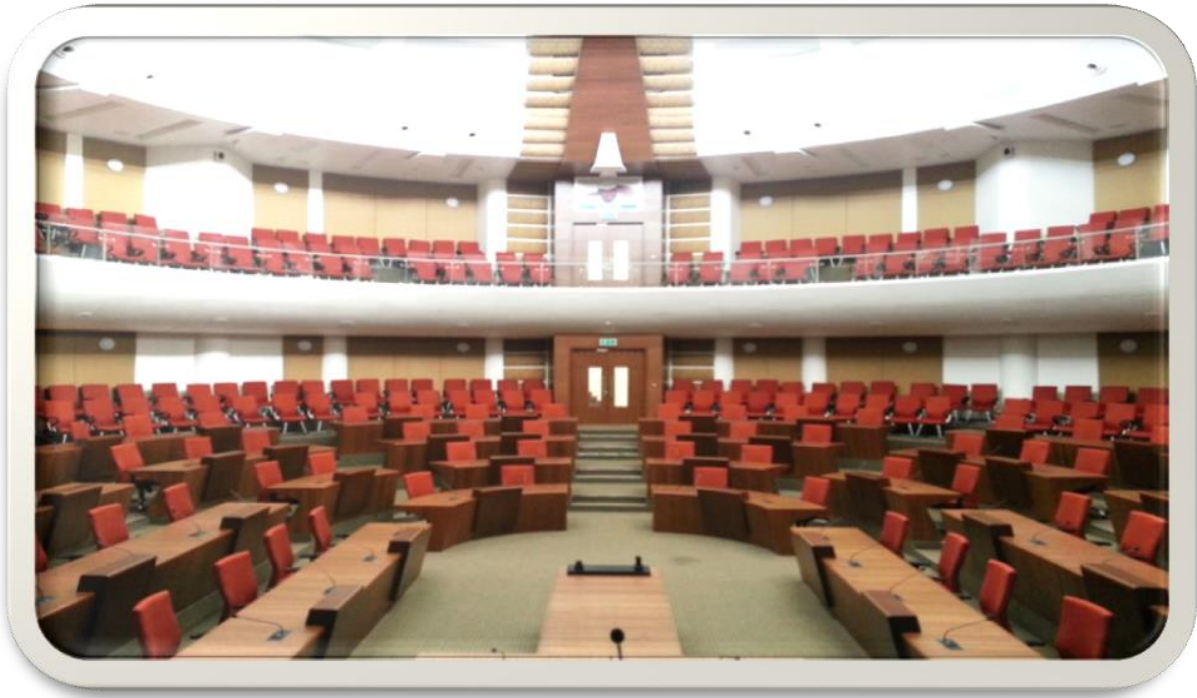
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**THE CHAMBERS OF THE NATIONAL ASSEMBLY OF THE GAMBIA  
OFFICIAL HANSARD REPORT OF THE PROCEEDINGS OF THE  
HOUSE**

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

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**MONDAY 21<sup>st</sup> SEPTEMBER, 2020**

**1. PRAYERS:**

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

*[The House met at 10:00 a.m. in New Assembly Building, Reginald Pye Lane, Banjul]*

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

The House was called to Order!

## **2. Communication from the Chair**

**THE SPEAKER:** Good morning Honourable Members, good morning Honourable Ministers and members of the Press.

Honourable Members first, I wish to congratulate you all for your remarkable support and cooperation in making the event- the State of the Nation Address delivered by His Excellency, President of the Republic of The Gambia on Thursday the 17<sup>th</sup> of September, 2020 a success.

In the same vein, I also thank the Clerk, the entire Staff of the National Assembly and Members of the Taskforce for the support and commitment in ensuring that the event was successful. The success of the event is of course evident that they did well individually and collectively. And I register my special thanks and appreciation to all of them.

To the media and the public as usual, we are always grateful for the support and partnership over the years which have been very fruitful. Our sincere appreciation also goes to the media fraternity in particular for their continuous cooperation which is crucial in reaching out to the masses whom we represent.

Honourable Members, before we commence the debate on the State of the Nation Address 2020 delivered by His Excellency, the President of the Republic on Thursday the 17<sup>th</sup> September, 2020, the Assembly will as a matter of procedure provided for under clause 14(2) of the Standing Orders, first consider the Third Reading of the Women Enterprise's Fund Bill 2020 followed by continuation of the second reading of the Constitution of the Republic of The Gambia.

On that note, I thank you very much. Clerk, can we proceed?

## **3. Correction and Approval of Record of Votes and Proceedings of the National Assembly Sitting of Wednesday 16<sup>th</sup> September, 2020.**

**THE SPEAKER:** Thank you Honourable Members, the Record of Votes and Proceedings of the National Assembly Sitting of Wednesday the 16<sup>th</sup> of September, 2020 is before us for consideration and adoption. Can any Honourable Member please move that the said Record of Votes and Proceedings be considered and adopted?

**HON. KAJALI FOFANA [JARRA WEST]:** Thank you Honourable Speaker, I rise to move the motion that the Record of Votes and Proceedings of the National Assembly Sittings of Wednesday 16<sup>th</sup> September, 2020 be corrected and adopted. Thank you.

**THE SPEAKER:** Thank you very much, Any Seconder?

**HON. ALHAGIE H. SOWE [JIMARA]:** I so second Madam Speaker.

**THE SPEAKER:**

*[Question Proposed]*

Any issues or observations, corrections from Honourable Members? Two Records have been circulated, the one for the 16<sup>th</sup> September and 17<sup>th</sup> September, so we start with the 16<sup>th</sup> September, 2020.

**SPEAKER:** Foni Berefet, are you satisfied now? Thank you.

**HON. ALHAJI SANKUNG JAMMEH [FONI JARROL]:** Page 3, thank you Madam, for consistency purposes my name Alhaji S, I do not use (S) as an initial because (S) could mean any other name different from Sankung so I would want them to maintain "Sankung" instead of writing (S) please.

**HON. SUWAIBOU TOURAY [WULI EAST]:** Page 7 under the adjournment, first line, the Assembly do stand 'adjourn', "ed" should be added to adjourn.

**HON. ALHAGIE DARBOE [LOWER FULLADU WEST]:** Yes, on Page 8, those in favour please say 'Aye' and those not in favour please say 'No'. It is either the 'Ayes' or 'Nos' have it but nothing is mentioned here in the record. Which one have it, is it the Ayes or the Nos?

**HON. SUWAIBOU TOURAY [WULI EAST]:** Page 8 the last paragraph, this Assembly now stands adjourned. If you are reporting just say this Assembly was adjourned instead of repeating what you have said.

**THE SPEAKER:** If we adjourned till Thursday, I thought we say the Assembly stands adjourned till Thursday.

**HON. SUWAIBOU TOURAY [WULI EAST]:** Well, say now the Assembly stands, you were saying that at that time but today the Assembly stands adjourned.

**THE SPEAKER:** Yes, I understand but is it not correct that we are reporting what happened on that day?

**HON. SUWAIBOU TOURAY [WULI EAST]:** Yes, we are reporting.

**THE SPEAKER:** We are reporting what happened that day. No, I am just asking, is it not also the fact that this is a report of what transpired on that day?

**HON. SUWAIBOU TOURAY [WULI EAST]:** Yes, I know. You mentioned that this Assembly now stands adjourned, that is what you have said on that day but when you are reporting now, you are not supposed to use now, you are mentioning today. This Assembly was adjourned because it was done before not now.

*(Question Proposed Put and Agreed to)*

*(That the Record of Votes and Proceedings of the National Assembly Sitting of Wednesday 16<sup>th</sup> September, 2020 has been adopted with amendments).*

#### **4. Correction of Record of Votes and Proceedings of the National Assembly Sitting of Thursday 17<sup>th</sup> September 2020.**

**THE SPEAKER:**

Honourable Members the Record of Votes and Proceedings of the National Assembly Sitting of Thursday 17<sup>th</sup> September, 2020 is before us for consideration and adoption. Can an Honourable Member please move that the said Record of Votes and Proceedings be considered and adopted?

**HON. KEBBA JALLOW [JARRA CENTRAL]:** Thank you Honourable Speaker, I rise to move that the correction and approval of Record of Votes and Proceedings of the National Assembly Sitting of Thursday 17<sup>th</sup> September, 2020 be corrected and approved. Thank you.

**THE SPEAKER:** Any Secunder?

**HON. KADDY CAMARA [FONI BONDALI]:** I rise to second the Motion, Madam Speaker.

**THE SPEAKER:**

*[Question Proposed]*

Any issues, observations or corrections from Honourable Members? The Records have also been circulated.

**HON. SIDIA S. JATTA [WULI WEST]:** Honourable Speaker, the names of Members, are they written alphabetically or they are splitted helter-skelter? Because my name keeps on floating between 9, 30 something, 20 something, what is that? I am asking whether our names are written alphabetically or helter-skelter. For consistency purposes, they should be written alphabetically.

**THE SPEAKER:** Consideration, but I am being informed by the Table Office that we cannot be consistent because at the moment, we will look into it as I said but that Honourable Members come in and not everybody gets in at the same time and usually I see the Table Office Clerks going round, taking record of Honourable Members present. We have taken note and it will be looked into, thank you.

**HON. ASSAN TOURAY [BAKAU]:** Page 1, the Honourable Member for Jeshwang was not here on Thursday and his name is captured in the attendance list as present.

**THE SPEAKER:** It will be corrected, thank you.

**HON. SAINY JAWARA [LOWER SALOUM]:** On the attendance No. 36, Hon. Sulayman Saho, Central Badibu was not here too and his name is captured in the list.

**THE SPEAKER:** Honourable Members, 2 Honourable Members Lower Saloum and Illiassa, I usually find it difficult to pick up your words but thank you for the correction it is taken note of. Any more correction?

**HON. OUSMAN TOURAY [SABACH SANJAL]:** Page 2, No. 41 Alhagie H. Sowe was also absent on that day.



**HON. MAHTARR M. JENG [LOWER NIUMI]:** Page 3, Communication from the Chair, the third line of the paragraph, if I may take a snoop of it, 'The Nation on the condition of The Gambia', it should be "conditions of The Gambia"

**THE SPEAKER:** We will take the wordings of the Constitution. Thank you

**HON. ALHAGIE H. SOWE [JIMARA]:** Thank you Madam. I think the Honourable Member for Foni Jarrol raised something very important concerning about the way his name is written 'Alhaji S. Jammeh' but then it should be "Alhaji Sankung Jammeh" for consistency purpose.

**HON. ASSAN TOURAY [BAKAU]:** Page 3, where you have the following National Assembly Member's seat was vacant, the Honourable Member for Niamina West. I think the reason of the vacancy should be indicated.

**THE SPEAKER:** Please, this should be sorted out once and for all because it keeps on coming up every sitting. Any more on page 3?

**HON. SUWAIBOU TOURAY [WULI EAST]:** Page 4, first paragraph second line, His Excellency 'will' should be changed to 'would'

**HON. SAINY TOURAY [JARRA EAST]:** Thank you Madam Speaker Page 5, the last paragraph where you have, finally the Honourable Speaker thanked the Honourable Deputy Speaker, Office of the Clerk, Taskforce Members and all those who in their various ways contributed immensely to making the event a success and pray that the Almighty Allah 'continued' to bless and guide us all. It should be 'continue' not "continued."

**THE SPEAKER:** Honourable Member for Wuli East, I am sure you will prefer this sentence to the previous one contained in the proceedings of 16<sup>th</sup> September, 2020. I said I am sure you will prefer this where it says 'Honourable Speaker adjourned the Assembly instead of now.

We have also taken note of the observations and they will be addressed in due course.

*[Question Proposed, Put and Agreed to]*

*(That the Record of Votes and Proceedings of the National Assembly Sitting of Thursday 17<sup>th</sup> September, 2020 be adopted with amendments)*

**BILLS:**

**Standing Order 72(20) and 75 Third Reading of the Gambia Women Enterprise's Fund Bill 2020 (By: the Honourable Minister for Women and Social Welfare).**

**THE SPEAKER:** Thank you very much. Honourable Members will recall that the consideration stage of 'The Gambia Women Enterprise's Fund Bill 2020' was concluded on Monday 14<sup>th</sup> September 2020. Accordingly, today is the appointed day for the third reading in accordance with Standing Order Clause 75.

Now, I would therefore invite the Honourable Minister for Women, Children and Social Welfare to move a motion for the third reading of the Bill entitled 'The Gambia Women Enterprise's Fund Bill 2020'. Honourable Members will recall that we had completed the consideration stage and the Bill was supposed to have been circulated, the neat version which I hope has already been done and everybody has a copy because once it is passed we cannot touch it any more.

Honourable Minister before I allow you, let me allow Honourable Member for Central Baddibu then may be the Chair will come because I saw his tag up.

**HON. SULAYMAN SAHO [CENTRAL BADIBU]:** I wanted to ask for the neat version of the Bill but I am being informed that it is circulated already and my copy is in the pigeonhole.

**HON. OUSMAN SILLAH [BANJUL NORTH]:** Thank you very much Honourable Speaker as you indicated that the neat version is supposed to be before us, but some consultations were done during the weekend to ensure that it is cleaned. It captures everything that was discussed and agreed by the Committee of the Whole House. But I have still noticed some missing things and I think it is important as you indicated for us to do the corrections now before the Minister comes.

The advice also is that when they have these things, it is important that they come and place it on our tables rather than pigeonholes because I think that is the problem that most of them are having. They are not in the habit of going to their pigeonholes when they come in the morning.

**THE SPEAKER:** Honourable, what I have suggested to the Office of the Clerk is that, I think it is only fair that in future, after these amendments are done at least we give 2 days to enable all the corrections, amendments to be adequately captured. But I think half a day is really too short to ensure between printing because you may print and observed that there are still further omissions which need to be corrected. So I do not know under the present situation, whether it will not be better if we push this or adjourn it and allow everything to be tidied up because in any event, you need a clean version as agreed between the Ministry and the Committees. That is just my proposal because I did not know, for me, I thought that everything was tidied up but we are being told that there are still some issues to be tidied and we thought we had finished the committee stage but they have some omissions not captured here but discussed at the committee stage am I right? If I get you the Honourable Member for Banjul North.

**HON. OUSMAN SILLAH [BANJUL NORTH]:** No, these are just one that can be called minor, the missing ones are, like I said, in our consultations were taken up and factored in the final document. But these are numberings and some wordings in terms of formatting is part of it but I do not know whether other members of the committee would want us to defer it till tomorrow or we proceed with it today but for me, it is not a problem I think we can proceed with it if they want.

**THE SPEAKER:** The committee members are here, we have the Co-Chair.

**HON. OUSMAN SILLAH (BANJUL NORTH):** The Co-Chair is suggesting that we move it for tomorrow.

**THE SPEAKER:** We are guided by your observations over your advice.

**HON. HALIFA SALLAH (SEREKUNDA):** Thank you Honourable Speaker, we are really operating according to Standing Order 72, paragraph 20 that when a Bill has

been amended at consideration stage, the whole text of the Bill together with a revised memorandum of objects and reasons amendment shall if practicable be printed but if it is not practicable the text of every clause or schedule amended and every new clause or new schedule added shall be printed, published and circulated to members in advance of the final stage. So Honourable Speaker, this is the final document that we are voting on, it is the law and so it is prudent that we clean a lot before the end of this session so that it is simply coming and voting on what we have already processed.

So I would propose that we postpone it and allow that process to take place between the Committee, the Minister and our Staff so that we clean it up and circulate the copy that we would finally consider to be the law.

**THE SPEAKER:** I think Honourable Sallah that is exactly what I said or suggested and I said I would leave it with the committees so in that case, we would suspend the deliberation on this bill that is the third reading until things are sorted out because we need to get it printed and the final and neat copy circulated to members well in advance. We still have time to go to the third stage. So Honourable Minister I am sure the Committee and also Table Office would get back to you so that you can get the finalised printed and circulated well in advance to Honourable Members for them to ensure that everything has been adequately captured.

On that note, we would push the continuation until later. Clerk can we continue with the next item on the Order Paper. Thank you.

**BILL:**

**Standing Order 67(1) – Second Reading of the Bill: The Constitution of the Republic of The Gambia, 2020 (Promulgation) Bill, 2020 and the general merits and principles.**

**THE SPEAKER:** This is a continuation from where we stopped the last time. Honourable Members will recall that the second reading of the Constitution of the Republic of Gambia 2020 Promulgation Bill 2020 was done on Wednesday the 16<sup>th</sup> of September, 2020 and the debate commenced then. Today we will continue with the

debate on the general merits and principles of the said Bill. Therefore, in accordance with clause 67 sub-clause (1) of the Standing Orders, I will open the floor for continuation of the debate on the general merits and principles of the Bill.

Any Honourable Member who wishes to take part and whose name was not recorded can raise his or her constituency tag and I will do the recording accordingly. But before giving any Honourable Member the floor again, I wish to strongly emphasize or lay emphasis on Standing Order Clause 67(1) that the debate shall strictly be on the merits and principles of the Bill and I would not hesitate to call to order any Honourable Member who deviates from this. For now, we are not debating the details of the Bill.

Furthermore, after the debate on the general merits and principles, a vote shall be taken on the second reading as required by Section 226 (2) B and 4(B) of the 1997 Constitution. A vote of not less than three quarters of all members is required before the Bill can proceed to the next stage of the process. This is a Constitutional requirement for all Honourable Members to kindly take note and on that note, I thank you very much and as I said, the floor is opened for continuation. I already had a list so I want to continue from where we stopped. Yes I have noted Foni Brefet, I just want to confirm you were originally on the list. Foni Brefet, yes I have noted you down.

**HON. MOMODOU S. CEESAY [JANJANBUREH]:** Thank you Madam Speaker for giving me the floor. I just want to remind myself and my fellow National Assembly Members that one of the reasons why the entire Gambia decided to go in for a new constitution. First of all, if I stand here today and hold this constitution, I do not think I am holding the right constitution because this has been doctored more than 50 times so this is not the right constitution.

Secondly, the Hon. Member for Wuli West has said it here that in this constitution The Gambia was not defined so there are a lot of salient issues that are not in this and at the time when the act was coming to this Parliament, I do not think there was anyone here who would have gone against this constitution.

Madam Speaker, we have been informed according to the report that because of the process they took, we asked them to go because the Act was approved by us here. In

other words, we asked the CRC to prepare this document and how did they do it? They informed us that they went according to the Act which was prepared by the Executive and sent to us for approval. They informed us that they had 263 focus group discussions throughout the Gambia which involved almost more than 8000 people individually and a lot of processes that are mentioned here.

Madam Speaker, the CRC also informed us that the first 3 months of the work, they reviewed the 1965, 1970 and 1997 Constitutions. Unfortunately, I would agree with some of my Honourable colleagues that I think the Kenya's one should have been included here so that when you quote from it, it can be valid but it is not that unfortunately. Again, we are being informed that they have consulted, position papers that were given to them by 31 NGOs, 23 Departments, Ministries and Agencies, 8 Religious organisations and I do not even know that we have 8 Religious organisations in this country.

*[Point of Clarification]*

**HON. HALIFA SALLAH [SEREKUNDA]:** Honourable Speaker, if you look at page 217 of the report, it mentions references, page 217 and if you go to page 219 item 30, 31, 32, 33, 34, you will see Ghana Citizenship Act---

**THE SPEAKER:** Can you refer me to the relevant page?

**HON. HALIFA SALLAH [SEREKUNDA]:** It is the report of the Constitutional Review Commission.

**THE SPEAKER:** I am using the gazetted copy that is why.

**HON. HALIFA SALLAH [SEREKUNDA]:** No, not the copy itself but the report, page 217 has references and if you go to page 219, it mentions many constitutions, 30 Ghana Citizenship Act and 31 is Ghana Constitution, 32 Malawi Citizenship Act, 33 Malawi Constitution, 34 Kenya Constitution. Well in academia, what you really do is make references anytime you have literature review. You make references so that nobody can alleged that you have plagiarize.

**HON. MOMODOU S. CEESAY [JANJANBUREH]:** Thank you for that rectification. Honourable Member, I have not reached to that portion may be that is why I did not see it. We are informed that 10 International Governmental organisations Put in their position papers, 98 individuals which anyone of us could have done.

In fact, I want to say this Madam Speaker that National Assembly Members have the opportunity to have met with CRC on numerous occasions, I stand to be corrected but I think they had meetings in every district of this country and some of us here have more than one district in their constituencies. So the opportunity to have met them was numerous but we did not. The National Assembly was consulted through the right committee and I think if I am right, they have sent in their position papers. 4 educational institutions sent in their position papers, 98 individuals again we could have been among and I think one of us could have written a position paper and I am sure some probably might have done that.

Finally, 3 political parties, all these listing was done by Gambians which really tells us that this constitution was very consultative and participatory. This does not the least mean that I do not also have my objections.

Madam Speaker, if I want to enumerate what comments I also have on this constitution, my number one thing would be the citizenship. I agreed that Gambians should open up and allow other people to be registered as Gambians but we are saying let it be in the right manner, go and do the naturalization or whatever in the right manner that is what we are asking for. So I think that portion of citizenship should have been more elaborated that is my feeling. And I think we are all at one time here, either at committee level or at the plenary that we said the President at least should be coming here twice every year, beginning of the year to highlight what he has planned and at the end of the year to come and tell us what they have achieved, what they have not achieved and why they have not achieved them. But this Constitution is saying that the president should come at least once.

Madam Speaker to my humble opinion, where you have presidential term limit, the National Assembly Members, Councillors, and the Chieftaincy is left quite open. If a 20-year-old is elected as a chief and supposedly he is to live for 100 years he will be

a chief for 80 years and we have seen numerous times where chiefs are not functioning, they sit in their rooms and their kids running the affairs of the district, we have seen that. It is my ardent belief that the Chieftaincy and the 'Alkaloship' should also for democratic purpose have term limits and we were all happy that certain appointments should be coming here for vetting.

Under normal circumstances, this is what is happening in a lot of countries but it is my feeling that if the president selects or nominates somebody for the National Assembly to approve, I think the National Assembly should also be consulted when that person is being dismissed. Not to take permission from them but at least give them the reasons why you dismissed that person but that is not in the Constitution.

Finally, Madam Speaker, the Commission's report, the Acts are being approved by the National Assembly and what normally happens, we have seen just recently when commissions are being summoned, we approved them without even knowing what the report contains. But all these I am saying are my personal opinions, is it the opinion outside? Is it the opinion even inside here? I do not think so or it may not be. So based on that, I do not think it will be fair for me to stand here to say I am going against the Constitution because I have my personal objections on certain parts of the Constitution. So I am again advising myself and my fellow NAMs that a lot is at stake, a hundred and sixty-four million had been spent to produce this. I would have been very happy if they had given that to Agriculture so that we buy equipment for the farmers but no it has been spent to produce this. Let it be hundred million plus the time and the energy spent on this. I was thinking probably if anybody is to object to this, it should be the people themselves, the people who were consulted, the people whose ideas are in this should be the people who will say yes we disagree because this is not what we had agreed on when you came here. So we are rejecting it that is my humble opinion.

Today after this debate, the onus is left on us, if this passes, it is the Gambian people that will win but if it fails by us, I think we will not be in the good moods of the people because Madam Speaker, these days a lot has been said, a lot is going on since yesterday up till today on this Constitution. So, there is a definite need for us to rethink. This Constitution if it comes even after the referendum, any portion of it that



we do not like, we can bring it back to the National Assembly to change it. Is not a Bible or Quran that one can say we cannot touch it. This is why I am appealing to my fellow NAMs to reconsider our positions. Yes there are one or two things that we may have some objections on in this Constitution but we must always remember that it is your personal opinion about it and if your personal opinion does not coincide with what was told to the CRC when they went to the people, I do not think the CRC will do a good job by putting your personal opinion here and leaving out the opinion of the people.

Madam Speaker, I appeal for us to reconsider our positions and pass this Constitution. Thank you.

**HON. DEMBO K. CAMARA [ILLIASSA]:** Thank you very much Madam Speaker for giving me the floor. Before I go further, we have heard or read so many opinions from CRC, so what we should do now is to establish facts that is what we should do.

Madam Speaker, when I read this draft Constitution, I was highly convinced that this is one of the best Constitution forever and Madam Speaker I was very disappointed to hear that most of the NAMs were saying that this is a carbon copy. Madam Speaker, I will ask them and also I will inform the National Assembly that there is only one original that God has created that is Adam and the rest are carbon copies. And I was even happy when I heard from you that you hardly understand my language, I was happy, I was very much happy to hear from you but now if I point out one among the MPs and say that he/she is not a carbon copy of his/her father, how would that person feel it? Uncomfortable.

The CRC did a wonderful job because if you could allow me, I will refer this House to their report page 32 number 7 of the report and it reads "the CRC contacted about 874 people and out of that, 818 individuals have participated in face to face interviews and 56 individuals volunteered to go and see CRC to express their views. For that being the case Madam Speaker, to be quite honest this Constitution is not for witch-hunting anybody because the people who voted us in were asked by the CRC and they gave them their due and this is what they want to govern them that is this Constitution. So you should not rely on what people are saying that this is a carbon copy from

Kenya and it is a shame. You cannot be perfect, collect ideas from people from there you can govern people otherwise you cannot be a good leader.

Madam Speaker, I have no doubt in this constitution, only few issues that I will point out during the Committee Stage that is the rights of women, qualification, nationality and term limit. I think it is not even necessary for us to debate on term limit. Let us try to recall the past, I think we are once against the First and Second Republic because of what over stay. So, at least to be honest to ourselves and to be godly and sincere to ourselves, if we are here for the interest of the nation, not for our own interest, at least we should accept all inclusive.

May I remind my fellow citizens during the 3 years demonstration, they all succeeded simply because the Constitution says that the president should stay for 5 years not 3 years that is why we are able to stay up to this time. Let me remind you again why Nigeria's president Good luck Jonatan, served for about only 4 years and he is now the happiest ex-president in Nigeria, Nelson Mandela, he served 27 years in jail and he was there to fight for freedom but for African presidents, I wonder why they are even greedy staying in power for over 15 years.

On my final note Madam Speaker, I swear to the Holy Quran as a pure Muslim, if this Constitution fails, Illiassa constituency and I will point finger at the president honestly speaking and they should obey it as of everybody. According to the script that I have, it is talking about the election but there is no emphasis on this Constitution. My stand is that the Constitution is one of the best so far but my problem is that of women's rights which I will talk about later. Before I take my seat, Madam Speaker, if the National Assembly Members refuse to endorse this Constitution, the future will tell.

**HON. ALHAJI SANKUNG JAMMEH [FONI JARROL]:** Thank you very much Honourable Speaker, for giving me the floor. If I am to start first with the issues on the table discussed, I will say that this is a conspiracy against the 1997 Constitution and which I may assure you that it will not work.

Honourable Speaker, going through the document, the consultation with my people who through them I am here as a National Assembly Member. We went through the document and what we came out with is that there are many irregularities, many

loopholes that need to be looked into for what so ever, we cannot be fooled twice as a country. I mean we have to be very careful; it is this 1997 Constitution that has made you and I and the President to be what we are today because we all sworn to it and up to date, it is that document that the government is still functioning on. So, why the repeal? We can made amendments, go through some of the necessary or unnecessary things that we think are not fit to be there and we make changes. Saying we have spent [116] million, I mean that is nothing to me because it is all about life and this is all about governance, this is why sometimes when you are taking up things, you have to be very careful and study it thoroughly. Do not just say because I am in power so I have to do whatsoever. Most of us here are opposing the coalition government and we are the very people who came up with that selection to get this man there that is the president and now we are saying no, because of certain weaknesses that are prevailing. So, should we also allow the same thing to happen to this document? I have my reasons as I said now by the way, if I may refer to chapter [8] of the draft bill if you may allow me on Section [84] page [37] on political parties, now if you go to subsection [2], G and H to my people.

*[G] "said that; ensure that at least 10% of candidate for election to the National Assembly are youth but how are we going to be sure of this? Maybe in an area where you do not have that youth participation in politics, at least to give you that number, percentage as a political party would not be easy. Then what are you going to do? And*

*[H] "Says publish to the public annually, their audited accounts within six months of the end of the financial year for which independent boundaries and electoral commission may register the party". What for?*

When that public do not sponsor your party or the public is not the group that is sponsoring your party only the militants, why can that be in the congress, whereby you tell your people how you spent the party's money rather than the public. It is not like the government where everybody's money is being put into, but for parties not everybody's money is put into. It is only those people who are in the party who contribute to the welfare of the party. So, it is important to let that people know but

the entire nation, meaning you are revealing your secrets and every life needs secrecy. So, to us this will be very important if it is talking to the congress.

Now you move again to Section [85], on Subsection [2]. Madam Speaker, "*the Executive authority vested in the president includes upholding the values and principles of this Constitution and all other laws validly enacted by the National Assembly*".

So, do the CRC want to tell us that whatever we enact here are not validly enacted? So, the word validly to me should not be there. So, if you are to maintain that validity meaning the National Assembly has not been enacting issues that are valid. So, to us we forget about validity or validly and they say all other laws enacted by the national Assembly simple.

Honourable Speaker, to be honest with you I know many people are talking, you go to the media, you go to ghettos everywhere, people are taking about this issue and we have to be honest. We are all represented by people or we are representing people and it is this people who brought us here and people have different opinions. So, let no one sees us to say – because I am saying no to it, so I am a bad Gambian. If you think that is right on your side, that is your opinion but my people who brought me here are saying let me not see that this document should be something that I should agree to and we have our reasons if time will allow me to come up with it.

May I refer you again to Section [89] Subsection [2] which reads: "*The address by the President shall relate to matters concerning the state of the nation and may include previous, current and future policies of the government*". So, it is not mandatory. He can say what has happened past or not and we would want to know what the president has been doing in the past because that present situation you are telling the people, what you have done and what your achievements are or where but now if you say may, that is not mandatory. He may or may not. So, if he should say shall include previous, the President should tell us what his or her government has achieved and then again 97, if you can go to 97.

**THE SPEAKER:** Can you avoid the details for the time being, you can deal with this specific section but just the general principle of it. Let us just try to avoid the details for the time being.

**HON. ALHAJI SANKUNG JAMMEH [FONI JARROL]:** But I am getting from the Bill, so I think I am on the right track. I said page [97] but before 97 can we see [94] on page [42]; disqualification for election as president, B, C, and D; our concern here is the gross misconduct and [D], terminated; now to us when your service is terminated, it is different from when you are dismissed because termination goes with benefits. So, somebody whose services is terminated, if you want to say that person will not be qualified to stand as a president, I cannot understand that. So, maybe unless you buttress and explain it to us to understand, we are saying maybe to make the sentence or the phrase or clause correct - is subject to Subsection 2[A] as during any period of service in a public office or a private sector in the Gambia, being dismissed for dishonesty or immoral conduct something like that but when to say I am terminated but is not because of my misconduct or immorality caused my dismissal. So, am I not qualified to stand as a first elect candidate? So I want you to help me and my people to understand that.

Section [97] page [44], procedure of election of president, we have to study this place very thoroughly, like it says if I may read; [97] 1,2,3, and 4, especially 4 where it stated that "*At the first election more than two candidates receive equally the highest number or second highest number of valid votes, the candidates who received the highest number and second highest number of valid votes, shall participate in the second election unless any of them withdraw his or her participation*".

Like for example, this is like a mathematical work, like you have five candidates that stood for the election and maybe, [A] got 36 and [B] 28, [C] 28, [D] 5 and [E] 3 sum up that and you have [100]. You go to the second round, now it is A, B and C, because they have the same number of votes going for the second round and there you have 33 [A] but 33[B] got 35 and [C] got 32. So, here by the Constitution you should have 50 plus. By looking at the mass calculation, the second person who got 35 in the second round did not have 50 plus 5. So, I want you to explain to us how is this man qualified to be the president when at the first round, the first got [36] and there he is

not considered, went to the second round and then you have somebody who got [35] and that man is chosen as the president. So, I want you to explain it to us to understand ok.

**THE SPEAKER:** I do not like to interrupt Honourable Members when they make their interventions but as I said early on, can we just deal with the merits and the principles. It appears as if you are going into the details to the extent of even doing some mathematical calculations, I stand to be corrected. You can broaden your argument to cover a large scope and then it will be understood because the sections are there, we can all read. Just a second please let me land Honourable Member for Serekunda. Are you with me? Are we together?

*[Point of Clarification]*

**HON. HALIFA SALLAH [SEREKUNDA]:** Well, I hope the Honourable Member is guiding us properly in terms of the interpretation of what he is saying. What this seems to be saying is that, if you have the person [35] and the second position, you have two people having [33], then you have a problem there all three are there, one is first and the other two are second, so if the other two, one drops you can still continue. Otherwise all of them will have to participate. So, what are you guiding us?

**THE SPEAKER:** Just avoid the details for the time being.

**HON. ALHAJI SANKUNG JAMMEH [FONI JARROL]:** What I am trying to say here for the Minister to explain for me to understand is the calculation I came out with, because I said first round you have two brackets with one leading this course and now going for the second round, there now you do not have bracket but you have 32, 33 and 35 and that is where according to this Constitution, the election stops there because there is nobody that has given up for the other. Now, in this event how are you going to go up again? Where there is nobody among this people who has plus [51], this is what I want to understand and that is why the election stops.

Honourable Speaker, as I said earlier, the 1997 Constitution should have been looked into for amendments and I am even much disappointed when my fellow members dare to say that there were many allegations against that 1997 Constitution. They said it is a military Constitution, APRC Constitution you name it. So, where are the people

for 22 years, the National Assembly has been existing up to today, there is no challenging except when his time came up to say let us review. Some said it here, no need to review it or to get another new one. Can you not go through and see how best we can make some changes or bring in those that were deleted and see so that, we will have at least not that much cost as you are saying. I think it is going to be lesser cost than what we are now expecting and let me tell you, it is not also bad to send your child to the shop to buy you something that you want, that child went to the shop and did not come up with what you want, what do you do? You ask the child to go back and get what you want. So, if the same comes, this Constitution has come, we ask this people to give us what the Gambian people want and it did not happen in a way we wanted. Obviously, we have to ask them to go back and bring in something that we are looking for. So, it is not bad. It is only when you do not care about whether the child has done right or wrong, you do not care about it so you will not worry but for us we sent CRC to bring us or to give us as expected and it is not done in that right way, So, what do you want us to say? Go and redo it or we properly continue with our 1997 Constitution. We amend it and see how best we can put things together, because it is for the whole Gambia. For 22 years, is not 22 days and we have seen what they have been doing. So, in that Constitution, it is the people - in fact what I sometimes say, it is the people who make the Constitution not the Constitution that makes the people because we are the people who do the works or the instructions of the Constitution. So, we fail to do so and then it means we are failing our own self. So, this is what happen and let people not fear because others would say yes If you retain the 1997 Constitution 'Baabily Mansa' will come and when that happens, many people will run away. Who is 'Baabily Mansa'? Who will make people run away? Is he not a human being like you and I. So, let us see what benefits the Gambia and we can carry forward.

*[Point of Observation]*

**HON. SULAYMAN SAHO [CENTRAL BADDIBU]:** Madam Speaker, the Member is deviating.

**HON. ALHAJI SANKUNG JAMMEH [FONI JARROL]:** So, in short Madam, if you go to the judiciary and before there, the National Assembly Service Commission, if you

look at it thoroughly, why inviting other people to come and interfere in our own administration? Creating like three people something like that. If I can quote it rightly Getting some two females to be part of the commission and if you look at the judiciary commission, they are comprised nearly all – they are all judiciary minded people.

**THE SPEAKER:** Are those not details? You have to be able to distinguish between generality and detail.

**HON. ALHAJI SANKUNG JAMMEH [FONI JARROL]:** But this is what am trying to put to you but if you do not want me to give my conscience, well, I do not know what democratic system is this. Anyway, on a serious note, the Parliament have to be very serious because otherwise, the legacy that we want to come up with will make us one of the worst parliaments so far since the creation of the Parliament in the Gambia. So, we have to be very careful and be very honest to our people. This is the opinion of my people that this 2020 Constitution is a conspiracy Constitution against the 1997 Constitution. So, it will not work so I thank you.

**HON. SUNKARY BADJIE [FONI BREFET]:** Madam Speaker, thank you very much. To begin with, let me seize the opportunity to thank the CRC for doing a good job, I do appreciate what they did. However, it is my responsibility also to look at their work in detailed as a representative of the people. It is also important to reflect the minds, ideas and the ideology of the people I represent.

Madam Speaker, lot of issues that I want to raise have already been raised by my colleagues and as a result, I do not want to take too much of a time or to belabour to repeat them. However, I want to pick up two issues in addition to the one that has already been raised and bring them to the light of this general Assembly that is the issues of the judiciary. I think the issues of the judiciary that does not mean to say that I am down playing their importance, of course they are equally very important like any other institution but my observation has indicated that there are kind of preference being given to the judiciary and I will tell you why!

First thing is their retirement benefits and if I just quote from what I have summarised, *“Retired superior court judge, the pension increases equally of the same level as a salary of a service superior court judge”*. If this is applicable to all other institutions,



I am ok but if it is not, to me is biased in favour of the judiciary and this brings in economic burden on an already flagging economy.

The second issue Madam Speaker, is Judiciary budget.

*[Point of Order]*

**HON. DAWDA KAWSU JAWARA [UPPER FULLADU WEST]:** Clause [23] of the Standing Orders.

Madam Speaker, unless I do not understand but Members are going into clauses of the Constitution and try to lay their concerns. If that is the case, we cannot stop anybody from going in to the Constitution.

**THE SPEAKER:** Honourable Members, please I can assure you that I will try to conduct only one session. We are not going to have two sessions neither are we going to have dialogue. Honourable Members have the right to intervene but let us do it procedurally. We cannot be shouting from one side of the Assembly to the other and be talking at the same time. In fact, it is not even permissible, so let us exercise decorum and anybody who wants to raise a point of order is entirely at liberty to do so. Recite the relevant provision and we will see if it is applicable or not. Alternatively, if it is an observation and the Honourable Member who is on the floor allows you fine, we will proceed accordingly but what we should all avoid as responsible and mature Honourable Members, let us not be interrupting each other. We can all listen and see if we are on course. If we are not on course, we just raise an objection as simple as that but before you proceed can we just.....

**HON. DAWDA KAWSU JAWARA [UPPER FULLADU WEST]:** It is nothing to do with what he is saying. I have referred to the clause on Section (23) of the Standing Orders. My point is you have raised it time and time again to remind Members that we should not go into the details or –

*[Point of Order]*

**THE SPEAKER:** You did not ask for the floor and as I said we are not shouting, we are not going to entertain any shouting and anybody who wants to raise any issue is at liberty to do so but it has to be done according to the laid down procedures period.

**HON. ALAGIE JAWARA [LOWER BADDIBU]:** I raised a point of order on Standing Order [18]: "Any Member deviating from this Standing Orders maybe immediately be called to order by the Speaker or by any other Member raising a point of order. A member raising a point of order in accordance with standing order [32] 1(a), permissible interruption shall direct attention to the point he or she desires to bring to notice and submit the same to the Speaker for decision."

My point of order here is, the Honourable Member for Upper Fulladu raised a point of order without directing it to the Assembly or to the point of order he is talking about to give us the benefit of the doubt.

**SPEAKER:** I would again appeal to Honourable Members to exercise patience and decorum, everybody has a right to intervene as the relevant clause has just been cited by the Member for Lower Baddibu. If you have a point of order, just raise it and direct it to the Chair. It will be addressed. If you want to withdraw it is fine, if you have an observation you can ask for permission and if it is granted you proceed if not that would be the end and we proceed. But we cannot be raising our voices at the same time. We will not hear each other even if we all want to speak at the same time. It is just an appeal Honourable member, let us exercise decorum.

**HON. SUNKARY BADJIE [FONI BREFET]:** Madam Speaker, it is very important that Members listen to one another so that we can get the sense of what people are making, that will enable us make a head way.

But in general, talking about the issues of the judiciary that is earlier said has been given economy preference and I just try to explain that. I have highlighted the first issue of the retirement benefits and the second issue is their budget. In considering the estimates the National Assembly shall not, which is mandatory reduce their budget. For example, last year's budget we cannot reduce anything less than last year's budget and let us remind ourselves that we are tax-based economy, our budget system is also program-based budgeting. Now, if you say a particular institution's previous budget cannot be reduced, what happens if priorities changed? What happens if the funds are not available? For the meantime, you have to compromise other institutions which are equally important - like Health, Agriculture and Education

to satisfy that mandate of the Constitution. So, it is where I have a problem the National Assembly shall have the power to reduce or increase any institution's budget which is fair enough because our budget is based on availability and prioritisation. We have limited economy and limited finance, therefore there is need for us to prioritize our budget and expenditure but you cannot say the budget cannot be reduced, for me that needs to be reconsidered.

In addition, they should become independent the way they manage their own funds and their fund's appropriation should be deposited to their account on quarterly basis. That take us to the same issue, what happens if funds are not there or If funds are limited, do we have to take from health to satisfy that constitutional mandate? This is where I have a problem.

Madam Speaker, in conclusion, it is very important that all issues that have been raised be considered. I do not know how you proceed from that but it is important that this vital issues that had been raised by the fellow NAMs is worth considering. This will avoid the Constitution being amended several times. So, I understand the 1997 Constitution was amended [52] times, but if the concern raised are not being taken care of, I am afraid this might be amended two times [52].

So, in inclusion Madam Speaker, it is important actually that members look at it thoroughly and that is not just to suggest that if a particular Member objects the passing of this Bill that does not suggest that he or she does not make consultation. It is our responsibility; hence we are people's representatives to make consultation with our people. I am not quite sure whether all have done it but for me in person, I have done exhaustive consultation with my people and they have come up with certain issues, I do not want to proceed because some of those issues had been highlighted by previous speakers, so I do not want to prolong the discussion and take much of the Assembly's time.

The issue of Constitution has been mentioned over and over by Honourable Members and that also needs to be thoroughly looked into to avoid what had happened in other countries. I can see that history has indicated that in Ivory Coast previously, there

was a problem like that. So, it is a very sensitive issue that we need to look at critically and to sum it up Madam Speaker as I said actually that it is important.

Finally, let us take note of all these issues raised and also let us respect each other's opinion but to stand in the National Assembly and say 'I found it good for Members who try to advocate for the failure of the draft Constitution so that it will not pass the second stage'. It is your responsibility to convince because as a National Assembly member, what you could do is to convince others but you cannot avoid people from speaking their minds. Perhaps Some people are not very much informed, if you approach them and try to speak you may convince them but you fail to do that by speaking aggressively, it will not yield results. So, it is important that we respect each other's opinions if we want to make a head way.

Madam Speaker, on that note I want to thank you very much and I beg to take my seat.

**HON. ALHAGIE H. SOWE [JIMARA]:** Thank you very much Honourable Speaker, I think mine will be the shortest. I will also join my colleagues to thank the CRC for a job well-done.

Honourable Speaker, as at now I did not make any decision whether to vote yes or no, I want to make it very clear until my concerns are answered by the Honourable Minister.

Honourable Speaker, the CRC make a consultation in most of the regions and constituencies including political parties, but then I have gone through the final draft Constitution and most of the issues raised by the people and the political parties are not put in the draft constitution and my question is; will it be possible Honourable Minister to put those issues which were raised before we adopt it in the National Assembly?

Honourable Speaker, I think those are the issues that I have.

Thank you very much.

**HON. OUSMAN TOURAY [SABACH SANJAL]:** Thank you very much Honourable Speaker, let me begin by thanking everybody and recognising the presence of the

media and everybody here. I also want to register my sincere appreciation to the efforts of the CRC, they have taken a daunting task to come up with such a Constitution.

Madam Speaker, however, I will just state as some other people have stated but I have series of concerns about this Constitution. I did not exhaust all that I want to say or all that I observed but I will select few among them and I would like some clarification on them by the Honourable Anthony General and there I will draw the curtain.

Madam Speaker, first and foremost, I want to talk about the separation of powers, the essence of democracy is the principle of separation of powers and good governance and I think we are all dreaming that fundamental system.

Madam Speaker, when I looked at the draft, I do not see any power being separated from the different arms of the government. I can even say, there is one arm of the government which is more powerful than the rest of the others.

Madam Speaker to me, this is not justice and it will not give us good governance. I will specifically mention the National Assembly, being the legislature has been given to amend those powers which I think is going far beyond their boundaries.

Madam Speaker, for the sake of separation of power again, Parliament have the mandate to enact laws to perform oversight and many other things. Now looking at the draft, the Parliament is mandated to engage into activities of the Executive, Judiciary and there is no organ of government that has hand in the Parliament. What type of separation of power is that? So, I am really doubtful, if we go by this, we are bringing a dictator Parliament. Today, I am a National Assembly Member but tomorrow who knows whether I will be?

Therefore, Madam Speaker, I condemn in the strongest possible term that the National Assembly participating in the affairs of the Executive. I do not want to go into the detail but these are found in the constitution in the draft and because of that I am really doubtful.

Honourable Speaker, the other arm which is also given a tremendous power is the Judiciary. If you look at the judiciary, they are equal to other public officers, of course they are independent body by the nature of their functions, their job actually the way they operate should be different from all other organs. But the state should treat all officers equally, especially in terms of retirement, in terms of remuneration and many other things.

So, Madam Speaker, what I see in the draft, the judiciary is given a power – because looking at their retirement benefits, you will see that a job of a superior court or high court judge upon retirement will be paid the salary that he retired continuously plus his gratuity and other benefits and this does not apply to any other public officer in the country.

Madam Speaker, the 1997 Constitution, denied this Parliament to make a law or enact a law that will separate or discriminate the public officers and that is one fundamental thing I want to mention.

Madam Speaker, aside from the separation of Power. I have another concern regarding the civil service again and that is in Section [27] of the draft. Madam Speaker, no Public Officer should engage into any gainful employment if you are employed by the state. Madam Speaker, I cannot subscribe to that law. I have to make that clear because if you look at the Gambia, even the university of the Gambia, a good chunk of the lecturers are on part time, they are employed somewhere and they took another employment there. Now, if we denied this people to do that, how is our university going to function? Now if you go to the Gambia College the same thing, our teachers – because we have a low economy, the government cannot pay them the right salaries so, they also go for another private schools so that they can sustain themselves. Now, if you denied this people that right to go and look for another gainful employment, how are you going to maintain them? Whatever I am saying here is based on my conscience and the research I made on this document. I have facts to explain all those things.

Madam Speaker, that is a concern to me and I do not think this is really a progressive provision. It is alleged that the 1997 Constitution was amended for [52] times but this

Constitution as drafted, if you let it passed Madam Speaker, I can tell you it will go for more than [100] amendments because there is nobody who can govern a country under this Constitution and then you have a peaceful country. That is the fact.

Madam Speaker, if you look at the media over the past three [3] days, they are calling Members, they are talking about lot of things. If you look at Facebook, lot of insults and people are doing this because of ignorance and they are misled and misinformed. Some of them do not have a copy of this draft and they are saying a lot of things about the draft. I think National Assembly Members should be left to do their work diligently and in a very independent way. They are members of a particular group or interest group, do not concern me, my concern is the entire Gambia. So, based on those fact Madam Speaker, I will faithfully act on behalf of the Gambians for the best interest of the Gambia not a specific group.

Madam Speaker, allow me to continue from there. If you look at section [37], that provision also is inconsistent with the ICCPR treaty in which Gambia is a party, that provision is completely inconsistent with that document. Madam Speaker, I think this needs to be looked at.

Madam Speaker, if I can go further, I would like to touch on the armed forces, the armed forces Madam Speaker, in the 1997 Constitution, I do not want to go into detail but I just want to bring comparison so that you can also do the same thing and see what I am talking about. Their mandate has explicitly explained their responsibilities in the 1997 Constitution but if you go to the draft, less is being talked about the armed forces, the draft is just saying the Parliament will further do those things.

Madam Speaker, I think this Constitution is the document that should set the framework, the principle of how this country should be governed but everything should not be left in the hands of the parliament. I am not saying that this is a regulation but in certain terms, you can denote that.

Madam Speaker, if I go to Section [10], in the draft Constitution where the laws of the Gambia is, it is not entrenched and in the 1997 Constitution, we have those laws protected so that you could not affect them or touch them unless and until it goes to referendum. So, which is giving a room for any manipulation on this Constitution by

another who have a semi dictator behaviour. So, Madam Speaker, we should be very careful in the way we enact our laws and we should be very careful the way we pass these laws. I think explicitly under that section [10], where the "Sharia" law is, creates a loud outcry of public concern and I think Madam Speaker, if we should do justice, we should try to look into that to see how possible we can entrench that clause.

Madam Speaker, removal of the President is another issue that I observed, to me there are two stages but I think the first stage should have carried more magnitude or more powers than the rest of the stages, because if you allege a particular president, to substantiate that should carry at least a heavy weight and if I compare this with the Judiciary, removing a high court judge Madam Speaker, it is just crazy, somebody who is elected by the general public and the person appoints some somebody, it is easier to remove the person elected by the general public than removing that man appointed. Madam Speaker, is that justice? Madam Speaker, this is why the public should know what is imbedded in the constitution before they claim anything or before they talk to anybody. I receive some insults from people and they are subjecting me to approve what they do not know.

Another point Madam Speaker, if you look at the 1997 Constitution, Section [111] is denying anybody to condition a National Assembly Member to do anything out of his or her conscience, it is a contempt and people were doing it over the last two days up to the extent of even pressuring you telling you that if you do not do it next time we will campaign against you. Madam Speaker, I want to believe that the process of this Bill is being fully politicized.

Madam Speaker, on citizenship, it is very important, I tend to laugh because when I look at the CRC report on page [53], consultations were done especially outside the Gambia and some bills were captured and rated in percentage but the CRC failed to come up with a clause to direct the parliament as what to do but to just tell them that parliament – this needs to be reconsidered because parliament will see how best they can rule on this citizen issues. There are this specific group who are claiming to be a citizen of Ghana that is the descendants of the slaves, those people you know in history, the Arab and other civilizations came to Africa to scramble for human beings. They took our people, our grandparents and enslaved them, now children and



grandchildren of those people look into their history and Identify that some of them are part of Gambia and this people wants to come back to the Gambia as a citizen but this document is still not giving them that liberty despite that they approached and consulted them and seventy something submissions were given to CRC but none of them were captured neither in the report nor in the draft.

Madam Speaker, this is really serious because we are not building single institution but rather, we are building a country and I think we should not build a country where in two, three days or two, three months' time, you will see catastrophe. If we are to be honest to ourselves, many Gambians leave this Gambia, go to other European countries and they are guaranteed citizenship. So, why is Gambia denying other people who chose to be Gambians and their parents were taken here forcefully and still we are saying we do not have time for them.

Madam Speaker, in these days of the world, we are talking of global village so, I do not think that is a genuine cause. Madam Speaker, I am sorry for the term I used but I am not happy with that and I pray we should also revisit that.

Madam Speaker, as I said earlier, I cannot finish it but I also want to mention the appointment of judges, in the appointment of judges, you have the Judiciary Service Commission who is doing all the screening and through that process, they identify for the president to appoint. Now why subjecting those people to another level of scrutiny by bringing them to the National Assembly. If we do that Madam Speaker, we are politicising our judiciary because I am a politician and if somebody wants to go for that position and is not shortlisted Madam Speaker, if I have any power, I will make sure that person is appointed. So, those are the dangers in Parliament's interference into such things. So, Madam Speaker, I think we should advise ourselves very well, although, we want to have a third republic, it is not because when I came to this Parliament some of this statement I heard about the 1997 Constitution is that it is among the best constitution in the sub-region but it was amended for this number of times to suit somebody's interest. For me, it does not even require us to go for a new constitution but at that time we were so ambitious to usher in a third republic that is the main factor, the main objective why we go for a new constitution. But I was not expecting a constitution that will bring discrimination among its citizens that will bring

chaos in the governance of the country setting in an ungovernable situation because a country has to be run by principles based on respect and mutual understanding.

In my conclusion Madam Speaker, I also want to say that the CRC in one way or the other has ignored some of the proposals made by the people and even myself and I will give reference to even some people who are there and they attacked me on that.

Madam Speaker, if you go to transitional clauses, schedule [3] Section [5] is talking about term of the president which is another problem undermining the progress of this constitution. Madam Speaker, let us remind ourselves that we are just a chunk from the population and those people there are the people who we should reflect on our actions on whatever we do here. We are in the transitional period, we should reconcile. I was not expecting such a provision that will bring disintegration that will bring misunderstanding in the Gambia. For the sake of reconciliation, we should have avoided such provisions in this draft because the concept of the coalition. We all see what they conceptualized when they came to the people and what happened but that purpose was completely defeated. Now you think about that, you bring another provision that will bring more situation of tension. I am really surprised but definitely Madam Speaker, I was not expecting such provision in the constitution. When you are given right by a constitution, if you want to relinquish that right or if that right is to be seized from you, those people should consult you on that right and I do not know whether they did it. if they consult the President on that but I have not seen it in the report or the draft and I believe as people who respect fundamental human rights, they should consult the President about that and know his position. If he is ready to sacrifice that is well and good, we will have a peaceful and smooth transition. If he is insisting that it is his right and he wants to use his right, we know that will inform us how to go about the next stage.

But Madam Speaker, how can you just sit there and decide on somebody's right and this Constitution is also denying us to do that and remember, we are propagating this constitution by using this one and I took oath when I came here on the first day that I will defend this constitution without fear or favour. So, I cannot go against what I took oath of. So that is another fundamental issue Madam Speaker that I wanted to highlight.

**HON. OUSMAN TOURAY [SANACH SANJAL]:** Madam Speaker still now, let me just say this, my position on what I said earlier about this provision. I do not see it on the transitional clause because the constitution is advocating for general election where the National Assembly and Presidential election will be held the same day. When this proposal came from IEC, some of us and I specifically said I have no problem in that but you have to tell me how will I get my rights? Now in doing that my power will be short of four months and what will you do about that four months? And also give them salary, if that is difficult why not you extend the presidential term for four months? If the presidential term is extended for four months will you not pay the president for that four months? The Constitution gives us that mandate they could do that; they could have done that. So, the response was when we do that this term will be seen as a full term, it will be understood that he served two terms. I further asked my remuneration that is my salary, allowance and other benefits, how will I get them? That was not responded to. When I say that and I will quote Mr Gaye Sowe and Awa Ceesay Sabally told me "why are you so interested to get that?" so those are some of the comments I can still remember. I said it is my right and if you want to take my right, I think I should be contacted on that and you get my consent on my right.

So fundamentally Madam Speaker, we give the CRC the mandate on CRC Act. Section [6] this Parliament enacted the CRC and give them the mandate that they supposed to do and they did it but, in the process, some people or some rights are not respected and that is why we have this problem about this Constitution.

As others have said earlier, if the Honourable Attorney General can clearly clarify all my doubts specifically on those issues, I do not mind to support this but without that I am not convinced as well as my people because I consulted them and they gave me points. They told me what I should do and what I should not do. However, among the people I have consulted in my constituency, I can count three different views but the rest of the views are speaking the same language. As they sent me here, they are listening to me whatever I say or do has to reflect on them.

So Madam Speaker, I respectfully submit that let us rethink and look at this document carefully and let us not be very ambiguous especially in a political way. This is not about politics; this is about our country and we want to have a document that will

stand the test of time. We do not want to have a constitution where in the next two years it will be subjected to lot of amendments.

Madam Speaker this is a concern and with those submissions, I respectfully take my seat. Thank you.

**HON. ALHAGIE S.B SILLAH [NIANI]:** Thank you Madam Speaker for giving me the floor. First of all, I would like to join my colleagues to thank the CRC for the job well done. Here we are speaking on the Draft constitution and to be frankly honest to my members, from my electorates of all the views I heard from them is to add my voice to make this draft to be adopted.

Madam Speaker, a draft constitution or a constitution in particular cannot be a tailor made. We should all know that as far as constitutions are concerned, other sections will favour you and others will not favour you but at the end of the day you have to accept. One day I maybe at fault with that particular section but another day you can be successful in that particular section. So, on that Madam Speaker, of all what we are saying, let us be frank enough to accept this draft constitution. A lot have been said and the commission has been going round consulting people about their opinions. All those things cannot be factored in this draft but what we should understand is that at least most of the important issues have been elaborated in the constitution and well spelt out. So, I think Madam Speaker, there is nothing wrong for people to say their opinions but what we should understand is that this draft constitution a lot of finance, time, energy and resources have been spent. Though resources can be spent on something and it will not be valuable but in other parts as far as this draft constitution is concerned, we cannot assume everything we want is going to be factored in the constitution.

Actually, as other speakers said, we have already sworn to defend our constitution, our opinion and rights but whatever is happening let us not see it politically. We all know as a calf if you leave it, it will go to the mother, but whatever it is happening let us not see each other as that. Whenever I stood here, I always try to give my advice and always try to see what the reality is. It is true Madam Speaker that people have to say their opinion which was not spelt in the constitution. I have got calls and letters

from my constituency to advise me and give their reasons why I must vote for the constitution. Almost 80% of my people are saying yes to this constitution as far as we are concerned. Even if you interpret it the other way round, some people will say this part should be removed and this is what I like but at the end of the day we all have to come to term and agree. So, as we are going changes will be happening as we said the 1997 constitution some have been changed according to how we are going and how generation is going. Notwithstanding, let us accept that we cannot make this tailor-made that the shirt and the trouser will suit me but you can assume that I can put on the shirt but the trouser made may also fit me one day.

So, on that note Madam Speaker, as I said there are other issues which I have to elaborate though as I said, it cannot be changed like whatever we do not want we change it. At the end of the day we will go without a constitution because it will not suit everybody. On that, as far as the constitution is concerned, like first of all the citizenship, we all assumed as it is spelt out here that one of your parents should be born in the country. If you look at other populations, we are not that many so comparing strangers who are coming in and out, even if you lodge a stranger at your home and he came with a wife before he leaves there maybe the amount of birth, she will give will be more than what you will have in your compound. So, we should look at that side at least though, I know it will not be good on others but as I said it is my opinion. If you go to China before having a citizenship your mother and father must be a citizen of China and sometimes the grandparent must be a Chinese. So here if you say any of it at the end of the day, the ratio will be higher than us let us be frank with each other. Counting the number of strangers in the country is even more than us so at the end of the day if you start to cancel one is to one you will be left without any. So this is my opinion and this is how I looked at it. Other countries like America is fine but still the population of those citizens adding them together will not be more than 15% or 20% and still now the citizens of America will be higher than the strangers. Also, those people are still controlling the way you should get the certificate of birth as a citizen of the country. This is simple, you want to be a citizen go through the right procedure and you get your citizenship nobody denies that. So, Madam Speaker this is how I see it as far as the citizenship is concerned.

As I said I have seen here seven administrative areas, so I would love at least these administrative areas are different from the councils and the regions. If we would have got part of our region as CRR North to be its own region also, I would love that but maybe gradually subsequent members will consider that at least we have our own region to add it on other regions. It is a large region and if you compare it with another region still now, we are joining one region which is Janjanbureh. Notwithstanding, we have already stated it and it is a concern to us to have our own region call CRR north but unfortunately it did not factor here.

The other point Madam Speaker, as I said the only thing I have seen, you see if you are in a position you should also foresee the future. Today we are all members, one day who knows that one of us here can be a president. So, actually giving the whole power to the National Assembly and the Executive and the president have less power, one day you may need it and you cannot get it. What is the most important if the president has appointed not a matter of nominating and bringing it to the Assembly for us to approve but what is important here is let it factor all the criteria on how a minister should be appointed. What I did not see here is at least that particular Minister should have an institutional memory that is the most important thing and other qualifications. If you bring a minister in an institution where he did not have that institutional memory, it will always be the problem of appointment. What is the most important for me, I think one day among us one can be a president and that day you will want to appoint and your appointment will not be approved without coming here. That is the portion, I really want to see that at least we give some powers to the Executive like the president so that whenever he is appointing let him have all the criteria. The only one I do not see here is that the person should have an institutional memory.

Madam Speaker, my other point is term limit, wherever we have problem in Africa is about long stay in office. If I know I will leave office next year, I will try all possible means to see how best I am able to cope with people because if I leave this office, a Mandinka proverb have it that; "a bull which is going to be slaughtered tomorrow you need not to measure the horn". So, if he knows that he is leaving obviously everybody who wants to be in that office will also be accepting that this is just about time one

day he will be removed here. Somebody who is there never knows whether he will die before you or you will die before him so obviously you will be in a rush for him to be removed. This is not even about the president but even in our association. You will be in an association as a president and your time has elapse but you do not want to leave. At the end of the day you said I do not have anything in this association but you will not leave. So, these are problems and we should try to make sure that this term limit is good in the constitution because at the end of the day you are sure that after five or ten years you will leave. Ten years is not that long if you are healthy and I think we should bear with that.

The second term will be left by yourself because the first term people will vote for you but the second term is just like us. As the electorates are hearing from us and they sent us here as their representatives. They know what we are saying and, on that note they will see how they will vote for me in the next five years. So, whosoever is here will know whether I will be voted for a second term because is left to you. The first one you tell them what will be good for them and they will assess what you have been saying to them whether that has happened or not, then they will vote for you on a second term. So, for that second term you also should know that is the end of your position. This why even as a civil servant you are pensioned at the age of sixty because you cannot be staying there for your whole life.

Madam Speaker, this is my concern for term limit. This is the problem with most African presidents, they will sit for a period and say, let us renew it and or change the constitution. What we wanted to understand here is Honourable Minister, we are saying ten years or two terms. All what our electorates knew is ten years in a position. Already he has stood for five years and he is looking for another five years. That is the way most of our electorates are seeing it.

*[Point of Clarification]*

**HON. HALIFA SALLAH [SERREKUNDA]:** Honourable Speaker, for the term limit we have to be really careful in personalizing it. If you look at schedule [4] it is saying effective date means the date of the coming into force of this constitution which shall be the date after the day this constitution is adopted at a national referendum. That

is the effective date. In essence, what it is saying in terms of the term limit like the member said in fact, even the National Assembly there is a transition. We do not break. What it says here is that [5] term of office of the incumbent president that the person duly elected president of the republic prior to the effective date and serving in office as at the effective date shall be the first president of the third republic of The Gambia and shall continue to hold the office of the president in accordance with the provisions of this constitution. Essentially, what this is simply saying is that by having the constitution adopted, it comes into force and by coming into force whosoever it is there will be considered to be the first president of the third republic. That is all it is saying and he continues to serve. In essence, it is not directed at a person, it is directed to an office and if we start looking at a person, we may confuse the whole agenda as if there is an agenda against a person.

**HON. ALHAGIE S.B SILLAH [NIANI]:** Thank you. I think all what we wanted to know is already been cleared. As he said we are trying to adopt the constitution and at the end of the day, if the constitution is adopted while anyone who is in position will start at wherever he is. All what I wanted to elaborate was that long stay in office should be factored very well.

Madam Speaker, the other one is ...-[*interruption*]

**THE SPEAKER:** Honourable, it is very important to know the scope of the debate that we are dealing with the principles but once you start going into details, there may be a tendency to slide and maybe that may cause some misinterpretation. I do not know, I am not saying it is but it is a possibility. So if we can just confine our interventions on the merits and general principles of the Bill, I think we would be doing the proper thing. Thank you.

**HON. ALHAGIE S.B SILLAH [NIANI]:** Thank you Madam Speaker. As I said a lot has been said. I am here standing to represent my constituency. As I said what I hear from them during my consultation with them is that they really accept the draft constitution. Almost vast majority whom I have been hearing from and I even got a letter form the youth of my constituency of their concern to make sure that I try to be part of the members who are going to accept this draft constitution. So, on that note



Madam Speaker, these are my opinion and the opinion of my constituency that we are joining our hands so that we would be able to adopt this draft constitution. On that note Madam Speaker I will take my seat.

**HON. LAMIN F.M CONTA [KOMBO EAST]:** Thank you very much Honourable Speaker. I must also join my Honourable colleagues to thank the CRC for a job well done. It was not an easy job because they have to go all over the country as well as abroad to gauge the opinions of the people.

Honourable Speaker no constitution is perfect simply because it cannot get all the wishes and aspirations of every individual but as I am speaking to you, I think quite a number of Gambians are very much satisfied with the content of the draft constitution and I believe a lot have been given a consideration.

If you go into the draft constitution, you will realise that the establishments and composition of the local government authority is a step in a right direction. This Local Government Authority Act in the 1997 constitution, they cannot be autonomous because they rely on other authority. This time around they are relying on their own authority because this will have a positive impact on the lives and livelihood of the people within their localities. Therefore, it is good to go. I hundred percent support this Draft Bill and I believe I am speaking from my consent and the people I am representing because every individual here is representing people. Therefore, we are cognisant of the fact that one has to speak for the people we are representing.

Honourable Speaker, if you go into the draft constitution you will realise that there are so many provisions that should had been captured and are in line and conformity with the international standard.

With the nomination of the cabinet Ministers, conformation by the National Assembly is in conformity with the international standard. So I do not think there is any problem in that.

Honourable Speaker, if you go you will realise that there are cultural rights, rights to labour practices and right to clean environment, economic and social rights and rights to elderly. These are our social norms and values. So, I think it is good to go for us to actually support this very important Bill and I believe there is not much to be done by

this and I do not think I have to bore the Assembly with lot of discussion on this issue. I definitely support the Bill and I am urging all Honourable Members to support this very important Bill. On that note Honourable Speaker, I thank you so much.

**HON. ABDOULIE CEESAY [OLD YUNDUM]:** Thank you so much Honourable Speaker for giving me the floor. First of all, I would like to thank the Constitutional Review Commission for having taken the procedures on the mandate given to them to bring the constitution that is tabled before the National Assembly for consideration.

Honourable Speaker, my colleagues in the National Assembly are all speaking their minds as to exactly what we have in the draft constitution and this is exactly what I am going to do as well. Having gone through the constitution myself with consultation with electorates in my constituency, we have found a lot of deficiencies on the constitution that we also want to bring forward. We know there is progressive clauses in the constitution that we cannot deny but we also have provisions that we think need to be looked at. Earlier on I did an interview with Chronicle and they asked me what did I think about the constitution. I said even the National Assembly members do not have the authority to touch the constitution, to touch the constitution and do some find tuning, then Honourable Abdoulie Ceesay is not supporting the constitution that is my position. I have gone through it and I have about sixteen other clauses that I believe need to be reviewed or else that is going to be the end. People in my constituency have given me their consent and that is what I am bringing forward.

Honourable Speaker, the issue of citizenship in the draft constitution as alluded to by my colleagues are the same thing and I believe that provision need to be looked at very clearly. The 1997 constitution has given us a clear-cut provision that I believe should be the provision in this Draft Constitution for us to move but it has been changed and that is not good for us. The term of office of the president as well is also another thing. If you say the constitution when it comes into force the two-term limit of the president will start from this transitional year that is the five years meaning you are reverting the law back. That is another thing we also need to look at. From consultation people have not agreed on this particular provision and as a representative, I must bring forward for people to hear.

Honourable Speaker going forward on the appointment of Ministers as well, my colleagues have said here. I am just going to repeat just to make it constructive so that people will know. These are issues that are bordering us and I think we need to check them for the conformation of Ministers in the National Assembly which can always be political. We have our personal reservations to that. the revocation of appointment by the president to revoke the appointment of the Vice President or another Minister as well. That is another thing to look at Honourable Speaker.

Section 195 that is the preference treatment of the judges as well. We have that in the constitution and we are not taking anything about that. You cannot have judges that are accorded privilege better than the doctors, soldiers and teachers in this country. Any privilege that is given to a judge must also be given to the other side of the service sector, the doctors, teachers, soldiers they are not benefiting from this particular provision so, I think that is not fair and we should not have such provision in the constitution and we need to look at that as well.

As well as in section 195[2] of the Draft constitution is another provision that is not given equal opportunity to all the citizens as well. It was only concentrating more on the judiciary. So I think when the state is giving out, it has to be an equal opportunity for all those that are representing the state in various institutions need to benefit from that.

Honourable Speaker, the election of speaker in the National Assembly is also not clear. The provision is there but we do not know how that will work. These are some of the things embedded in the constitution and I think they need to look at them critically. My position is, this constitution must be reviewed and if the law is saying that we cannot touch it, then I will not be supporting the constitution Honourable Speaker. On that note I thank you.

**HON. SAINÉY TOURAY [JARRA EAST]:** Thank you very much for giving me the floor. First and foremost, I rise to drum up support for this important piece of legislation. Honourable Speaker grant me leave to whet our appetite historically. At the eve of independence 17<sup>th</sup> February 1965, this country of ours was gripped by what I would call independence fever, there was much hype and jubilation that as a country

we are at the threshold of being commanders of our own destiny. There came 18<sup>th</sup> February 1965 as the D-day when the Gambia gain her independence from the British.

Honourable Speaker, the moment the Gambia was declared an independent state, the union jack was lowered and the Gambia Flag was hoisted. Honourable Speaker, I do not know whether I am heard because we are trying to adopt to the new normal my mouth is gaped. That shows that lot of things have gone down the bridge, a lot of water has passed down the bridge. Independence of a country is very significant. Significance in the sense that, it tells you that you as an entity, as a country you are at liberty to be in charge of your own destiny that we are no longer going to be dictated to. Therefore, as an independent state there are lot of gains that a country is likely going to enjoy.

Madam Speaker to come to the exact issue at hand, that is the Draft constitution, today the nation is gripped with mixed feelings in the sense that the general public is saying, will they? won't they? So, the country is looking at us and I think we will do the right thing. This august Assembly will do the needful and the needful is to give thumbs up to this draft Constitution because this draft Constitution Madam Speaker must be seen as an embodiment of the interest we seize and aspirations of the totality of Gambians that is the long and the short of it.

This draft constitution as I expand to dilate on its general principles and merits, I will not dissect into the provisions and shrines unless and until it is time for Committee of the Whole House that is the time I will dissect and study it thoroughly.

The Gambian masses are not oblivious of the fact that, lots of things happened in this country. We have the constitutional conference, the pre-independent talks and the post-independent talks and at this juncture, allow me to pay homage to our founding fathers in the person of his Excellency late president Sir Dawda Kairaba Jawara and his lieutenants who are deemed as the forerunners of our independence.

The independence was fought not by only men but also by women. Women of substance, dignity and men who could be described as gentlemen of the finest African tradition. I therefore want to recognise their mammoth contribution on our road to getting the Gambia enjoy internal self-government.

Honourable Speaker for this debate, we are confronted with what I would call a national conversation, and this national conversation is on the lips of every tom, dick and harry as a result, owing to its importance, It can be called a common refrain, is in everybody's lips. What is expected of us in this critical turning point of our history is to make decision. In making decision you must be guided by certain fundamental elements that is in as much as we are willing to make decision, our decision must be preceded by good judgement. Our reactions must also be preceded by reasons and not emotions or sentiments. Because in this exercise it is about nation building and the Gambian nation is bigger than all of us. The Gambia is the main set and this august Assembly serves as the subset of the main set. So the main set is bigger than the subset. The Gambian masses are bigger than the Gambia National Assembly. Yes, we are at liberty by way of arrangement to have a say of this important national discourse but that does not mean that we can trample on the wishes and aspirations of the totality of Gambians.

Honourable speaker, unless you forget we are engaged in epoch making journey, we are making history and we must be guided by the fact that history is more than the past, left by the past for it influences our presence and it has the potency to define and safe our future as well. So, Madam Speaker in our quest to make that landmark history we must all work assiduously so as to be recorded...*[interruption]*

**THE SPEAKER:** Sorry to interrupt you. We are all guided by our Standing Orders as far as procedures is concerned and I think we should all try to adhere to that. I think it is good to talk about history, historical development of everything but I would rather want you to paraphrase and then you go straight into the merits and principles of the Bill, because you have been dealing, I will term it historical background how we arrive at where we are today but probably it could have been paraphrased and summarised then you go straight to the principles of the Bill. If you can just align your augment towards that angle of discuss. Thank you.

**HON. SAINÉY TOURAY [JARRA EAST]:** Honourable Speaker I am humbled as it pleases your good office. Thank you.

Honourable Speaker time is not our best ally, I am compelled to put my submission in a nutshell and I thank you for guiding me I am humbled.

Honourable Speaker, why constitution, why do we have constitution and what is the meaning of constitution, what is the meaning of constitution and what a constitution is capable of doing for a county. I think these things are very important. It was going without saying Honourable Speaker that the constitution serves as a supreme law of the country and as a result it goes to serve as the lifeblood of any given country. The merits of having a constitution cannot be over emphasised. One of them is that, it serves to enhance good governance and the rule of law. Constitution is incompatible with dictatorship. Again, it is in a constitution that the rights and responsibilities of the citizens are enshrined and clearly spelt out. This is why where your rights stop that is where somebody's starts. We are able to have or enjoy these rights because of a constitutional instrument.

This constitution must enjoy yes vote. If you ask me why? Because it is an embodiment of the interest, wishes and aspirations of the totality of Gambians. So it must enjoy a yes vote. A lot of money, if my memory can serve me, D116, Million. That is a colossal sum by all standards and I do not think this august Assembly would like to be recorded on the wrong side of history because history is going to judge us and there is no way that we can escape the long arms of justices neither can we escape the long arm of history. So, in making history lets us work towards being recorded on the positive side so that tomorrow our children and our children's children will have a better Gambia.

Honourable Speaker, yesterday I received a lot of calls from concern Gambians both home and abroad. I can tell you for the fact that they have been calling, they are very much concern about the Gambian situation. This is why they keep calling to make sure that we help move the Gambia. When it comes to nation building there is nothing like Party A or Party B. All of us here are common denominator and that is we are all Gambians. We all have the same ID Cards and that is why we are discussing Gambian matter, it may be seen within that lens, it must be approached in a non-partisan manner, it must be an impartial in our deliberations and above all to be guided by Section 112 of the 1997 Constitution. That is whatever we are doing whether within or outside the confines of this parliament, it must be guided by national interest and

conscience that is the only thing. So throwing this draft constitution under the dust may God forbid, it means we are throwing the wishes and aspirations of our fellow compatriots and that may not augur well for us. Talk less of the money that has been invested, we must be here to strengthen the voices of our people. The long and short of representation is to transform the fantasies of our people into realities and if this draft constitution gets a yes vote, it means we have transformed in no small measure the wishes and aspirations of our electorates.

I heard some Honourable members talking about being asked not to give a stamp of approval to this important draft constitution. Honourable speaker, we are politicians and I want to use my skills here to convince them to give a yes vote to this constitution. Honourable Speaker, I am not oblivious of the fact that you can take a horse to the pond but you can never force the horse to drink but this time I am going to force you to drink. Is not poison, drink! If you should trust me, I have taken mine but I want you to take yours as well. I have no qualms with our divergent opinions; it is normal. Let us not forget Madam Speaker, this draft constitution contains a multiplicity of opinions. The CRC have toured the length and breadth of this country. They have sounded the opinions of every tom, dick and harry principally for them to have a very good opinion. An opinion that could be described as undiluted, unblemished and Gambians for that matter. I think for us to reject this draft constitution, that will tantamount to an abomination may God forbid. We should make history but make sure we make good history. I think by doing this small politicking, I have convinced the lefties to be called the right wings now. I think they are now convinced and I believe fervently all of them will give their thumbs up to this constitution. This draft constitution needs only one thing and that is a clean bill of health for it to navigate smoothly without any hindrance. And I could see in the eyes of my Honourable colleagues that they are all patriotic sons and daughters of this great country and if there is any motivation, I can tell you, it has to do with your patriotic sentiments, that is the only driving force. You are not forced to accept something that could be called an alien constitution but this is a Gambian constitution.

Honourable Speaker when I was in primary school, I was told that Democracy means government by the people, for the people and of the people and I can tell you so is

this constitution, is by the people, for the people and of the people. So please let us have the country at the forefront. Let the interest of the country supersede whatever parochial interest you might have, it is about the Gambia and all of us are part of that set and that is why you are considered as the subset so the Gambian people are the main set. So let us make sure that we accept this draft constitution. Remember Gambians are the architects of this draft constitution by way of referendum. I have no doubt in my mind, the amount of money, human capital that has been injected in this constitutional building will not go in vain.

Honourable speaker, I think Honourable members have got me and they have heard me very clearly that the constitution is our own constitution is not something that is alien. I have no doubt in my mind that after thorough scrutiny, we are going to give a yes vote to this constitution. Remember, the Gambian people are very much concerned, they are not concerned about the money that has been invested but they are concerned about ousting their wishes and aspirations into the dustbin of history and I do not think we will do that madam speaker. I want to be counted for having voted for this draft constitution and I wanted to be counted as well. I am ready, are you ready? Thank you.

**HON. MUHAMMED MAHANERA [SANDU]:** Thank you very much Honourable speaker for giving me the floor to also take part in this debate. First of all, I want to register my sincere gratitude to the Chairperson of CRC and also to the Ministry of Justice for coming up with this document.

Honourable Speaker, we have argued here that CRC has cited references or quote from other constitution but I am sure those arguments, if they have a base is very little, because in academia, it is not illegal to cite references or quote from someone. In all knowledge, if you want to come up with a new knowledge you must use the existing knowledge and how do you come with new knowledge it is through research and if you are researching, you must use somebody's document. So, if you go to academia you want to write your thesis, you do not come with knowledge. You have to make research and the research is you have to go through somebody's work so that you can also get an idea how to come with a new idea. So, I do not think that is a base where we can subject this to until we come with a conclusion that we are going



to reject this draft constitution. There is other salient points in this constitution, you should base your arguments on those.

Honourable Speaker, in the constitution, the draft before us here is not for an individual. We are coming with this document to strengthen our institutions so if you talked about National Assembly has been given power, it is not the members but the Institution that has been powered to do their work because when Mahanera is an MP today but tomorrow somebody also can come, so it is not to safeguard Mahanera alone in that seat because the seat does not belong to Mahanera, it belongs to the people of Sandu and the people of Sandu also have their thoughts in this draft constitution.

So, if you make research, the most reluctant people on earth, I can say is we the African because we are always reluctant to change and if we do not change, we cannot progress. You cannot just be sitting at one place and saying that the world is moving and we are still behind, why? Because we are reluctant to change. Like me, it will cost me any means to make sure that I stay on this seat; this seat does not belong to me it belongs to the people of Sandu. So why are you reluctant, you have to work with people if you do not want to be subjected to removal. So the constitution definitely is not for individuals, it is for offices and the aim is to make sure that our institutions are strengthened and the efficacy that we are looking for is achieved.

Honourable Speaker, with those remarks, I would now look at the importance of the constitution in our institutions. Why I have some objection to this constitution is that if you live you live for a purpose. As a Muslim, I have gone through this constitution and there are certain terms that I am definitely not happy with. We all have been talking about secularism that some people said it should not be in the constitution but others said it has to be in the constitution for protection. We can see that again in a way where secularism is embedded in this constitution and for me as a Muslim, I am not going to support that.

If you go to section 49[1] ..." every person has the right to freedom of conscience, religion, thought belief and opinion [2] ..." every person has the right either individual or in communities with others in public or private to manifest and practise any religion

or belief without any interference by the state. This secularism was talked about in the 1997 Constitution and it continues 3 up to 4.

If you also go to Right to Marriage and found a family, the 1997 Constitution the way it was framed there was different in the new draft constitution as well. For me as a Muslim definitely, I prefer next world than this world so there is nothing that would lead me to do something that tomorrow when I am to be accounted for, there is nobody who will be there [President, Minister or whatever] to grantee you that you will not be accountable for and you will be accountable for. That is, a man or a woman of full age and capacity have the right to marriage and found a family and such marriage shall be based on the free and full conscience of the man and the woman". If you say man, that is a set and if you say a woman, it is a set so it means unless may be the Honourable Minister makes this portion clear to me that a man and a woman fine. A man and a woman means two people from that set can get married and two people from that set can also get married. Which means still now the gay marriage that we were talking about to me is still in this Constitution. Unless otherwise, that the Minister is able to justify and make me believe this does not mean the legal interpretation of this clause.

***[Point of observation]***

**HON. HALIFA SALLAH [SERREKUNDA]:** Honourable speaker, if you look at the 1997 Constitution it says under section [27] says that men and women of full age and capacity shall have the right to marry and found a family. So essentially, we are saying the same thing in this one. I think we must be careful in interpreting again.

**THE SPEAKER:** I do not even think that our role is to interpret here. We are not interpreters but at least let us state the facts as they are. Are you on a point of order or observation?

**HON. MUHAMMAD MAHANERA [SANDU]:** I think it is clear now what the Honorable Member for Serrekunda has just said. And I also said it very clear that until and unless the Honorable Minister is able to justify because I do not know the meaning am just asking when he comes to the podium whether he can justify this section for

us. What it means I am not interpreting; I am just making a comparison between the two thank you very much for that observation. All right Honorable Speaker, thank you very much, thank you Honorable Member for Serrekunda. You can see it now like what I was saying nobody is born with knowledge, you must get knowledge from other people. Honorable Speaker, alright I would leave it with the Honorable Minister to elaborate more on that. And Honorable Speaker, right to property, what I have seen here or is only government or states that may forfeit property from someone in the legal way but Honorable Speaker, right to property, we have been experiencing a lot of problems in our areas especially in the rural areas now. Honorable Minister, this constitution definitely is in line with our criminal laws if you go to our areas Honorable Speaker, the theft cases in URR is rampant and what will happen if somebody has right to his own property and somebody just come and steal that property from you, then the legal procedure is that, you should not touch the person but why are those people even going ahead to make sure that they also do something to those people is because our justice system. You take somebody to court at the end of the day you are frustrated you used money and pay lawyers so at the end of the day you only forgive your case. So on that note Honorable Speaker, I think this constitution also should try and address that not only government but also as an individual you have your property you should not give liberty to people when they come and steal and you still say no they should not be touched because of human right. It is true everybody has right you have right to steal my property so, do I not have right to do anything? I also have right to my property so, it happened there just recently in Sandu we are having so many problems like that Honorable Speaker. So, with this point definitely if the Honorable Minister would be able to convince me on this, I do not have any problem with this Constitution only to let it go and my stand is if those areas can be addressed as possible and if the Minister can convince me on those ones, definitely I would vote for yes so that this Constitution will go to the next stage because I am representing the people of Sandu. If I am here to exercise my right and scrutinize this document, I do not see any way that I can also seize their rights from them because they also have rights to go and exercise on this Constitution that is on the referendum. And also, for outside members, still now the parliament has power to do something with this if people are saying Parliament has no power fine but in our Standing Orders,

you can see it from this stage now, it either goes to the next stage or we refer it to the committee. The committee also can engaged so that anything that we do not want here, we can discuss it with the Ministry or CRC and see how best we can fine tune this one. But we will not definitely at this stage drop this constitution and definitely, I do not see any reason why we should do that Honorable Speaker, thank you very much.

**HON. OMAR DARBOE [UPPER NIUMI]:** thank you very much Madam Speaker for giving me the opportunity to express my view about this Constitution of the Republic of the Gambia 2020 Promulgation Bill 2020. Madam Speaker, laws are made for people and the merit and the principle of this particular Bill is that the 1997 Constitution we do not see it as something befitting to our condition and that was the reason why we set up CRC to come up with a new constitution. Madam Speaker, I only want to ask the Justice Minister this particular question because it is going on the Social Media that the NAMs do not have any right to take even a comma on this Constitution. So, if that is the case then after your clarification Honorable Minister, I would take my decision. But Madam Speaker in the merit and the principles, when you are making a law you make a law for all the people in the country but you do not make law out of sentiment or you make law out of emotion if that happens, then we will see that particular law as discriminatory meaning that it is discriminating a section of society or maybe it is made for an individual. So, with those reasons Madam Speaker, I would reserve my opinion till the Honorable Minister comes and clarify whether we can either make a change on this particular constitution or not, if not then my decision to this particular constitution is 100% no thank you.

**HON. MOMODOU CAMARA [FONI BINTANG]:** thank you very much Madam Speaker. Madam Speaker, most of the issues I want to highlight here are taken care of by my colleagues, nevertheless, I will be very brief and go straight to the points. Let me first go to the president's nomination of Ministers. Madam Speaker, I believe that we have the three arms of government that is the Executive, the Legislature and the Judiciary and you are all advocating that they should be independent. So, this is why I have the belief that the president should nominate his Ministers without coming to the Parliament for approval but more so, you have to know that if you are saying

that all these organs should be independent, the president also should not have any hand in selecting the National Assembly Members because he has also nominated members here so if you are saying that we should not involve in his appointment of Ministers, he should also not have any hand in nominating National Assembly Members, that is my stand. Madam Speaker, let me go to the Judiciary, most of the members have stated that Section 195 is talking about the remuneration and retirement of the judges. Madam Speaker, it says that any judge who is retiring you retire with your salary and it further went on to say that when you retire as a sitting judge your salary increases and the retirement benefits also increase. I think we should look at that very carefully. I want to be guided by the Minister if that is so, why is this especially for the judges? Why not the Legislative? Why not the Executive or other public servants or civil servants. So, I want to be guided by the Minister and went further to their budget, they said when they bring their budget this year, the next year we should not touch their budget. Madam Speaker, they may bring this year's budget and they include buildings and even buying of cars or so many things and the next year they do not need that, why would you leave that there? Is that not a misplacement of priorities? So, I do not know why they put it like that but I am totally not in support because we have to realize that our economy is a tax - based economy here and we see the problems we have here even the National Assembly itself, we do not have what we want every year. So, why are you saying that we should not touch the budget of the Judiciary? Madam Speaker, the other thing is the qualification of the Judges Section 191, really we want to "Gambianize" our Judiciary system but for me I think we also need to consider and open a small room for other countries to participate in our Judiciary system especially the commonwealth countries because if some of our Gambians are participating in commonwealth countries, if they also close their rooms what will happen to our people? And also look at the example, why I say this because I can remember the Office of the DPP still now they are advertising the position I think for almost a year now they cannot get a Gambian if I can be corrected by the Minister. Who is going to man this position now? This is why I say we need to open rooms to include the Commonwealth countries. Madam Speaker, the other thing is Section 62 that is the specific rights, you go to the economic and social rights, yes it is good we need to have all those rights if possible but my

concern is, the rights they mentioned there are numerous and really we need to have the realities of the country if not when this Constitution is enacted, you will start seeing people going to court because you may assume that a particular community may say I do not have water and I should have water because it is their rights. People will end up going to court and the government will have problem because the community cannot sustain it. So for me, I want them to include the economic realities of the country that is my concern but I need to be guided by the Minister also on that. There is also a section that has mentioned lot of commissions. I am also saying that we have to look at the economic realities for example, we have seen the Human Right Commission here when the commission is set for over a year, they do not have an office, they do not have staff because of the economy. So, we do not want to form commissions while you cannot pay it. So, let us form commissions that we know we can pay the commission members and it can be sustainable. So, this is my consent. Madam Speaker, the other thing is "Section 27 which talks about full- time civil servant shall not engage in gainful employment". Madam Speaker, when you look at this, I think we want to make some of our institutions very vulnerable or handicap. A member has mentioned here that when you go to the university, most of the lecturers especially the Law School are lawyers who are working somewhere else, you go to the clinics, most of the doctors and nurses are working in private clinics or pharmacies and you know the average earnings. So, if you want to bring that most of this people will leave the public service and go to private service and that will hamper the clinics or some of the institutions. Madam Speaker, "Section 147 the Speaker", they said the Speaker should be selected from outside, but my concern is, how can it be selected from outside? No process then. Are you going to the street and bring somebody to select him/her the Speaker? Or are you going to nominate? Or are you going to shortlist? How is the process done? We need the process, we want to be guided by the process. Madam Speaker, the other concern is the chieftaincy because they said when you are elected or once elected, you are there for life. Madam Speaker, I think you were all talking here that when you overstay, you become a dictator so, my concern here is if somebody is elected and is there for life he will do whatever he wants because he will know that nobody will challenge him on his position. So, I need to be guided and I want if possible, let them be elected as National Assembly members or as the president

and other people. Every 5 years, let your people gauge you and know whether they will want you to lead them or not. Madam Speaker, Clause [73], the supremacy of the court, sorry if you may allow let me read that one 'any law that is inconsistent with the Constitution is void'. Section 3, the validity or legality of this constitution is not subject to challenges by or before any court or other organ of the state. To my understanding, it is saying that when this draft constitution became the constitution of the republic of the Gambia, nobody should have right whatever to challenge it in the court and you are talking of many rights here. So, for me I want to be guided also by the Minister please. We are very sorry, although, you newly came and you were not there at the starting of the process. Anyway, this is the law this is the procedure. And the other thing Madam Speaker, why I want to be clear about this issue is, you have to know that after all this process, this draft constitution is going to a body and that body will resume interpretation and enforcement of this constitution, so this is why I want everything that is here to be clear to everybody so that I do not want when this goes to that body people start going to the court every time for interpretation. Madam Speaker, one thing I want to advise members and myself is that, when you are voting for this constitution, let vote on the basis of the merit and the progressive nature of the content of this draft not that the 1997 Constitution is bad, it is not bad and the campaign strategy people are using Madam Speaker can hamper the progress of this draft because some of them are using the 1997 Constitution attaching it to a political party which I think if not arrested can sway the electorates to vote along political lines and that is not our intention. This is a national document, this is not a political document it does not belong to any political party. It belongs to the Gambian people. what we want is the progress of the Gambia what is good for the Gambia so, I am advising because somebody called me yesterday and say Honorable, I did not know him and he started talking about this Constitution telling me that, this Constitution you know, Yaya Jammeh and APRC **...unclear...** I told him you are convincing the wrong person then, he says who are you? I think is Honorable Camara, I said yes. Honorable Camara of APRC he said no. You know you are reasonable you said I am foolish and you are saying that I am reasonable. So you see this is why I said we should vote not on political lines we should not campaign on

political lines, let us campaign on the merits and the progressive nature of the this text thank you very much.

**SPEAKER:** Honorable Member for Wuli East, let us have one forum please. I am not giving you the floor. Please listen to the Chair. I have not given you the floor. You would be next but not now.

***[Point of Observation]***

**HON. SAINÉY JAWARA [LOWER SALOUM]:** Thank you Madam Speaker for giving me the floor. I wanted to observe the member for Serrekunda my mentor. Yes Clause [34-1] of the Standing Orders page 17 and the closure of the debate [1]after the person ends his motion, the mover of which as you write to reply has been proposed by any member rising from his or her place and move that the mover now be called upon to reply, unless the speaker is of the opinion that such motion is against the ruling of the Assembly or an infringement of the right of a member, the questions that must now be called upon the reply shall be put forthwith and decided without amendments or debate if agreed to". The mover may immediately reply to the debate as soon as the mover has concluded or immediately. If the mover does not wish to reply, the speaker shall put the question on the motion. What am saying here Madam Speaker, I wanted to observe the Member for Serrekunda that when people put question to the Minister.....

**THE SPEAKER.** Honorable with all due respect, I am not saying you are right or wrong but that ought to have been raised at the time, no no Honorable just a second at the time, you were reading closure of debate, no debate has closed yet. So, I will over rule that please. Honorable member for Serrekunda, there is no need to prolong this because it is not an issue and we are not on the same wavelength. This is closure of debate what he has referred to is closure of debate and no debate has closed yet, for the mover to be called upon to respond. So, Honorable Member for Lower Saloum you are over ruled.

**SPEAKER:** Who was on the floor? Is Kiang.

**HON. SULAYMAN SAHO [CENTRAL BADDIBU]:** Madam Speaker, somebody is raising a point of order, can you give him the opportunity please?



**THE SPEAKER.** Yes, but you are not directing me to take Honorable Member for Serrekunda am I? No! If he wants to raise a point he can always do so. Everybody has been given a chance. Nobody has ever been denied a chance am I right or wrong? Yes! So, If you want to raise a point you can raise your tag and then refer us to the relevant section and we proceed because as I always say, nobody has monopoly over knowledge we are always guided by our collective whole here and if A is wrong, B might come on and show us the right that we should do. Let us look at AB and C but I do not want the impression to be given that anybody is being denied, thank you.

**HON. HALIFA SALLAH [SERREKUNDA]:** Yes, Honorable Speaker, I was raising a point of order against the member mentioning my name and attaching me to something that has nothing to do with me because I always intervene under Standing Order 32 which says very clearly.....

**THE SPEAKER.** But Honorable, my only point there is, I had overruled him so the issue is expunged from the records thank you.

**HON. YAYA GASSAMA [KIANG EAST]:** Thank you Honorable Speaker for the opportunity to take part in this historic debate. Indeed, it is a historic moment for all of us here and before I begin my intervention, I would like to put on record that I am one of those National Assembly Members who is going to vote in favor of this new draft constitution. Honorable Speaker, may I say that should anything happen to me before the vote is taken, please I want Honorable Members to remember me as one of those who are in favor of this Bill because it represents the wishes and aspirations of my people. Since the whole issue came up, I have never received a single call from my Constituency denying or rejecting this draft constitution. All the calls that I received so far have urged me to support this. So, I am actually doing it on the basis of the greater good of the Gambian people.

Having said that Honorable Speaker, let me begin by appreciating all the efforts invested in to this Constitution by the CRC, lest we forget it is this very National Assembly that in December 2017 passed the CRC Act to have the 1997 Constitution reviewed. Now why did we want to review the 1997 Constitution in the first place? It is because it was found to be defective, there were a lot of defects in that Constitution.

It has been amended over 50 times and when this new government of course and the National Assembly came in to existence, one of the fundamental changes that we wanted to do was to change the 1997 Constitution and for me honestly, I found it quite intriguing that the same National Assembly members who spoke in favor of reviewing the Constitution is now turning around and trying to condemn the new draft Constitution. I definitely find that intriguing. Honorable Speaker, you know this whole exercise has been a very very expensive one. A lot of material resources, a lot of human resources and a lot of financial resources was invested in it to a tune of over 116 million Dalasi. Now rejecting this Constitution, is like sending all that money in to the grave. This is something that we need to look at properly. One of the aims of the Constitution if I may read from my note is that, The CRC has stated clearly in their executive summary that the constitutional review was meant to uphold and respect for the rule of law and fundamental human rights, ensure democratic participation in national affairs, provide a solid foundation for good governance and establish governance institutions. If these reasons are not enough to convince anybody to support this Constitution, I do not know what else would because what I have just read are actually some of the fundamental flaws that the 1997 Constitution did not address. So, we constituted the CRC to address those issues and now we are turning around and say no, this is not good enough. This is something I cannot just understand. Honorable speaker, when the CRC set out to work on this draft constitution, they consulted extensively in the Gambia and outside of the Gambia and every single Gambian who cares to contribute any idea was given the opportunity including this very National Assembly members. We have been engaged, we were given opportunities to contribute and today what is happening, none of us here would say that the consultation process was discriminatory. I do not think because all the communities were visited in the Gambia and further afield. The consultation was extensive and nobody would say well, we are going to reject this constitution based on the fact that the ideas of Gambians who cared to contribute anything was not considered, nobody would say that. And now today we are here talking as if nothing happened before as everything was imposed on us, these is not fair. We cannot trivialize all the efforts of this great men and women of the Gambia, who drafted this Constitution, who contributed everything to make sure that they provide us with a

Constitution that is better than the previous one. How can we trivialize their efforts? I was listening to the debate yesterday and I was disappointed at some of the statements that were uttered here, one of which is that the Constitution was plagiarized. Those who spoke about plagiarism did not mention or may not necessarily mention the word plagiarism but when you say you cut and paste that essentially is plagiarism. That this Constitution is a plagiarized constitution from the German Constitution, in academia let say you do not know, plagiarism means taking somebody's work or somebody's idea and pass it on as your own. But when you use somebody else's work or ideas and acknowledged it, that is not plagiarism. I think they need to educate themselves about plagiarism. So, it is not a plagiarized Constitution and there is nothing wrong to borrow idea from other ideas, you always adopt and adapt, paste with our own situation that is what they have done and that is not plagiarism in case they do not know. Honorable Speaker, another issue that came up during the debate was on citizenship, a lot of people have expressed concern about citizenship which was reviewed in this Assembly and passed out of this Assembly but for me this is not a personal opinion that citizenship must be jealously guarded. We have to protect our citizenship. I know every country has their own peculiarities, so what is good in Uganda is not necessarily going to be good for the Gambia. So, we have to understand our own peculiarities when it comes to that. Gambia is one of the smallest counties in Africa, yet one of the most populated country in Africa. So, we cannot allow or just open the flood gates for everybody to come and become a citizen automatically to birth right, of course, the Constitution is clear nobody is barring anybody from acquiring Gambian citizenship and that is clearly stated. There are channels, there are legal ways of doing it through other registration or naturalization processes. So, I do not see anything wrong with that Honorable Speaker. And then there is also the issue of ministerial appointments being confirmed by the National Assembly and so many people expressed dissatisfaction with this particular law when it comes in to effect but for me, this is complementarity between the Executive and the Judiciary not necessarily politicizing the whole exercise. When the Executive nominates people for the ministerial position, they are brought to the National Assembly for vetting and confirmation, for me that is complementarity and not necessarily going to subject anything to politics. But definitely, we do have a lot of

different political parties represented here so, I do not think anybody is going to politicize it. If indeed the nation's interest is important to us, we will not politicize that appointment. I am going to keep it short and then Honorable Speaker, on my final note, I would just want to say that rejecting this draft Constitution is going to be one of the fundamental failures of this National Assembly and this government. It is going to be a fundamental failure for this National Assembly and the government, It is also going to be a lack of respect for the Gambians whose wishes and aspirations, we say we are representing in the National Assembly. So, Honorable Speaker, I would urge each and every one of us to vote in favor of this draft Constitution and on that note Honorable Speaker, I beg to take my seat.

**HON. FODAY N.M DRAMMEH [TUMANA]:** Thank you Honorable Speaker for giving me the floor. I want to thank CRC for the very good job that they have done for the people of this country. I also want to seize the opportunity to thank each and every Gambian who participated in the entire process in drafting a new Constitution that we want to usher in the third republic. And again, I want to thank my fellow National Assembly members for the entire process too because it was in a faithful day or in a faithful month of December in 2017, the National Assembly of The Gambia established the Constitutional Review Commission to draft the country's third Constitution and both the current government and citizens appear to agree on that given numerous amendments to the Constitution and several undemocratic provisions. Developing a new constitution that will meet the wishes and aspirations of the Gambians and the need for a new Constitution cannot be over emphasized Honorable Speaker. I also really want to take part in the debate and a lot have been said since last week up to now but any way I believe with this draft constitution, we have the destiny of this country at hand or on our shoulders. We either preserve it or we throw it away. The destiny of this country is this draft Constitution and I believe as Member of Parliament or members of parliament or people's representatives. We should really support this draft Constitution.

On behalf of the people of Tumana Constituency, I am in support of this draft Constitution. Honorable Speaker, the reason is that this constitution is not my Constitution, it is not the Constitution of this Parliament, it is not the President's

Constitution neither the entire Executive's Constitution but this is the Constitution of the people of the Republic of The Gambia because looking at the report, what the CRC told us here, the way and manner or the procedures that they follow to draft this Constitution, that is the public consultation I was very keen and we are all aware of what has happened in this country.

The CRC went around the length and breadth of this country, you talk about the consultations in the Gambia, the face to face stakeholders' consultation, focused groups discussions, face to face interviews, households' surveys, public participation platforms, what else do we need? What else are we asking for as the people's representatives? If this is not enough, what else are we asking for as people's representatives? Please Honorable colleagues, the world is moving and the Gambia is not really moving and one of the reasons why we are not moving is because of the law that we have. It does not serve the interest of the people of this country and for us to build a better Gambia, we have to have a constitution that is going to serve for the supreme interest of this country and that is the people. We are not only here to represent ourselves; we are here to represent the people of this country that is the Gambian people. I believe that this document is in the supreme interest of the people of this country. If I have one or two things in the Constitution that did not favor me and in fact, I have them in this Constitution. I have some of the clauses that will not favor me as an individual but that does not necessarily mean that I should go against this entire Constitution. If I do that it means, I am nothing but a disappointment to the entire nation. As a young man and as a young representative, I am seeing what is happening, the realities in other countries even in our neighboring country here Senegal. If the people, the long serving parliamentarians in this parliament did not give us the genesis of what has transpired in this country, I would not even know the 1997 Constitution because I was seven years old but we have all seen what has transpired in this country. The processes that it follows and the processes that we want this one to follow, it is like the East and the West.

Honorable Speaker, as many people talked about the term of the president, I think this is very simple. The current President of the Republic of the Gambia gives unless if he did not want to stick to his words, he said "he does not know anything about the

affairs of government," he only wanted to serve the people of this country just for 3 years but he is now given 5 years. If I were in his shoe, what is wrong if they do not include my current term in this draft Constitution? Should I kill myself about that? I am not saying that is what he is doing but many are defending on that dimension. And if we should do that, it means that we are not doing justice to the people of this country. Today a lot of people are following political parties but politically people are not aware. You go to this draft Constitution and you compare it with the 1997 Constitution, the NCCE 299 Subsection 3, you read about subsection 1, you read about Subsection 2, you read about subsection 3 and you compare it to the 1997 Constitution. I believe the people of this country majority of them are not politically aware but this Constitution wanted to make it or wanted to give the people the opportunity to be politically aware, to know what is really happening. Even with this draft Constitution, majority of the people do not even know what we are doing but you compare this to the 1997 Constitution.

Honorable Speaker, you go to Section 296 – National Youth Development. I am a young man, a youth for that matter, this Constitution has catered for me different from the 1997 Constitution. I should not only just follow the ambiance of politics, I should not just only be clapping, I should not just only be singing and dancing but I am catered for in this draft constitution. You go to the political representation; every political party should have 10% representative in this National Assembly. I think this is something that has given the opportunity to young people of this country to come and represent themselves and tell the people the way and the manner they want to be ruled. You talked about women representation. This is a very good constitution Honorable Speaker and I believe the people, the Honorable members of this house would really support this Constitution to get to the people, either they accept it or not that is left to them but we have to pass this Constitution to the people. Honorable Speaker, the amount of money spent in drafting this Constitution is huge. The constituency without a health centre, 160 million can build first class health Centre in my constituency. We want that money to go in vain like that which should not be.

Please Honorable Members, I believe you are going to support this. I am with the conviction that I am really optimistic and that you people are going to support this

Constitution. Honorable Members, please let us support this draft Constitution. It is the Constitution of the people and every Gambian is watching, every Gambian is watching and they want to know what we are going to do here today. Please Honorable members, let us support this draft Constitution because it is the Constitution of the people. Honorable Speaker, I wanted to buttress on certain points but I think there is no need because majority of the members have spoken on those areas. Section 157, I think this is very important as I am here representing the people of my constituency who are Fulas, Mandinkas, Wollofs, Sarahules, and any other tribes and they really want to know what I am saying in this parliament. So, to introduce a local language or national language in the parliament to speak to them in the language that they understand and know what I am saying, this constitution has catered for that. This is why I say this is the people's constitution.

Honorable Speaker, looking at the 1997 Constitution, if anyone wants to defend the 1997 Constitution as your legacy, I am telling you that you are defending a very bad legacy. There are lot of things in that 1997 Constitution that did not couple with our current realities as a nation. On that note Honorable Speaker, I want to thank you.

**THE SPEAKER:** Honorable Members, we still have some more interventions and it is almost getting to 2:30 so, I am just thinking of suspending the session for a short break so that we can stretch our legs and if you agree we come back at 3:30. It is a proposal.

**HON. SULAYMAN SAHO [BADDIBU CENTRAL]:** Let us have two more interventions.

*[Other intervening voices]*

**THE SPEAKER:** Yes, ok so thank you very much. In that case, I would suspend the sitting and we resume at 3:30 to continue with the debate as I still have some couple of Honorable Members to make their interventions, thank you.

***[End of morning meeting]***

**THE SPEAKER:** Good afternoon. The House now resumes, please be seated. We will continue with the debate.

**HON. SULAYMAN SAHO [CENTRAL BADDIBU]:** Thank you Honourable Speaker for giving me the floor. Honourable Speaker, I would like to acknowledge CRC for the wonderful job done. I also want to thank National Assembly Members for coming up with such an important Act. Honourable Speaker, I want to thank Gambian people for the cooperation shown during the entire process, those at home and those abroad.

Honourable Speaker, before coming to my points or reasons why I will give my blessing to this important Bill, I would like to quote from the preamble of the constitution which states that:

***We the people of The Gambia,***

*As a sovereign independent State, having had the opportunity to express our views and aspirations on how we wish to be governed, affirm that this Constitution is the embodiment of our will and resolve for democracy, good governance, separation of powers, sustainable environment and equitable distribution and use of resources, rule of law, equality and observance of the principles of fundamental human rights and freedoms,*

*Being committed to freedom, justice, accountable government and overall respect for the rule of law, recognise and affirm the principle that all power vest in and emanate only from the sovereign will of the people which shall be respected at all times,*

*Recognising the value of the enshrined fundamental human rights and freedoms in this Constitution, undertake to ensure the observance of those rights and freedoms,*

*Recognising and appreciating our values as a people of diversity, collectively declare and affirm our duties and responsibilities as citizens of The Gambia and our love and commitment to each other to foster and promote national unity, cohesion and peace,*

*In this spirit and in the name of God the Almighty:*



*ADOPT, ENACT AND GIVE OURSELVES and to our future generations this Constitution as a beacon of hope, stability and national unity, progress, peace and prosperity.*

Honourable Speaker, the preamble speaks for itself. The task that we have here today, is not a difficult task, as far as I am concerned. Our role is very clear in our Standing Orders. We have created a body, we gave them all the necessary powers, we equip them and they have done what we expected from them.

Honourable Speaker, it should be borne in mind that in writing a Constitution you have your reference points. The people who were mandated to carry out this task put the following into consideration: meaningful engagements were done, opinions of political and constitutional writers were consulted, constitutions of The Gambia, both 1970 and 1997 were consulted and constitutions of other countries as well, customs and conventions, previous constitutions or judicial precedence and constituent assembly. These are the sources of constitution. Anywhere you are writing constitution, you must get your sources and I believe the CRC has done justice to the cause, Honourable Speaker.

Honourable Speaker with your permission I would also want to quote from CRC in the report:

*"The democratic and peaceful change of government that had happened in December 2016, was a watershed moment in the history of The Gambia and indeed African politics. The advent of the new government of President Adama Barrow in January 2017, brought very high hopes in many Gambians that the country was embarking on an important journey to build a democratic, just and prosperous society".*

Honourable Speaker, this is a journey and we are part of the journey. This should be a collective responsibility. It is not a battle between 1997 Constitution and the 2020 Draft. It is a battle for development and progress and I have high regards for all the Honourable Members who made contributions, expressing their opinions but at the end of the day your opinion shall not shatter the hopes and aspiration of Gambian people. We all might have our observations but the history must not be arrested here. The development must not be arrested. As progressive people, I think we can come to a concession and follow the procedures that are stipulated in our Standing Orders.

If you go to Standing Order 70, it makes it categorically clear. We need to debate on the object and when we reach the committee stage, we can propose amendments. If majority say we amend A or B, we can do so. At the end of the day, the citizens have to decide. To do an abortion here, is going to be a catastrophe. Please, Honourable Members, let us not attempt to do abortion.

Honourable Speaker, the Draft Constitution is progressive since the engagement was very transparent and open to the Gambian people. There is no single stakeholder that was not consulted during the review process. Honourable Speaker, the fundamental rights, the right that we are born with, the natural rights, are all enshrined in this Draft Constitution and they are well safeguarded.

Members talked about separation of powers. The time that Montesquieu, the French philosopher, was having this idea of separation of powers, the checks and balances came afterwards. Even if Montesquieu is alive, he will support the checks and balances that are enshrined in this Constitution. Separation of powers was done so that institutions will be responsible for their work. There will be nothing like duplication of functions but that does not mean that we will not have our eyes on them. Checks and balances come so that no single institution will have absolute power to abuse the authority of the people.

We all know that power is a drug. Power corrupts and absolute power corrupts absolutely. That is why we have these checks and balances. This is not a competition between the Legislature and the Executive. We are not here to arm the Legislature to control the Executive so that they would not do their functions. We want to create power balance. Honourable Members, let us pay a visit to history, we should not forget so soon.

Honourable Speaker, the powers of the President were well articulated in Clause 88. All the powers that the President can use to develop a country are there. What powers are you talking about? It will be disappointing to say that all the powers are taken from the Executive. No! Powers are not taken from them. That is why sometimes I believe we do not read. Somebody said people outside want to control us. It is better

that they read more than we do. If you read well, you will know that the powers are there.

That is the reason why we are called Honourable Men and Women. Sometimes, some of the Members do not want to be called Honourable. I can see the reason; if the decision is not honourable, the ideas are not honourable, then you will not like to be called Honourable.

Honourable Speaker, if you go to the Constitution, the term limit is well specified. In 2015, there was a meeting of ECOWAS and AU and Gambia was represented. The Gambia and Togo refused this term limit. If we abort this Constitution, it means that National Assembly Members are not also supporting term limit. It is the same message we are telling the Gambian people and the world at large. It should be borne in mind that The Gambia is not an island. We are moving and we must move as a country.

### **Religion:**

Honourable Speaker, the Constitution is religion friendly. There is no single religion that is given the power to abuse other religions. If you look at Section 3 of the Draft Constitution, Clause 3, "*The Gambia comprises people of different faith and every faith shall be respected and treated fairly without any discrimination*".

What do we want again? We are the people who should educate our masses and we are the people who should clear their doubts. If we are not educated, we are also misleading because some of the statements that we make are misleading statements. I am sorry to say it. We are not here to interpret the law; we are here to understand the law.

### **Political Parties in the new Draft Constitution:**

We can see that accountability and transparency is enshrined in so that we will know the source of funding of political parties. Who is going against that? If the political party serves as the alternative government or government in waiting but they are not transparent and nobody knows how they are getting their funds, if those people come to power what will they do to us? I think we need to entertain that. These are the new

elements that are not found in the 1997 Constitution. Nobody is claiming that 1997 Constitution is totally wrong but it needs to be adjusted.

Recently, a Private Member Bill came here. Why did we bring up that Private Member Bill? It was because we felt that there was a lacuna in the Local Government Act. A lot of Bills came here so we all agreed as Parliament to have a CRC. I could vividly remember that only few proposed that we can do piecemeal amendment but we all said let us have the entire Act reviewed. If today we should come here and say A and B should be removed. At the end of the day, one of the Honourable Members said, what we might have removed here might not be the wish of the people so that also has a lot of implications that we need to look at. This constitution is the Gambian people's constitution. Let us give them that opportunity to decide. I can attest that no MP did political opinion poll on your people. Maybe if 10 people called from your constituency, is that a proper representation to support or not? Please let us be sincere to ourselves, they might call you but they are not the true representative of your constituency. We should really do opinion collection and see if majority say this.

Honourable Speaker, principle of decentralization is also captured in the devolution of powers. We want to equip our Local Government Authorities and the New Constitution has given us that opportunity so that we will have proper decentralization. Development will be coordinated at the grassroots so that everybody will have a sense of belonging. The 1997 Constitution also talks about decentralization so you can see that there are a lot of things borrowed from the 1997 Constitution. That is why I am saying unless we are not reading but if we are reading, we can see lot of similarities.

Honourable Speaker, the Constitution is youth friendly. As one of the Honourable Members said, we talk about the youth as the cream of society. They are today's generation and future leaders. The youth are captured in the Constitution so who are we to say no to this Constitution when the cream of society is really factored in; how they will be oriented, supported, educated and self-reliant?

**Culture:**

Honourable Speaker, the culture and customs are all factored in the Constitution as well as the 1997 Constitution. 1997 Constitution gives us the mandate to promote our culture which is there to foster unity and it is the same that has been replicated.

### **Citizenship:**

Honourable Speaker, one of the Honourable Members mentioned that if you have a family abroad that wants to be a citizen it is not catered. I want him to read properly, we have what we call citizenship by descent, if your grandparents originated from The Gambia you can claim citizenship. The procedure is very clear, there are a lot of steps. If you want to be a citizen of a country you can be: by naturalization or by birth so what do you want? Do we need more schooling on the Constitution? If we need more let us request for that.

### **The Specific Rights:**

Honourable Speaker, we have a lot of rights in the 1997 Constitution but the new element that I have seen is the elderly people and these people need to be supported. We all know that aging is obvious, it must come. One day, the strength that some of us talk in this parliament will be out so we need support. If we do not cater for the old ages' social protection in the Constitution, where will our society be?

### **National Security Council:**

Honourable Speaker, the National Security Council is properly enshrined in the Constitution and we are all witnesses to the security reform that has failed in this country. It failed because there was no proper sense of direction. Now we have a constitution that can guide us, save us and protect this nation. Honourable Speaker, let us give Caesar what belongs to Caesar.

The job done by our own uncles, fathers and brothers cannot go in vain, we have to celebrate them. It is difficult, if we are given a topic to write one thousand words or only five hundred words, some of us will not be able to do it. You know how difficult it is to come up with a thesis or project, we all know so let us celebrate our people. These are our pioneers.

Honourable Speaker, coming to the numerous Commissions that we have seen: Human Rights Commission and the Teachers' Commission. For years, since independence, teachers have been suffering in this country. You do not even talk of health workers. Time has come for them too to be emancipated and in charge of their own problems. Let us give them the opportunity, let us give them a trial; there is nothing impossible. We might have financial constraints but the only difficult thing that I can think of now is if you want to change Sulayman Saho to a woman. Maybe that will be difficult but even with scientists if you give them the opportunity, they can make a trial. Let us not have this mind that we cannot. Yes, We Can!

The University has been here for so long, you have to thank the former government for that initiative. How many young graduates do we have now? Why are you taking us backwards? We need to move.

**Principle of Executive Authority:**

Honourable Speaker, when I hear Members say the Executive do not have the authority, they have more authority than we do. We must promote scrutiny and that is why National Assembly should be empowered to play that oversight function, to ensure that scrutiny is done so that we have the right people in the right positions. If you are sure of yourself, why should you be scared to come before the Parliament for scrutiny? If your credentials are okay and your background is okay, and your history is good, why should you be scared of that?

Honourable Speaker, having parliamentary elections and presidential elections on the same day is not new in the history of The Gambia. By then we were young but could remember fully, it was happening. I remember the people of Central Baddibu, some will vote for Dr Saho when it comes to Parliamentary but for S. M. Dibba when it comes to Presidential elections. I could remember it was happening and there are a lot of good things attached to it. The advantage supersedes the disadvantage. Why can we not go for it? Within the sub-region, this is what is happening so is it not something new and it will make the incumbent not to use his influence on the electorates because everybody now will be busy fighting their own battle. If the President is looking for

State House, you are looking for National Assembly Member: “*Fankung-Fankung*” (meaning everybody for himself).

Honourable Speaker, fifty-plus-one (50+1), the government that we have today is not a majority government in terms of representation. Honourable Speaker, if you look at the percentage: when you add what APRC got and what GDC got and the percentage the coalition got, we can see that the majority is not represented. We want to make sure that we have majority representation. Minority cannot rule over majority, that is not democratic. We have reached a point that we must tell the truth, we must accept what happened in the past and forge ahead. Once we are not ready for that, then we are not ready for development. The laws that we are making are not for ourselves but the generations unborn.

Honourable Members, I am making this special appeal to you. Let us give the Bill chance to move to the other stage. We have our concerns, no constitution on earth is 100% good but we must give chance. I want to enlighten one of the Honourable Members that nomination now is out of this new constitution. That is why I still say we do not read. Nomination is out of it. Had it been that we have time to read more, it is going to minimize the interventions that we make.

### **Conclusion:**

Honourable Speaker, in conclusion and with your permission, I would like to quote George Washington, the former President of the United States of America:

*"I wish the constitution which is offered had been made more perfect but I sincerely believe it is the best that could be obtained at this time. From a variety of conquering accounts, it appears to me that the political concerns of this country are in a manner suspended by a threat but the convention has been looked up to by the reflecting part of the community with a solicitude which is hardly to be conceived and that if nothing had been agreed on by that body, anarchy would soon have ensued."*

I am not saying that anarchy will come but in Parliament failing to give the citizens the right to decide how they will be governed is tantamount to coup d'état so let us

not find ourselves in that situation. Let us do our work and give it to the other people what they are supposed to do. As I said, it is a process.

Honourable Speaker, Benjamin Franklin also states very clearly:

*"I confess that there are several parts of this constitution which I do not, at present, approve."* Like the qualification, for me somebody cannot just graduate from High School and become President of a country. If you want to come up with that, you are creating a problem because some will see it as you are denying them their fundamental right. In essence, it is good to have somebody who has a little educational background to be able to analyse both national and international issues. However, if you talk about it, they say it is *"Warsak" or "Harajay"* (meaning luck).

Honourable Speaker, I have experienced many instances of being obliged by better information or full consideration to change opinions even on important subjects which I once thought right but found to be otherwise. I agree with this Constitution with all its fault; for me I agree. When you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble those men with all their prejudice, their passions, errors of opinion, local interests and their selfish views. From such an assembly, can a perfect production be expected?

Thus, I consent to this constitution because I expect no better and because I am not sure that it is not the best. The opinion I have had of its errors, I sacrifice for the public good. Within these walls they were born and here they shall die. If everyone of us, in returning to our constituents, we are to report the objections we had to it and endeavour to gain partisan support for them, we might prevent it being generally received and thereby lost all the salutary effect and great advantages resulting from our real or apparent unanimity. On the whole, I cannot help expressing a wish that every member of the convention who may still have objection to it would, with me on this occasion, doubt a little of his own ineffability and to make manifest our unanimity, put his name to this instrument.

Honourable Members and Honourable Speaker, long live The Gambia, long live the wishes and aspirations of Gambian people, and long live the Parliament. I thank you all. *[APPLAUSE]*



**HON. YA KUMBA JAITEH [NOMINATED]:** Thank you very much Honourable Speaker for giving me the opportunity to contribute to this very important and historic moment in the affairs of this nation. I would first start by thanking the CRC, the drafters of this Constitution before us. These are people I have great respect for. Two members of this commission actually taught me and imparted knowledge in me. One of them trained me to be the lawyer I have become. When I was illegally removed from this Assembly, I went right back to the office and he gave me back my job and told me you are only here temporarily and that was what happened.

I thank them very much for serving their nation. This is indeed great service to nation. For dedicating their time because all of them are very busy people. They made the sacrifice to dedicate their time to draft a new architecture for our governance. I thank you all very much.

Then I come to why we as a Nation, particularly the National Assembly, decided that we are going to give the CRC the power to draft this new constitution for us and remind ourselves why we are here today discussing this issue. This has a lot to do with our history and where we came from. This reminds me, today I see the Attorney General before me and I remember when I was nominated as National Assembly Member, then I applied for the Chevening Scholarship and went through all the stages and was shortlisted. I approached him in person, this was at the University of The Gambia and I know he would not remember. I asked his opinion, I said what do you think: should I withdraw or should I continue because I really want to serve? He said it is best for you to withdraw at this point to give someone else a chance. I went home and sat down and really thought hard about this: do I go to UK to continue my studies or do I serve my country? I wrote this on my iPad. I wrote this on 12<sup>th</sup> May 2017. I said:

“Dear Chevening,

I am withdrawing my application for scholarship because I was nominated to serve as a Member of the National Assembly by the President of The Gambia.

This opportunity to serve my country in such a capacity and at such an important time in our country's history is an honourable task, a task which needs my undivided attention at the moment".

I went further and said:

"As a transition Government, the National Assembly is the most important player toward achieving an effective transition. As a legal mind, my presence and participation in the National Assembly, particularly in creating democratic legal framework for The Gambia is indispensable".

This is how I felt at the moment. This is quite an honourable task and I said:

"I would like to take this opportunity to thank Chevening and the British Government for such a wonderful opportunity. I enjoyed every part of this process and I will apply in the next few years".

In my mind we were going to take few years to transition. The decision was that we are a transition government of 3 years. We are going to transition within these 3 years and after we set the democratic legal framework of this country, I will be free to go my way to continue my studies. This is my intention and today I am here grateful that I am part of this process because this is the most important process in our democratic history and we need to always remember that.

What are the principles of this new draft? We came from 22 years of dictatorship. We wanted a new governance system. We are trying to change the 1997 Constitution because we feel one of the main principles of why we change the 1997 Constitution is that too much power is vested in the Executive. We want a balance of powers, separation, checks and balances. We said we had to change.

Another principle is that given what we have gone through in the 22 years, the various amendments affected our democracy. One of them is the power that was given to the President to dissolve the Assembly at any time. Who thinks that is democratic? This is an excessive power given to the President. With this constitution, he can dissolve the National Assembly and call for elections at any time. On this basis, given the so many amendments, there is a stigma attached to this 1997 Constitution. We are not saying

that it is totally a bad constitution but there is a mark of shame attached to the 1997 Constitution because of the various amendments it has gone through, unfair amendments, I would say.

We decided as a country; that Gambia Has Decided. Let us all remember 2016, that we were going to usher a new democratic dispensation to continue to mould this new found democracy, we were going to change our constitution, issue a new constitution and inspire the Third Republic, to set a proper governance structure for our country. This is what the draft constitution has done. They have gone through extensive consultations and came back and gave us the draft and it is up to us Parliament to pass this through to the voters, to the general public, to have their say. This is what we should do.

There are so many debates going on whether we have the power to touch this draft. I do not even want to go there because to me that is a kind of baseless argument. It is very clear. What would happen if we do not have the power when we are the lawmakers? We are the supreme authority when it comes to legislation. Of course, we have the power to touch this draft but why, under what circumstances do we need to touch this draft? We delegated our responsibility and told the commissioners of CRC to draft the constitution. There is nothing wrong for us to touch the draft where it is necessary. I will give you one example. I raised the concern with the CRC, the issue of the Speaker in this new draft. How does the Speaker come into being? It just says the Speaker should be an elected ex-officio member without a vote. The process of how this ex-officio member would come into being is not said. This is one place where we can touch it.

To me, I feel that touching this draft, whatever we do is to add to it not to subtract it. I would say right now, register my support for the new draft. I am wholeheartedly supporting this, apart from little things that we can finetune during the consideration stage. Thus, I am begging us Members of this House to give a chance to this draft.

To give chances to the people of The Gambia to have their say on how they want to be governed because if we end this right here right now, that would mean as a country we have not transitioned. We are not going to have a Third Republic. We are not going

to transition and this whole idea of transition government would be baseless. I do not see what we would have achieved during this 5-year transition if we do not have a new constitution setting the framework and the architecture of the new governance we want as a country, particularly the young people. There are so many things in this draft that are worth celebrating. For example, the affirmative action for women to increase our representation. How many of us are here now? It is only 6 of us women in this but this draft is saying if it comes into being, every region would have 2 women representatives elected in parliament. That is what is worth celebrating as a woman, that is the affirmative action we need to start moving forward as a country.

Another principle of the draft, I think some parts of the draft should be called the Kumba Sections. You go to Section 143 of this draft, it is very interesting and has a lot to do with the history of this Parliament and the case. It says: "*Wherever there is a dispute on whether the seat is vacant or not in this Assembly, the Supreme Court has to decide within 3 months*".

If you hear this, what comes to your mind? The Ya Kumba Jaiteh case. The draft constitution touches a lot on our history and what we have been through. That is why we have certain provisions included. You go to local governance, what has it done? The draft has removed governors from it to make sure that local government can do what they want to do and elected local government representatives can do what they want to do in their different regions. There are a lot of things to celebrate in this draft and a lot of consideration has gone into this and as Members of the National Assembly, I would really encourage us to look into this properly and vote this draft at this stage to give the Gambian people a chance to have their say.

Another thing I really want to touch on is the principle of leadership and integrity. When it comes to the draft, it has limited term of the presidency to 2 terms and I know this is the most controversial issue but we cannot shy away from it. We have to discuss this issue because it is very important and the main issue why it is controversial is that the draft has gone further under the schedule to say that the term of the current President is included in his 2 terms.

Supporters of the President seem to have an issue with this but this is very funny to me. This is the President that came into being as a transitional President for 3 years. He is now serving 5 years and he is the President that initiated the draft constitution. He is now serving his five-year term. He is the President looking to limit the terms of the future Presidents to two terms but he does not want to limit his own term to 2 terms and they say it is discriminatory to him? Is it not discriminatory to other future Presidents?

If you say that the constitution is discriminatory to one person or another, I could say that the constitution is discriminatory to me because this constitution would not allow me to contest presidential elections in the coming elections because I do not have the age. I could say that is discriminatory. On the issue of retroactive clauses; they say a law cannot be retroactive. The constitution is the Supreme Law of the land, if it says this is the law, that is the law. There is no issue about retroactive clauses. It is saying this is law and I am the one deciding what would happen. This is the supreme legislation and it is repealing the others so it does not matter what it is said here.

Now if we pass this, it is going to be the law. That argument of retroactivity I think is baseless because if one is preaching something you are to be the first person to practise it. If this is the President that initiated this new constitution and wants to limit the terms of future presidents to 2 terms, he should be the first one to set an example in the entire Nation and before the entire Africa. This is the debate going on in Africa and I think it is very important and it would be one of his great legacies if he start this in Africa and sets an example. I would encourage them and I would also encourage him to end this issue and give this constitution a chance by just making a statement saying I am supporting my own constitution that I initiated and the debate would end. This is further principled on the principle of leadership and integrity.

### **Power Given to the National Assembly:**

Now it comes to the powers given to the National Assembly. In the 1997 Constitution, like I said before, so much power is vested in the Executive. Now the principle of this is to have checks and balances. We are giving powers to the National Assembly Members to vet the appointment of Ministers and I think this is a welcome idea. This

is the practice in more mature democracies. I think it is very important if you do not have anything to fear, you will not run away from scrutiny. I think this is why people should have a say as we are representatives of the people. We should have a say on the people who govern us, I welcome that.

Other Members have raised the issue of Judiciary and their remunerations and their benefits and how they are a bit bias in the draft. That also, I would like to remind people of the history of this country and the judiciary. There is a reason why but I do not want to be seen supporting it but I see the rationale behind those provisions.

Our Judiciary, during the Jammeh period, we have seen how the Executive had a hand in the Judiciary. It is very important to guarantee the independence of Members of the Judiciary so that no other forces outside can influence their decision because they are the last point of hope. When the Executive and the National Assembly were pulling hands, for example in my case, the Judiciary was the hope of the people. We see how people registered their hope in the Judiciary during that case and people were happy with that decision, that the Judiciary is finally independent. This is the reason, I believe, they inserted this provision to make sure that no one would have influence on Members of the Judiciary and their independence will be guaranteed during their term of service. These are things that we can discuss if we give this Bill a chance to go to the next stage and reach a compromise on these issues.

I would really stop this here and my last word would be to encourage the Members. I do not know if I should beg you or what I should do. I am pleading with you and this is very personal to me and I know too, a lot of Gambians are looking forward to this and we are on the good side of history. I do not want us as Legislators to leave the very ugly history given to this transition government. I really want those of you who have decided or want to say no to this, to give it a chance. I am begging you for us to take this to referendum and give The Gambian people a chance to decide on the governance structure of their country. Thank you very much.

**HON. DAWDA KAWSU JAWARA [UPPER FULLADU WEST]:** Thank you Honourable Speaker. After listening to the last two interventions, I do not think there is much detail I can go into in some of the points they raised. I just want to concentrate

on why we are here today and hopefully at the end of my intervention I will be able to implore or prevail on some of my colleagues who might equally have a different stance from me to see the bigger picture.

Honourable Speaker, the building of the constitution process is no ordinary law-making process. Unlike the conventional laws, the National Assembly does not enjoy unfettered power and authority to pass the constitution. The constitution, as a Supreme Law of the land, and its contents, originate from the sovereignty of people and is adjudged or settled by them. As the collective voice of the people, our job today is informed by the Section 101, 102 (d) and (e) and Section 226 Subsection 1 to 9 of the 1997 Constitution which provide for us the processes and steps that we need to take as a matter of law.

In principle and in considering their context as a sovereign people, Gambians looked at their past experiences, present experiences and future aspirations and as a sovereign people who are only answerable to God the Almighty, freely and fairly expressed their views and visions within a greater context and by the greater numbers, as soberly captured by the CRC.

Going through the preamble of the constitution, you will notice that the people have time and time again emphasized that they are the dignified and original bearers of all powers in all shapes, sizes and forms. With their power they gave significance and legitimacy to the framework of institutions that form the government and determine who exercises the power of an authority of the state, how we do it, in what propositions and for what purposes. They again emphasize that as they are answerable only to God, we are answerable to them or their elected representatives who act on their behalf. That is why, Honourable Speaker, with and on behalf of their authority, we develop and execute policies and enact laws to maintain that sovereign dignity against any unlawful act or action of an individual, groups or even a foreign nation.

In the same vein, we were able to use their power to establish the Constitutional Review Commission (CRC) in 2018, giving them mandate and powers to conduct an exercise on behalf of the people as our electorates. The CRC, dictated by those

mandates, the Constitution of The Gambia and other laws of The Gambia, did a fine job. These are a collection of Gambia's finest men and women of impeccable character, integrity, commitment, determination and unquestionable wealth of knowledge and track record in this field.

Honourable Speaker, the CRC preserved the spirit and the belief that in order to meet the objectives and goal that they are set out to do by building a constitution that reflects the views and aspirations of the people, they have to first do it through a nationwide (and even beyond) consultations because they believe that the outcome of a constitution building is only legitimate when it is broadly accepted and nationally owned.

Honourable Speaker, they understand that in order to do this, they had to use that determination that they have, to go across oceans all over the world, anywhere that they can get to, to reach every Gambian that they could and consult them on how they wish to be governed. They held seminars, workshops, conferences and meetings with every stakeholder in this country and outside the country to make sure that their view and aspirations are captured.

They researched Law Reports of The Gambia, Supreme Court rulings and consulted other constitutions in and outside The Gambia to make sure that they keep to the fundamental standards and norms but also best practices.

The contents of the Draft Constitution that is before us, Honourable Speaker, are captured in 20 chapters and 4 other schedules which were presented to the President on 30<sup>th</sup> March 2020 and published accordingly. Their goal was not to produce constitution that is one-size-fits-all. They understand that is not achievable but what they did is to reflect the greater aspirations and the views of the Gambian people. Honourable Speaker, I do not think we are in here to try to reinvent that wheel.

We would all agree that the draft constitution is far better than the current one that we are using right now, in terms of the progressive nature of promoting and protecting rights especially fundamental rights and freedoms, our national values, administration of the state, leadership and representation among others. While ushering a new era of hope, peace, unity, national cohesion and reconciliation, democracy, justice, respect



for the rule of law, transparency and accountability, leaving behind right abuses, social divisions, corruption, injustice of all forms and impunity.

This Bill, which is the Constitution of the Republic of The Gambia 2020 Promulgation, is no ordinary Bill. Like I said, Section 102 (d) and (e) plus Section 226 apply. That should be the centre of our focus. Honourable Speaker, with your permission, I would like to refer this House to these sections.

Honourable Speaker, if you look at Section 101 of the 1997 Constitution, it is telling us how to introduce Bills and Motions into Parliament. Section 102 is also giving us our additional duties or functions as a National Assembly and (d) would tell you that our functions include, in a Bill, a proposal of a Referendum on an issue of national concern defined in the Bill but also to advise the President on any matter which lies within his/her responsibility.

Section 226, Honourable Speaker, will further go on to elaborate on our functions today. It would clearly state, if you allow me, Subsection 1 will tell us that subject to the provisions of this Section, an Act of the National Assembly may alter this constitution subject to subsection 4: *"A Bill or Act of the National Assembly under this Section shall not pass by the National Assembly or presented to the President for assent unless before the first reading of the Bill in the National Assembly, the Bill is published in at least 2 issues of the gazette and the latest publication being not less than 3 months after the first and the Bill is not introduced into the National Assembly not earlier than 10 days after the latest publication."*

I can go on, Honourable Speaker, but you would understand that so far, the Bill has fulfilled all these requirements but the point I want to raise here is in Section 226, Subsection 4 where it says that *a Bill for an Act of the National Assembly altering any provisions referred to in Subsection 7, which is mainly dealing with entrenched clauses, shall not be passed by the National Assembly or presented to the President for assent, unless the Bill is published and introduced in the manner required by paragraph (a) of Subsection 2.*

Basically, any alteration that we do here, at the consideration stage, it means the whole process has to start all over again. Considering the timeframe or the proposed

timetable from the IEC, is that what we want to do? The 2021 election is fast approaching. It is also saying that the Bill is supported on the second and third reading as stated on earlier. What I want the Minister to help me here is, it is also asking the same Bill after any alterations, amendments, additions or whatever, repealing, that the Bill has to be referred by the Speaker to the Independent Electoral Commission and the Commission has within 6 months of such references to hold a referendum on the Bill.

It means, if I understand, I am not a legal person, that any alteration that we do to this draft it means it has to go back for consultation with the people because we have changed what the CRC has viewed as their views and aspirations. We have powers to do those alterations, there is no question about that but what we have to ask ourselves is do we actually want go back and restart all this process again not knowing what might be the outcome of it?

**THE SPEAKER:** Bear in mind that the stage which we are in right now. We are at the second stage dealing with principles.

**HON. DAWDA KAWSU JAWARA [UPPER FULLADU WEST]:** As we are debating, Madam Speaker, the question here is many, Members have raised concerns and I have concerns too with this draft constitution. Do we want to reflect on those concerns in this draft constitution, at any point? What are we doing, are we not frustrating the process itself?

Like I said, I have clauses that I have concerns with and some of the Members raised some points here that are equally the same, like the retirement package for judges, the Speaker's election without vote, immunity of NAMs, election of Seyfos, citizenship and qualifications of a President. Madam Speaker, there is a philosopher, Joseph de Maistre, who said and I will quote "People get the leaders they deserve", right or wrong?

Madam Speaker, we have set a very high bar for Ministers, Directors, Ombudsman, Commissioners of Commissions but yet we do not mind if our President is as unqualified or just qualified as a Secondary School leaver. I have concerns too but I

do not think these concerns warrant us to frustrate this process reaching the Gambian people.

I have also heard concerns from some Members who went as far as raising the point that the CRC have basically stolen some other people's work (like plagiarizing it), that what they did is basically wrong, Madam Speaker. Looking at this report, especially the last two pages will show you time and time again all the references that the CRC has mentioned where they are taking their sources from both within The Gambia and outside The Gambia, be it Malawi, Togo, Nigeria, Liberia, Sierra Leone, Kenya or wherever, they have given us references. Besides, who can claim monopoly over what is right? Nobody! What is right is right: if it reflects our national values, if it reflects our self-determination, if it reflects our form of government that we want to create, there is nothing wrong with that. I think that is a little bit too low, below the belt.

Madam Speaker, just to wrap up, we also have to consider this. Coming into government, this administration has made so many grand plans and promises. Some of these include: security sector reform processes that were planned, national reconciliation, through the TRRC, certain financial and institutional reforms like the Janneh Commission and all that. The effort of the CRC, in my view, would only add to some the failures that we have registered in those areas. I do not think we want to actually do that.

Therefore, I implore each and every member of this legislature that we are the conscience of the nation. We are the voices of the people and for me personally, I am really humbled and honoured to play a part, more part than I can ever ask for. The least we should do is to overlook any differences of positions or issues we have on the draft constitution and together deliver this to the people for them to decide. It is their fate, if we think this is not the best law for the Gambian people, let them be the deciders of that. At least we will have chance to come back and change what we think should change in a conventional type law making.

Madam Speaker, I want to remind myself and everybody in and outside this chamber, particularly the media, Civil Society Organization (CSO), Right Activists, Political Parties, Pressure Groups for Women, Youths, Disabled people and other Minorities

and of course ourselves as NAMs, being the representatives of the people, that constitutions alone do not guarantee peace. They do not guarantee our political, social and economic welfare and advancement.

We have to be vigilant, we all have to play our part for every position that is agreed on this draft constitution, without which, it can be a futile exercise. On that note, Madam Speaker, I want to thank you for the time.

**HON. SPEAKER:** Thank you very much. Honourable Members we are coming to the tail end of the debate. I have a few Honourable Members on my list so I just want to ensure that final call. Can I take those who want to still take the floor? We need to do that for the management of time purposes.

**HON. ASSAN TOURAY [BAKAU]:** I prefer to withdraw because enough is heard. I said I wanted to withdraw because I have heard enough about the contributions so I will reserve mine until the committee stage, is that okay? I want to withdraw.

**HON. SUWAIBOU TOURAY [WULI EAST]:** Thank you very much Honourable Speaker. I rise to also contribute to this very important debate regarding the future supreme law of this country. Honourable Speaker, I also want to thank the Ministry, the CRC and this National Assembly for getting us to this stage. I want to thank the CRC for fulfilling their mandate to review and deliver this draft to the country successfully. Honourable Speaker, we all know the challenges that awaited the CRC at the early phase leading to them undertaking to review this draft.

I believe that we have given them sufficient mandate to carry out their work, which they have done very well. Our consideration, Honourable Speaker, should be to find out from the work that was done by them, whether it is satisfactorily done. For example: whether the people had taken ownership of the process, whether the people have fully participated in the process, whether the human rights framework has been the cornerstone of the review process. These are some of the issues we must look at in our process to review or scrutinize it.

Also, Honourable Speaker, the CRC Act i.e. the functions that we have here, whether they actually followed those functions to be able to give us this draft. I can read them, functions of the commission:

- a) To seek opinion and take into account such proposals as it considers appropriate to review the 1997 Constitution, adhere to national values and ethos, safeguard and promote the following matters:
  - i) The existence of The Gambia as a sovereign independent state, The Gambia Republican system of governance including its democratic values and respect for and promotion of the rule of law and fundamental rights and freedoms, the separation of power, national unity, cohesion and peace, the importance of ensuring periodic democratic elections based on universal adult suffrage including the introduction of term limits for serving in the office of President and The Gambia's continued existence as a secular state in which all faiths are treated equally and encouraged to foster national cohesion and unity.

Honourable Speaker, these are the main functions that have been identified for the CRC to use during the review process. Then I will also add some criteria which I believe is important to see whether they have captured that as well, whether the review process has been monopolized by political elites. Is it only political elites that contributed to this or has it been dominated by any sector of society? That is a very important question. Whether any external organization or even a patronizing state had tried to dominate the process, whether the CRC has looked at our local realities, sensitivities, our tradition and other needs, whether those are properly taken care of. Those are some of the important issues that we need to look at. In my view as a stakeholder, I have met CRC. I believe it is more than five (5) occasions and exchanged issues with them and I know they have also gone to my constituency and the people had their say.

We must be careful, sometimes what the people would tell the CRC should not be in the constitution. If for example, the Wuli people say the second capital of The Gambia must be Sutukonding, should the CRC put that? And when I come here and say my people said Sutukonding should be the capital but I do not see that in this thing so I am not going to support it, that will be very parochial on my part. We should look at

the major principles to see if they are captured. We will never have a constitution that we will not come here to amend. Depending on the circumstances, we will always come and amend something, it will never be perfect. We have been told over and over that we will never have a perfect constitution. There is no constitution in the world which is not being amended, depending on their time.

Honourable Speaker, the other question is whether institutional safeguards are in the draft constitution. I believe that the judiciary, if you read it, is independent to the extent that it is the ultimate tool to protect our rights individually and collectively. That has been captured based on my reading and understanding. The Executive, Judiciary and Legislature are being confined to their mandate under this draft constitution so that there is no unchecked or arbitrary power or action to be done by the State. That has been fully captured by the draft.

Honourable Speaker, do we reasonably equip the three arms of State with real competence, to ensure that they carry out their mandate, to ensure that they are autonomous and to prevent the concentration of power on one side? I believe the draft constitution I have read has actually done justice to that.

As far as I am concerned, Honourable Speaker, the CRC has done justice to their functions. They have captured one major thing or a few major things that we have said. Term limit is captured, separation of powers is adequately captured, local realities and sensitivities are also taken care of. There is no undue interference from any external power to dominate the process of the review. I have not got any evidence, in fact, the evidence I got is that the CRC has refused even donations from external sources during the time of the review, even though they have been offered. I got that evidence.

Honourable Speaker, the other main issue that was debated here is the transitional and consequential provisions. Transitional and consequential provisions, Honourable Speaker, is in every constitution. We are transiting from one order to the other and for us the most important thing is that we want to review our constitution so that we can transform the political and social order. I think that is the main reason why we want to carry out this review; we want to transform from the second republic to the

third republic. Through that transiting, all of us will be affected in one way or the other. No one will go scot free; everyone will be affected in one way or the other because we are coming from a new law which we are used to and going to something new.

Honourable Speaker, the National Assembly is affected. Our term or tenure of office is limited by this draft, even if it is going to be three (3) months, it is going to be limited. Three (3) or four (4) months but we are not killing ourselves because of that. We know the work we are doing is more important than our personal endeavours.

Honourable Speaker, I am being bombarded here that the incumbent is losing a right he has acquired. I have not seen that in the draft. What I have seen is that everybody has to make some sacrifice in order for us to attain what we intend to attain. Many Honourable Members have said that here, that to set an example, we will have to make some sacrifices. If he was asked to step down immediately this draft constitution comes into effect before his term expires, then we can say that is an acquired right that he is losing. He is asked to continue, the President that is here before this draft comes into being will become the first President of the third republic. He has won an election and was given five (5) years and that five years will expire. He will do it, he will carry on, he is not deprived of that. That is the acquired one. The other ones, we are not yet there. Whether he is even going to win an election nobody knows. Before you deprive him, he has not even attained it so nobody has deprived him of that right. We all want to limit our President to two (2) terms and this constitution ensures that the incumbent has his two (2) terms. If it says you are going to be limited to this first term then we can say well we said two (2) terms, why are we giving him only one (1) term?

To give a very good example, we know that we had leaders like Mandela who decided to go for only one term of four (4) to set an example. We are asking him to have two (2) terms. Why you want the others to have, have it but do not go beyond it. That is what the draft constitution is saying. I do not know how we can come here and fight for the right of the President when we know that his representative is here. I believe the representative of the President will tell us whether the President is opposed to this. I have not heard any pronouncement from the incumbent that he is opposed to

what is in the draft. Somebody said the CRC should ask him whether he wants this or not. If the CRC should come to ask me whether I want to be deprived of my three (3) months term of office, if they want to ask everybody whether they want this or not, then we will not have a constitution. The CRC cannot go to everybody and all those who are affected to ask whether they want to be affected by this or that. They are looking at national interest and the aspirations and wishes of our people.

Honourable Speaker, the issue of supremacy of the constitution has also been an issue and I am very surprised that colleagues are questioning whether or not the constitution should become the supreme law of our land, that it is copied from Kenya, and that its legality and validity should not be challenged by or before any court. That should not be the case.

Honourable Speaker, my interpretation is that we have many laws in the country, including religious laws, private agreements and so on and so forth. We are looking for a supreme law that all other laws will be consistent with. That is why we go into a referendum so that the majority of Gambian people will vote and decide that that becomes the case. You can go to any Bantaba and oppose the legality and validity of the constitution but you cannot do it before the court. You cannot go to court and say this constitution is not important. You cannot say that in court. That is what it is saying, do it anywhere but you cannot do it at the court. The court will not allow you to do that; you cannot question that in court.

Honourable Speaker, how many republics? We are talking about a republic, not a monarchy. In a republic, the constitution must be the supreme law of the land. If you go to the US, it says (which many people quoted), the constitution is the supreme law of the land and any law that conflicts with it has no force. That is in the US constitution, any law that conflicts with the constitution has no force. In the 1997 Constitution, it says the constitution is supreme law of The Gambia and any law found to be inconsistent with any provision of this constitution shall, to the extent of inconsistency, be null and void. That is this one, our own, before we talk about Kenya. In Nigeria, Ghana, Uganda and other Republics, even Lilliput, when it is a republic, the constitution will be the supreme law of the land. That is the issue.



Honourable Speaker, the draft has so many innovations. I have gone through this draft and saw so many innovations, numerable ones, that has done justice to improve the governance of this country. These are fair provisions which can only take us further and not backwards. The objective is to review the transformation of the political and social order of our society. I believe that is adequately captured in the preamble of the draft. If we look at Sections 132 of the draft, we will see i.e. private prosecution that was not in this – private prosecution. Many a time the police will be reluctant to take certain cases or individuals to court or to prosecute certain people because they are thought to be big people. Maybe they have committed crimes against individuals. They trampled on the rights of other individuals. These provisions have come to say when somebody commits a crime, even if the police do not want to take action, the individual can take action against the person to ensure that he or she is punished by law.

Honourable Speaker, if you look at loans, we all complain about loans, grants and government guarantees. Loans have always been controversial. Some of us, in fact, asked for some kind of study to ensure we have some control over these loans; to ensure that we do not overburden our people, our future generation with so much loan to the extent that they cannot even manage their destiny. This draft constitution has come and put some extra stringent measures to help the National Assembly to ensure that does not happen. That is a very important innovation.

Honourable Speaker, when you come to the issue of Seyfolu, for me that is controversial. Seyfolu and Alkalolu: with Seyfolu you have an election which is okay. We agree to an election but then they say for life, when you win an election. In a republic, in a democracy, somebody who is elected should also have a term limit so that people check again whether they want that person or not. Has he been serving them the way they want to be served? What is going to be their functions? Even though that is left to us, they say we can come up with provisions and give function to Chiefs. I believe that needs to be here so that we know. When they are going to get them life, are they going to be ceremonial, are they going to continue to be Magistrates because they are Magistrates and they are administrators. They are doing these two things in the districts.

For me, if we are going to make it election, then we have to give them a period. When you come to the issue of Alkalolu, there has always been some argument as to who is the legitimate inheritor of the passing one. It is important that we come with a provision that will help in addressing that. I believe if there are commotion and people do not agree as to the traditional lines of inheritance, let them have an election. A simple election where all the members of that community with voting cards can easily vote and solve the problem rather than trying to force somebody on them. I think that is something that we should look at.

Honourable Speaker, affirmative action, this draft has given a lot of impetus to that. The other half of society, the female folk, if it were not nomination, they may end of having only three members in the National Assembly. Are they participating in the decision-making process of this country? Are they not citizens? Should we allow the other half to just be clapping, supporting us in elections and not allow them to participate in the decision making of their society? We should not oppose affirmative action because it is helping others to join the developments of our society.

Honourable Speaker, this draft constitution has made the environment a fundamental human right which is not in the 1997 Constitution. It is a very good innovation. What I want to emphasize also, Honourable Speaker, is compromise. We all want something better but this type of work cannot be done without compromise. If you have three hundred and nineteen provisions or clauses in the draft and you happen to disagree with five, do not kill yourself. Let us compromise. There is no need to commit suicide because of disagreement. If you ask me, I have many provisions or clauses here that I do not agree with. If they pass this, I will not kill myself because I will know the fundamental principles and other important clauses are there. The fundamental human right clauses are there. Other innovations are there that are more positive and important to the society. There are a few clauses that I may disagree with.

Let us not tailor a constitution to serve an individual; let us not focus on any individual. Let us focus on institutions; let us focus on principles, ethics and merits because the threshold is very high. The threshold is 50% participation. Even if you agree here and after we agree then you go and campaign, you are depriving us the threshold. You are depriving the society the threshold and even to pass this stage, we need a lot of

compromise. Fundamental rights are there; for me my concern was fundamental rights. We should look at it, to see that at least they have not given us fundamental rights with the right hand and taken it with the left. I see a lot of limitations on the fundamental rights. We need to balance to see whether that is not the case but as long as that is not the case, we should be fine with it.

On that note, Honourable Speaker, I thank the CRC again for a very good job, for their commitment to national duty. I thank the Members for a very good debate but let us allow this draft to pass this stage so that when we come to the next stage we will have another debate among ourselves to see and help each other to understand a lot of these provisions because some of us have discussed with all kinds of lawyers: home lawyers, as well as backyard lawyers. Do not think that somebody who is a lawyer understands constitutions. Constitution also is a different field so let us give ourselves time at our committee stages because we have sixteen (16) weeks to really look at this draft. If we become a little careless until we throw this into the dustbin, then we are not doing justice to our people. On that note, Honourable Speaker, thank you very much.

**HON. SAIKOUBA JARJU [BUSUMBALA]:** Thank you very much Madam Speaker, for the opportunity to add my voice on the most important document of The Gambia. I also thank history that I am taking part in the debate of the most important document of The Gambia which history will tell.

Madam Speaker, before going further or doing anything, I want to thank the government of the day for fulfilling and adhering to the promises of reforms that they want to do. The constitution is also part of the promises that they gave and they have adhered to that. Madam Speaker, by extension, I also want to thank the CRC for adhering to all the provisions given to them in the Act that establish them, to follow all the procedures and submit the draft constitution on time.

Madam Speaker, that work is now the question. Before I go further, I want to clear myself because that will dictate where I will be. When the draft constitution was published, so many people take it as theirs to give analysis about the draft: the function of the National Assembly and the rights of the people in the country. I want

the Minister to answer this question because that will dictate the way I am going to vote at the end of the debate. As a National Assembly Member, this is not my first time to go through a debate on Bills. As a Member, I have a right to adjust and amend Bills that have been brought here by Ministers. As it is being portrayed in the society, the National Assembly does not have any right to touch, neither to put a comma nor a full stop on this draft. If that is what stands, then I fear that it will be very difficult for the draft constitution to pass this stage. I am with the conviction because I am au fait with my job, that the National Assembly has the power and mandate to amend some of the realities that we feel, by compromising to have the best document to give to Gambian people to do a referendum on.

Madam Speaker, the draft constitution is a very good book in relation to the realities or to the present generation's issues that are going on. If you look at their references, they have done research, try to get best practices of others. The question will be, are those best practices applicable in this political situation of The Gambia at this time? That is a question we need to ask ourselves from this good job.

Madam Speaker, I want to put this to the general population that no document is ever right in front of the National Assembly. No matter what type of quality people we have in the CRC, when they bring a document here our job is to scrutinize. Going through the document does not mean that we are trying to devalue or underrate the good job that CRC did. I am trying to do my job, to go through this draft constitution to see what I feel needs to be adjusted. This thing should not be there based on the realities, the justifications members agree or disagree but if it is going to draw a confusion that I will only talk, I cannot touch, I cannot change, it is going to be very difficult.

Madam Speaker, if you look at it, after all the goodies of the book, there are issues there or some provisions that I think need clarification on. Why are those ones being deducted from the 1997 Constitution, Ghanaian or Kenyan constitution and brought to the draft for it to become a law in The Gambia? What is their justification or what is the reality of the implication that it will work for the best interest of the people? Those are the issues I have. They have gone round the country and I had engagements with them in my constituency. If they look at the people that came, the greater percentage are women and youths. That is one aspect that should have been

in their mind. I expect the draft constitution to say something about the unemployment rate of the population. There has to be something that will force government, not by will or whether they want to do it or not; it is incumbent. As we used to say, it is the job of the government to provide jobs for the people. Our people are there without jobs, what is this draft constitution working out for us.

Madam Speaker, the salary scale of the people, poverty rate is too high in this country. I was expecting and I want to put this question to the Minister: what has this draft constitution talked about to alleviate the rate of poverty on the Gambian people on the side of salaries? Poor infrastructure: The Gambia seems to be a dry season country. When the rain comes, sorry to say this, everybody changes into frogs. We keep on jumping from one pothole to the other. It has been here since 1965, constitutions have been changed, governments have come and gone. I think this time, the reality of the draft should focus and make sure that the government prioritizes those things because we need to stop that. Those are the issues that I believe should be there.

Madam Speaker, I believe this draft constitution should have been a game changer, I mean a political game changer. The political climate of this country is too crowded. Yesterday, I was woken up by insults from people that say it is their right to insult me from all over the world and within the country. If that is going to be trend in our political atmosphere, where are we heading to? I expect the draft constitution to talk about that too, we need to put an end to that.

If leaders are appointed or elected, they should be safeguarded, they should be respected. I represent a number of electorates in our constituency. It is 36 on the book but those ones that are coming in 2020 it may be 50. If only you are going to tell me to vote this way and I want to explain to you and you say no I am not listening to your concern and you rain insults on me, do you think you want me to do the job for you? It will be very difficult and as a National Assembly Member representing a constituency, am I not a Gambian? Do I not also have an opinion? We have conscience that is why I say we vote on conscience. We do consultations from outside but we will come and vote on our conscience. Anything that anyone does or anything anybody says here, WALLAAHI if you ask, he says and does it on the best interest of the people.

How best it is will depend on the practicability in the society so nobody should be blamed, nobody should be insulted for what we are doing.

Madam Speaker, I consulted and I presented myself to my constituency without any political affiliation. I do not believe in any political ideology because of how it is defined. I see myself as independent and I present myself to my constituents as independent. I did a random selection of all, except those who want to never see me surviving but I made sure I approach people about their consent. What others told me, if I want to come and do that one here, not only insults will rain on me but I believe bullets will come on me. It is left to my conscience, to see what my constituent tells me about this draft whether that is the reality or if he understands. It is my job now to talk to him and I did I talked to some people here. Some will say 1997 is their legacy so they do not want it to go. I will explain to you that no you are misunderstanding, 1997 is not yours. How they build that sense of personalizing 1997 is the words or titles that the politicians use: 1997 is a soldier constitution; 1997 is APRC constitution; 1997 is Yaya Jammeh constitution. If you do, those that support Yaya Jammeh will take it as theirs, those that are soldier will take it as theirs and the national document should not be personalized. Getting a Motion that you want to take it as yours and you do not want it to go. I use my position and experience to talk to you and tell you that it was wrong for anybody to do that.

Madam Speaker, I expect the draft constitution to talk about our Islamic set of people. In the constitution, it is the right of every Gambian to acquire education but they did not specify which kind of education. We have some people in the society that go in for informal education. We have some people in the society that go for Arabic education and we have some people that go for English or formal education. What future do we target for all these categories of people that decide to acquire knowledge in this aspect? Those that are going for the informal, does the government have or is the draft constitution going to dictate the government to have something so that those people will not see themselves as destitute or burdens on that society. The Arabic students who struggle and go all over the world to acquire knowledge, when they come what will they end up becoming, an Imam or a Preacher? The future is cloudy

for them. From the consultations I did, those ones also have concerns that their issue is not being catered for.

Madam Speaker, so many rights were said and I really concur with all of them because as a human being you need to have your rights. Religious rights have been mentioned and cultural independence but I expect a thorough and a clear explanation. When the first draft was out, there was a serious outcry in the public about secularism. We cannot just keep quiet because many of the people in the society are still not comfortable with what the draft constitution is telling us about secularism. We expect those ones to be clear so that the sector of the society that have doubt in that could be cleared from here so that when we give them the draft for referendum, they can decide what way to vote.

Madam Speaker, I want to raise this question. A constituent called me and I think it is a concern that cultural rights are being given. Is female circumcision still illegal or is it open for people to do it? Madam Speaker, I want to say this. The only campaign promise I give to Gambians, which I could remember, was term limit. I will never work with anybody that want to empower leaders to cling to power. The issue of term limit in the constitution is highly supported and I know everybody supports that but based on a principle. The principle needs to be explained. Democracy means respect for the rights of the minority even it is one. If one person thinks that his or her right is being infringed on, that person deserves explanation. I want the process to be explained.

Madam Speaker, when you want to call for term limits, we want to avoid what? We want to uphold the high principle of democracy and we want to avoid dictatorship. I am seeing political parties as semi governments-in-the-making. If it is going be a law to have term limits in the draft constitution, why will we not have in the electoral laws for political parties, that no party person should also contest more than twice in an election? If you lose, you give chance to others. To avoid what? One, to avoid democracy; two, to avoid monopoly of a political party.

In The Gambia, if you call for a political party, they think of one person, all minds go to one person, all political parties I am talking about. To avoid that, to have political parties as institutions of democracy, why can we not have it in the political laws that

no person should contest twice in elections? If you win, you go but if you do not win, you give chance to others to come. This is a suggestion that is coming from me and I think it is in the best interest of democracy.

Madam Speaker, somebody talked about dual citizenship. I think this is a problem. We saw how the country was, I give reference to 2016, we gave credit to Diaspora. They contributed anyhow to make sure that we have changes. When changes come, conditions allow me or force me to get a status in another country. This is my only country but because of conditions, we have all struggled for the change. Now you are telling me that when comes to the post of National Assembly Member and Presidency, you cannot because you are a holder of dual citizenship. Madam Speaker, I think we need to consider that issue of dual citizenship.

Madam Speaker, I want to ask this question, with all due respect *...interruption...*

**THE SPEAKER:** Honourable, I see a tag so I just want to make sure. Somebody raises a tag, what is it for?

**HON. MUHAMED MAGASSY [BASSE]:** Thank you Madam Speaker. It is related to the Standing Order Clause 11. I do not know whether we are going to sit beyond 6 o'clock or we are going to stop at 6 o'clock. The timeframe on the Standing Order is from 10 o'clock to 6 o'clock and it is coming to 6 o'clock. What are you going to decide, are you going to stop at 6 o'clock or are you going to sit beyond 6 o'clock?

**THE SPEAKER:** I know that we cannot sit beyond six unless there is a Motion moved and agreed to by the Assembly so what do we do? Can somebody move that we sit beyond 6 o'clock?

**MAHTARR M. JENG [LOWER NIUMI]:** I definitely want to abide by Section 11. I move that we abide by Section 11. I move that we adjourn at 6 o'clock.

**HON. SPEAKER:** If you read that Section, what it says is that subject to the authority of the ABC... *...interruption...* two of us cannot speak ...

**MAHTARR M. JENG [LOWER NIUMI]:** *...interruption...* to determine time for the commencement of business in plenary and to Standing Order 14 (2) Order of



Business, sitting of the Assembly shall commence at 10:00am and shall continue until 6:00pm unless the Assembly is previously adjourned; so, I move that we adjourn at 6 o'clock.

**HON. SPEAKER:** Is there any need to move a motion for adjournment? There is no need because the Standing Orders indicate that at 6 o'clock we adjourn. If we want to extend beyond 6 o'clock, then we move a Motion to sit beyond 6 o'clock.

**HON. OMAR CEESAY [NIAMINA EAST]:** Honourable Speaker, I rise to move that we sit beyond 6 o'clock, thank you.

**HON. SPEAKER:** It has been moved and seconded that the Assembly sits beyond 6 o'clock. Those in favour please say "AYE", those not in favour please say "NO" so the "AYEs" have it. It cannot be disputed unless you want to vote by show of your hands. The voice was very clear.

**HON. SADIA JATTA [WULI WEST]:** My problem is, if you say we sit beyond 6, up to what time? I am not prepared to sit here up to 12 o'clock, I am not prepared to be here up to even 7 o'clock.

**THE SPEAKER:** Honourable Member for Wuli West, we have eight [8] more interventions and the assumption is that if a Motion is carried for us to sit beyond six [6], it means we sit beyond six [6] to complete the business of the day and that may take us to ... I really cannot determine. *...interruption...* My concern, Honourable Members, is that it has been moved and seconded and a vote has already been taken, which is carried. It means that it is a decision of the Assembly so I am afraid we just have to proceed, thank you.

**HON. SAIKOUBA JARJU [BUSUMBALA]:** Thank you very much Madam Speaker. I want to help one of my colleagues who mentioned youth participation in politics, the 10%. I really appreciate that but I want to remind him that the portion he is talking about is not entrenched so any political party can come and change it.

Youth participation, Madam Speaker, I said CRC had gone round. When they went around, they met so many youths. Youths have now built interest in politics but what provisions do they have to guarantee that youths are being captured by political

leaders? Yes, it has been indicated in Section 84 (g), 10% of youths' participation in National Assembly but I want to inform this Assembly that all the provisions on Section 84 were entrenched except that (g). What signal are they telling the youths? That we only want for you to come and support us but we can betray you at any point. Or, if we feel like there is a competent old man or old woman somewhere, we will prefer that one. I am suggesting that (g) should be entrenched to give the assurance to the youths that every legislature of the National Assembly, youth participation from any political party will be 10%.

Madam Speaker, I have this concern and I want an explanation. I compared it with the 1997 constitution. Pardoned convicted prisoners, nothing has been said whether they should contest in public offices but it is in the draft and it has been cleared there. The conviction states, if I am right, you are not barred from contesting in public offices. I want to ask this question, what prompted that change in the reality of the situation, giving it the contradiction or a comparison to the provision in the constitution that says "If you are sacked or dismissed from an entity, you are going to be banned for life"? I stand to be corrected but it is captured there. When I am dismissed, the law bans me for life. Somebody is convicted, has been jailed and pardoned but can contest. I want clarity and explanation on this. Is it all for the best interest of the Gambian people?

Madam Speaker, term limit of Presidents has been mentioned. I also want to suggest, would it not be better to also have term limits for National Assembly Members? There are so many competent youths outside, there are so many competent people who aspire now to work in the National Assembly. Why can you not have provisions to give term limits to National Assembly Members. If you serve two terms, you leave for others to come. You go and do other things in life. If there is the possibility for you to pass the test for your second term.

Madam Speaker, I have a question. If somebody says I will not kill myself for that, I do not think it is worth that. To have a law in the draft constitution that you think is infringing on others' rights, to kill oneself (suicide) is worth it.

Madam Speaker, I have no problem conducting Presidential and National Assembly elections on the same day but no provision has been made for the transition of our tenures here. For example, if it is going to be done here in 2021 as the President pronounced (Corona will not deter the election in 2021). If the Presidential election is going to be held in 2021, the National Assembly election is going to be done in 2021. Where is our remaining term that has been cut out of it? I want an explanation on that and assurance that my debt of three or four months will be recovered.

**THE SPEAKER:** Honourable Member for Serrekunda, I think that is an issue that we allow the mover of the Motion to response to.

*[Point of Clarification]*

**HON. HALIFA SALLAH [SERREKUNDA]:** Honourable Speaker, I rise under Standing Order 32. That it is a right that if I wish to make clarification and he allows me, I will make clarification.

**THE SPEAKER:** If we have two people at the same time talking, I will not be able to get what is required or what is being requested. We have to take it easy, one at a time, you make the request and then if it is clarification, whatever the Honourable Member will allow or not. If it is Point of Order, then you will refer to the relevant clause but two voices at the same time, it will be very difficult with the microphone because it echoes. That is the only thing but I am not stopping any Honourable Members from exercising his or her right. I want that to be absolutely clear.

**HON. HALIFA SALLAH [ SERREKUNDA]:** He has allowed me. In terms of our tenures, you will see it in Schedule 4 of the draft (Page 153) and it says: "*The existing National Assembly shall, from the effective date, continue to be National Assembly of The Gambia for the purposes of this Constitution*". And it goes to say under Subsection 3, paragraph [3]: "*The extended membership of the National Assembly, shall take effect and the Members thereof shall only be voted for at the next general election after the expiry of the term of the existing National Assembly*".

*[Point of Observation]*

**HON. ALHAGIE MBOW [UPPER SALOUM]:** Thank you very much Honourable Member. If you look at the same schedule on Page 154, if you look at term and language of the National Assembly, number 8 (1): "*Notwithstanding section [140], relating to the term of the National Assembly, the term of the existing National Assembly shall:*

[a] come to an end at the same time as that of the existing President and accordingly the existing National Assembly shall stand dissolved on the day immediately before general Assembly of the Members following dissolution, and

[b] Be deemed to be a full term upon the dissolution.

So even if it ends in December, that means you still have your full term, according to my understanding.

**THE SPEAKER:** Let us just avoid replying to the issues raised, we can clarify. For issues raised to be responded to, I think it is the prerogative of the mover. Of course, Honourable Members can seek for clarification, thank you.

**HON. SAIKOUBA JARJU [BUSUMBALA]:** I think it is also best practice in procedure to clarify issues.

**THE SPEAKER:** I think I referred to clarifications.

**HON. SAIKOUBA JARJU [BUSUMBALA]:** I have no issues with that. Let me tell you Madam Speaker, if you look at my draft, this side there is nothing. That means I am on the right track because I have not been informed by the draft constitution given to me. That is a printing error.

Madam Speaker, I was talking about internal democracy in political parties. I am seeing political parties as demi-governments in the making. Every political party wants to come up so we need to extend the tentacles of democracy into political parties to see how they are doing their activities.

I generally did a review or research from independence on which political party did a change of leadership in terms of contesting. From my research, they told me it is only PDOIS that did it. I think that is a very good principle of democracy. In contesting,

you sell two things: you sell the ideology of the political party and you sell the individual as a figure. All political parties have very good ideologies to develop the country but why are they not willing? Probably it depends on the individual. To have that, why can they not change? I want to appeal for us to have that internal democracy in political parties.

Madam Speaker, I give an example of a provision here, Section 29 (3) says here "Consequences of contravention, if a person has been dismissed or otherwise, he shall (Section 23, if I can refer) be banned for life". To me, that one is harsh and again it is in contradiction of allowing an ex-convict to contest.

### **Age Limit of Presidency:**

Madam Speaker, Gambia is a young generation. It has been indicated in Section 39: "*A retired civil servant, who is receiving pension, cannot receive another thing*". That is left to the draft. To me, that means they are trying to get away the old ones to give chance to the young ones. If we want to transform the civil service, why can we not also transform the highest office of the nation. Let there be upper age limit, because it says on page 35, let there be upper age limit for presidential candidates.

### **Freedom of Religion:**

Section 49 Subsection 3 says "*A person may not be denied access to any institution employment or facilities or the enjoyment of any right, because of the person's belief or religion*". Madam Speaker, I think that conditional "may" there should be "shall". Let the Minister help me but I think that one should be a condition that it should be compulsory. No person shall be denied access to any institution, employment or facility or the enjoyment of any right because of the person's belief or religion; not to make it conditional but let it be mandatory that no person shall be denied.

Madam Speaker, so many rights have been given and I accept those ones because I want nobody to take my rights. I believe if rights are being indicated, duties of citizen should also be indicated. I believe every citizen has a duty towards the government. I stand to be corrected or directed to any portion but I do not see any provision that

talks about duties of citizens towards the country. I believe there should be a provision to outline the duty of citizens.

### **Impeachment of the Presidents:**

Madam Speaker, how is it so easy to impeach a President than to dismiss a High Court Judge? Somebody mentioned it here? Less than one half of the whole National Assembly can impeach a president, who has been elected by the whole country? To me, that one is too small for that. Look at this draft, for it to come into force, we are asking about 75% i.e. three-quarters. For an officer who is going to control the implementation of this one to be impeached with just half of the National Assembly Members? Honourable Minister, I want consideration in that.

### **Retroactive laws:**

Madam Speaker, I am guided by the 1997 constitution, which guides us to promulgate this constitution. It is clear. I may need another explanation but through my understanding, it bars the National Assembly from passing a law that is retroactive. Why is this draft constitution bringing that? I want assistance on that but I want the Honourable Minister to help me on that.

*[Point of Order]*

**HON. OMAR CEESAY [NIAMINA EAST]:** Honourable Speaker, Clause 67 (1) of the Standing Orders which stated: *"After the second reading of a Bill, Members will be given the opportunity to debate on the general merits and the principle of the Bill"*. The Honourable Member is going into the substantive issue of the Bill, which is not actually the case here. That might be dealt with when we get into the next level i.e. the third reading, thank you.

**THE SPEAKER:** Honourable can you just adapt, so that you can conform your intervention. The clause is very clear, at this stage, we are dealing with the general merits, the principles and merits of the Bill. If we can just confine our interventions to that, thank you. I had, in fact, indicated that earlier on one or two occasions but it appears as if we are derailed and sometimes, we get carried away.

**HON. SAIKOUBA JARJU [BUSUMBALA]:** Madam Speaker, I am not carried away. This is the way I plan and I think there was a procedural defect. Some did it but no problem, it happens to be me to be put through so I accept it.

**Election of Speaker:**

Madam Speaker, I could remember this was my contribution to the CRC, that Speakers should be elected from outside. That was for me as a layman suggesting to them. If they feel like Speakers should be elected from outside, the procedure should be indicated to me. I believe that is the mandate given to them. When I read Section 145 (2), the election of the Speaker, there is a vacuum there and I need clarity on that.

**Recall of MPs:**

Madam Speaker, the same reference I gave to the President. If the president is elected by the whole country and the MP is also elected by the whole constituency. When you are elected, you come here, you took oath, you are representing the whole constituency, across all political lines you have in your constituency. So, to have one third of your electorates to sign a petition to recall an MP, I think we need to safeguard. To also contest in this position is not easy. You stake your personal integrity in this position. Do not only see me as a servant of the people and I can be slapped anyhow, front and back. As the case is now, insulting people. I know if you go to the social media, they are insulting us. I will make it very clear this morning, my conscience is leading me here so I think that one needs to be adjusted.

**Chief Justice coming here for confirmation:**

Madam Speaker, as it is now, the condition in the parliament is too politicized. Even if you do not intend it that way, if you stand, people define you and put you on a political frame. I believe, our Justice Ministry, our Judges should be non-political. Somebody made reference here. I do not know whether we understand. That is what we are trying to portray. For us to confirm the appointment, is not a problem. We need to make sure that that the National Assembly Members are not being carried away by political sentiments. This is the reality that is happening here.

I even gave an example in one interview that I granted. I expect the office of the National Assembly to be non-political in the constituency. How would that be? The government needs to fund and furnish a non-political office for the MPs where everybody in that constituency would have the right to come and put their suggestions and petitions to the MP. As it is now, MPs have political bureaus. Those that I have seen and consulted; they consult their political cohorts. To have consultations across all political lines in your constituency, I believe the draft constitution should bring that office of the MPs in the constitution to be non-political so that we can be able to represent across.

Madam Speaker, I was confused so I need clarification here. They say the draft constitution cannot be challenged in the court. Somebody was trying to explain the meaning but I still need more explanation. What is the reason to have that one as a provision in this draft constitution, that all the provisions in this draft constitution cannot be challenged in the court?

#### **Autonomy of the National Assembly:**

Madam Speaker, Honourable Member for Kiang Central spoke about autonomy. I told him you did a very good point. I was trying to get that one. We are not autonomous, we are not given all the powers to be able to do all our functions and safeguarded with a whip saying if you want to do your work or use your seat based on political sentiments, this and this will happen to you. For the National Assembly to be autonomous, financially and everything, is very good. If it is captured in the draft constitution, as I am being informed by one of my colleagues, it is something very good.

#### **Welfare of National Assembly Members:**

Madam Speaker, some three years ago, I was involved in an accident with my colleagues, which was very strange. Two national Assembly Members, from the same political party, going to work had an accident. It is confusing but I believe at that time, we were the ones driving our cars. We were in a rush, calculating a meeting and unfortunately it happened.



**THE SPEAKER:** Honourable, I think that is a deviation, please. My experience over the last couple of years is that, it has been very difficult for us to be able to distinguish between details and general principles and merits of a Bill during the second reading. National Assembly Members being involved in an accident, does not touch on the principles of this particular Bill. You have to look for a way...

**HON. SAIKOUBA JARJU [BUSUMBALA]:** I will be very low in the job that I am doing for not being able to connect what I am trying to explain and the reality of what is happening here. If you allow me, I would have gone further and you will understand why I am bringing that one. In conclusion, the welfare of your MPs is in disarray. MPs are driving themselves; MPs are fuelling themselves and MPs are maintaining themselves. What is the welfare of the MPs? It is not being captured here and that is what I was trying to say because as an MP going to work, why should you drive yourself when Ministers and Permanent Secretaries have drivers. This is what I am trying to say. You do not understand why I was bringing that accident.

**Ministerial Appointments:**

Madam Speaker, the draft constitution talks about ministerial appointments. Madam Speaker, I strongly defer with the situation that is happening in this National Assembly. Ministers are political appointees that are appointed to help the government or the President who is being elected by the people to execute a function in the country. For those Ministers to come here for confirmation, it is fine based on the reality that there is non-political interference in our activities. Madam Speaker, at this point in time, that is why I am saying I do not expect that provision. We used to say, do not be the Judge and Jury. I can favour a Minister to come.

Madam Speaker, I want to talk about "Seyfos". The draft says Seyfos should be elected but further says that Seyfos should not be involved in politics. I am baffled here, elections come through politics. I am elected through politics and during your politics people will help you. Somebody also wants to do politics to have a position and you fold your hands and say the law said that. Is the law fair in that situation? Madam Speaker, I want clarity on that.

If Seyfos are going to be appointed, it is inevitable that they would be involved in politics. If we want to continue and maintain that Seyfos should be elected, then let us have provisions so that they can partake in politics. If we do not want that, then let us see another way of appointing and nominating our Seyfos. For a Seyfo to be elected, somebody mentioned it here as a matter of democracy. I am elected and after five years I have to go back to my people. How can I be elected to become a Seyfo and serve for life? Democratically, it is undermining something there. Madam Speaker, I want the Minister to consider that Seyfos' appointment is not clear and also the Alkalos. Alkalos' appointment, I really accept that one. They should be on lineages or the founders of the community. The remuneration of these Seyfos and Alkalos is not being mentioned and I have not seen any portion which says an Act of the National Assembly will decide. I stand to be corrected, I thought if that should happen, there has to be a provision that will say an Act of the National Assembly will decide the remuneration of the Seyfos and Alkalos.

Madam Speaker, a very critical point, the right to marry (Section 54). This one, Madam Speaker, you will allow me to talk about that because I cannot say what I want to say if I do not go back to Section 54. Madam Speaker I read, with your permission, "*Right to marry and form a family*". It is ambitious and I do not understand. From my consultations, I have a conclusion and I want to be clear.

"A man and a woman of full age". This is English language; mind the different forms of the language we speak in class or in the streets but a technical language in court. You have the article "a" before a subject or "the" or "and". If you have a man and again a woman, I have this confusion there to be cleared. Is it that you are giving that man is an entity where marriage can occur among themselves? Woman is also an entity here; they can marry or across. To avoid the right of gays and lesbians in this country, to make it very clear. I want to be clear whether this constitution is not giving an ample limit to gay rights and lesbianism in this country.

Madam Speaker, my last point will be on security. When I compare the 1997 Constitution and this one, I have a question. We all know that during the past regime, security was one of the tools that we allege, the former government used to intimidate and victimize people. If we want to avoid what had happened, the right functions,

definition of all the security offices or institutions should be well spelt out in this constitution. I am hearing many answers from my back here. I am addressing the Minister and the Speaker.

What I wonder is the military and the police, which is not even captured well. If you compare the functions of the military from 1997 to 2000, it is not captured as it needs to be captured. As it is today, I have done a consultation with them, they need some adjustments because they are also with the conviction and assurance that the allegations that people put on them was because they were used as a tool and they do not want to be used again. To avoid that, their rights and functions should be well spelt out in the draft constitution so that no authority from anywhere will dictate them to do something. If they are dictated, they will go to the constitution to see whether it is part of their mandate because TRRC is a living witness and a classroom for all of us.

Only the military and the police, nothing about the immigration or the intelligence services. Only their names have been mentioned there. I see no provision that says an Act of Parliament should come to define the functions of these institutions. I am not satisfied to allow this draft constitution to go like this, when you do not take care of our security institutions because, I do not want what had happened to happen again.

Madam Speaker, I want to say that all these talk and insults that are happening, should not have happened. If we see this document as a shareholder, that I do my job, you do not just hold it and say now my job is finished, it is the National Assembly. I want to question the Office of the Clerk if he is here and if he can answer. He has no authority but that is what I was looking for. When I was given this one, I went to the Clerk to ask if we are going to a retreat as we used to have on the budget. After submitting this to the President, it is now a document from the Executive but when it was sent to the Executive, it was the CRC's document. I was even thinking that CRC would have engaged the National Assembly to have a second thought on all issues. There, we can stop these insults and people who think that we are against the draft constitution will be avoided.

I want to make it very clear here, nobody is against having a progressive development and laws for this country. We want procedure to be followed, we want our conscience to be cleared, we want our doubts to be dealt with. I see myself as a citizen of this country and I will never work in any group that will jeopardize this country. Everybody has a clean heart, based on conscience and proper procedure. Madam Speaker, on that note I thank you very much.

**HON. FATOU K. JAWARA [TALLINDING]:** Thank you very much Honourable Speaker, for giving me the floor. I will also like to join my colleagues to commend the CRC for a job well-done. Madam Speaker, I will begin my intervention by asking whether this draft constitution is qualified to go for a referendum. I have my reasons spelt out in Section 308 Subsections (a) and (b). At least 50% of the people are entitled to vote at the referendum. My doubt is the young ones who are aging and are meeting the age criterion of 18. I do not know whether these people are qualified to vote because Page 37, Section 77 Subsection 4 electoral law said that; "*National Assembly shall not amend or introduce any law in relation to elections within a period of nine months before elections are held*". If you want to take this document to the referendum, are we going to organize a voter registration for these children to be qualified to vote?

Madam Speaker, I know CRC has consulted many groups during the drafting but I do not think this really sounds the general opinion of every Gambian, because we received a complaint from The Gambia National Army that their inputs are not captured in the draft constitution and they made several follow-ups but they cannot come to terms.

Madam Speaker, coming to the judiciary aspect; the Solicitor General and Legal Secretary, the President should appoint based on the confirmation from the National Assembly. Madam Speaker, I feel so sceptical for these things because we have seen party interest over national interest in this National Assembly. People wanted to support a Bill so that elected members of local government can lose their position. I believe we need to revisit it and check for another thing that will suit the appointment. Appointments were also thrown out here out of hatred and jealousy because we have seen eminent personalities whose appointments came here and they were rejected.

Madam Speaker, going to political parties, Section 32 Subsection 3 (b) says: "*No political party shall engage in or encourage violence by intimidating members, party supporters or any other person*". We have seen people outside the country sitting in their comfort zone, as earlier alluded to by my colleague, who are intimidating innocent people, assassinating their character but the draft constitution did not say anything about that, they only say "shall". I think there should be a restriction or law that will stop anybody found wanting to face the full force of the law.

Madam Speaker, appointment of Supreme Court Judges, should be a number of not less than 4 and not more than 12 and one also needs to be a specialist in the area of "Sharia". I believe we need to add to make it two "Sharia" Judges because if you see the way English students are represented, it is like the Islamic students are less represented.

Madam Speaker, going further, as my colleague mentioned, they received many insults before the passing of the CRC and I must say that I was so disappointed with one of our activists who is stationed in this National Assembly here and is representing the West Minster Foundation for Democracy. I am calling on the Clerk of the National Assembly to work in consultation with the West Minster Foundation. If they are promoting democracy, I believe an elected representative of the people should not be intimidated. The affair of the House should not be undermined because they are asking that the NAMs should not touch or change anything. This is a very misleading information and I am calling on the Authority to work fast on this.

**THE SPEAKER:** Honourable, I think it is a concern that you can raise but when you are debating on the principle of the Bill. I think the concern should be separated from your debate. You can still raise the concern but outside, at the conclusion of your intervention. Thank you.

**HON. FATOU K. JAWARA [TALLINDING]:** Madam Speaker, I think another recipe for disaster is Section 106, which has it that one half of the resolution that was passed by the National Assembly can impeach a President. I think we need to be very careful because some of the Members, their constituencies represent lesser numbers like 1000

or 1500. If they say one half of the majority can impeach the President, that is not the power of the Gambian people that was vested on the President.

Madam Speaker, the last but not the least is page 167, that spoke about the term limit of the President. If there is anybody who will support the term limit of the President. I will be the first to accommodate the legacy of the coalition government. Term of Office of the incumbent President reads; *“Notwithstanding anything contained in this Constitution or any other law or rule of interpretation or rule of construction, the term of office of the person holding the office of the President as effective date shall be construed to include the existing term and the person may contest elections for a presidency for only one more term as provided in the constitution after the expiring of the existing term”*.

Madam Speaker, law should be applied based on equity and not to be politically driven because you may make a law to target certain individuals or groups and it will haunt you back. On that note Madam Speaker, I submit and beg to take my seat.

**HON. ALHAGIE MBOW [UPPER SALOUM]:** Thank you very much Honorable Speaker and all Honorable Members. Honourable Speaker, we are here for the past two days to discuss a document which was presented to the President and to the nation by the CRC who were created by an Act of Parliament approved by ourselves here. They have done a job and according to the Act also they have submitted everything they were supposed to submit. They have submitted a draft Constitution, they have submitted a report of the Constitutional Review Commission on the draft Constitution itself and an explanatory memorandum to the draft Constitution. So, the assignment we gave them to do was to compile views of the Gambian people which they have completed. So we say thank you the CRC.

*[Interrupted...]*

**SPEAKER:** Correct my records. Honourable Member for Jarra West did you raise your constituency tag? Okay, I just wanted to confirm that. Thank you.

**HON. ALHAGIE MBOW [UPPER SALOUM]:** Thank you very much Madam Speaker. Honourable Speaker, we have a Bill before us which is the Constitution of the Republic of The Gambia 2020 (Promulgation Bill) 2020. That is what we have here before us

and is following procedures that are clearly indicated in our Constitution. It is a Bill and the only difference with other Bills that we have seen here is because the Constitution specifically tells us exactly how to deal with it. That is the only difference but otherwise the National Assembly being the only legislative body in this country have the right to touch or amend anything that they want because it is just a regular Bill and the Constitution gives us the permission or the powers to be able to do that. So for those that are actually sending misleading information to the public saying that a comma or a full stop cannot be changed are sending wrong messages. They have no idea about what they are talking about – these plastic intellectuals if I may call them who sit within the four corners of their houses sending wrong messages to people of this country with wrong information because they depend surely on professor Google. Here what we deal with is the Constitution of the Republic of The Gambia and our Standing Orders that is what we deal with here so, if you are going to say anything dealing with what we are doing here, you quote the law, the Standing Order or the Constitution of the Republic of The Gambia. Do not mislead people, tell them the truth if you have an opinion but you must be able to differentiate an opinion from a fact. What you tell them is just your own opinion, it is not a fact and we need to differentiate that. Please, help to educate the population do not mislead them.

Honourable Speaker, the task I said earlier was completed by the CRC and the Ministry of Justice actually came with a Bill that we are actually reviewing and may I say I have not yet seen a Constitution in this world that is actually perfect. I am yet to see or hear that. Now for me to make an informed decision Honourable Speaker, I did make my own independent research in terms of reading the Bill and the schedule that was given to me. I have already made use of the explanatory memorandum from the CRC as well and I have also gone through the report from the CRC. I have also consulted with legal luminaries and financial experts in this country to help me make a decision. So, any decision I make here today in this parliament I guarantee you that it is my own consents. I am not under the duress of anybody or any group of people that influence me to make any decision here not even a political party at all. The decision I make here is fully mine and I take full responsibility.

As I go through this document which is the Bill with the schedule that is before us, I have seen some fantastic and very progressive areas that the CRC has actually recommended and are very progressive. If you look at Chapter [135], there is a lot of similarities with the 1997 Constitution. In Chapter [135] a lot of similarities and good things that we can actually nurture as a young democracy. Now when we go to the political parties also, I think they need to be accountable to the people. I do not see anything that is wrong with Section 84 dealing with political parties. I think it is very progressive and we are servants of the people. We need to be accountable to the people, let people know exactly how we manage our political parties. We need to let them know where the finances are coming from. We need to let them know. They need to understand. It cannot be a one man show where I would decide everything in a political party, it cannot be that, we need to liaise beyond that. Now progressively, Section [89] I think for a very longtime since 2017, most members have mentioned Presidential State of the Nation Address [SoNA], where are we? We are in the month of September and the President has just addressed the nation last week and most of us have spoken for the past 2, 3 years that there is a need for the President to come earlier to Parliament to tell us exactly the plans he has for the particular year, how did we do the previous year, and how are we planning to do in the current year. But if we wait until the end of the year to tell us something about the activities of government in terms of what government plans to do, do you not think it is too late and I think that has been corrected by the draft or the schedule that is given to us. It has been corrected and I love it.

Now if you go to Section [94] also of the schedule that is before us here, that is the disqualification of a President, when you want to contest there are lot of requirements that you have to meet and one of it is your financial information that needs to be submitted to the Anti-corruption Commission and they will vet whether what you have submitted is the true reflection of your finances or not. I think that is progress. However, the Section fell short because if you submit your financial information to the Anti-Corruption Commission and they do their research and realized that you actually under declared or there is some falsification, it has not said anything next to that. For me I believe if any presidential aspirant has not declared his/her finances properly and the Anti-corruption Commission came to capture that you have under-declared your



finances, I think you should be disqualified immediately because you are going to be the Head of State who must act in a manner where your ethical behaviors should be exemplary. So, that is where they fall short under that particular Section. If you under-declare or you have shown something that is incorrect, I think you should be disqualified automatically. Honourable Speaker, moving right along to Section [97] that is the procedures in the election of a President, I think these are also very progressive actions. If you compare that with the 1997 Constitution, it is really very progressive. For the term limit, I think I have not seen anyone here yet who has said they do not want the term limit and you know during discussions, people like me thought that I was crazy when I mentioned 1 term limit of 7 years, somebody thought I was crazy but I was not, but I agree 2 term of 5 years non-negotiable. We must not encourage or we must not push our leaders where they continue to be on those positions for ever. If you go to the State-Owned Enterprises in this draft, they have a term limit. There is a period of time that you serve as an Executive Director of a State-Owned Enterprises. This is progress this is what we need to look for. You cannot be in those institutions acting as if they are your own, it cannot be that way. We have people. Now if you also see the most interesting which is Section [131] of the draft which is the Director of Public Prosecution, their independence I know has been questioned by some quarters but I think to have them or to do their job better you make them an independent office. I fully support and I think that is also progress. They must not be under any influence in cases of whether to prosecute or not to prosecute in the event that they want to withdraw a case, they must be on their own without the influence of anybody. They must be independent and I totally support that.

Honourable Speaker, may I also inform the people listening that the number of people that actually have called me asking me to say 'yes' and the number of people that are also asking me to say 'no', I was very clear as I asked some of them to give me 5 reasons why I have to say yes and 5 reasons why I have to say no, but during that conversation Honourable Speaker, I was able to realize that they in fact have not even gone through this draft so, you cannot push me to the corner. I am not somebody that can be intimidated easily and I cannot be pushed apart because what I believe is what I believe but I have to listen to the people. I am a servant of the people, I have

to listen to their aspirations regarding what they want. I have to listen but at the end of the day, I am the one that would make the decision here and my conscience would be very clear. I will make a decision and go home and sleep. So, I ask most of them to wait till today then they will know exactly where I stand. In some situations, it is very progressive but I also have some concerns and I will actually put it to the Attorney General because the CRC cannot be here to answer this question, so I am going to have to put it on you and I want to apologize in advance.

Now Honourable Speaker, let me talk a little bit about finance, if you look at the Section 244 which is talking about development fund Honourable Speaker, if I may read Section 244(1): "There is established a Development Fund into which shall be paid at least 5% of all revenues collected by the Government each year calculated on the basis of the most recent audited accounts of revenues received as approved by the National Assembly". Then (2) The Government shall use the Development Fund only to provide basic services including water, roads, health facilities, electricity to marginalize groups etc. etc. I think this is novel, this is really novel. The only issue I have about that particular Section is that, I think the idea is excellent and very progressive, but if you tell me the 5% of all revenues collected by the government in our current situation and in the budget, we have the recurrent budget and development budget, I am amazed a little bit in my research because what I realize Honourable Speaker is this, if I take 5 Ministries like the Ministry of Works, the Ministry of Agriculture, the Ministry of Health, the Ministry of Higher Education and the Environment, their total development budget is about 1.1 billion combined.

Now, if I have to take what is being mentioned here 5% of what Government collected is like 50% of that amount. Is that really what we want to do? Do you really want to reduce the development budget or want to increase it? So, my question here is there needs to be a mechanism to change the way those monies for the development budgets are actually collected. 5% is on the low side if you do deny just go back to your approved budget and look at it. The development budget for only 5 Ministries, you realize that is twice the 5% that this draft is asking for. Then I ask myself what was the rationale from the CRC? What kind of figures or what kind of calculations have they actually used to arrive at that 5%? I do not know because currently, the approved

budget for the five Ministries, the development budget itself is over 1 billion but this is way below it. Last year, if I remember right, I think the total collection of GRA was about 11 billion and if you take 5% of that you are talking about almost 5.5 million which is half of what we actually approved for the budget. So we got to look at that one and the funding mechanism got to change because it is on the low side.

Now I continue right along to Section 248 which is the limit on borrowing, somebody actually has mentioned this. I think this is also a very good thing. We cannot let our debt situation to continue to rise and there is no limit. We must put a ceiling. We must put a ceiling and in the event that ceiling needs to be busted, then this should come back to parliament for us to approve. I think that ceiling area in this draft, is a welcome idea and I think I will fully support that particular one. Honourable Speaker, I need not go further to mention more on these areas that are really very progressive in the draft really very progressive. I shift my attention now to the other side which is where I have concern and I want the Minister to help me to understand more. Now Honourable Speaker, if you look at Section 39 that is the protection of liberty of the schedule before me which is Section [49] freedom of religion and conscience Subsection [4], sorry I am referring to Section [39] sorry about that Honourable Speaker which is protection of liberty Subsection [4] the rights of an arrested person, and if you go to [f], it says "to be brought before a court as soon as reasonably practicable save as otherwise provided in an Act of the National Assembly not later than [48] hours after being arrested or if the [48] hours end outside ordinary court hours or the day that is not an ordinary court day, the next day". Honourable Speaker, I think [48] hours is too short. We have trans-border crimes, we have people that would be in this country and then commit a crime and investigation needs to go to the other country or to the other side of the border, how can you do that reasonably within [48] hours to do your investigation and the charge? We must let the police and give them enough time and I will go with what the 1997 Constitution said about [3] days which is about [72] hours. I think that is enough [48] hours I think is just too short. So, I think that is one area that we need to talk about Honourable Speaker and then when we get to the floor, then we can see what we can do.

Now Section [27] of the draft again let me make a reference to that one as well: "Restriction on the activities of the public officers". I think some people did mention it Honourable Speaker. This is actually an issue and I give myself as an example. I am serving the population here in the National Assembly and I am also working full time but what I do at my office has nothing to do here and I think most people here would agree with me that to some extent, I have been effective and the work that I do actually has not affected what I do in this parliament here. Honourable Speaker, we have seen doctors we have seen nurses in this country that would finish their office work at the Ministry of Health, from there they go do part time or full time in another institution privately. We want to deny them that right, let us think about that properly. Even though, I understand this Section is actually also saying there maybe exception but why can we not just let it open. If you have the interest of your own institution, there are guidelines, your work is from 8 to 4 or from 3 to 11 whatever it is but to restrict people from being able to take another job somewhere in this country, I think Honorable that is backwardness. We need to let people be able to take any other job like at the University of The Gambia. I did lecture there part time so that means my current situation I would not be able to do that anymore. We have seen people doing that the nurses, the doctors even the teachers themselves. Some of them are here, you go you finish your first shift and your second shift, you go to a private school and then continue your work. Why should we deny people that?

Honourable Speaker, continuing right along to the issue of citizenship, I think lot of people actually have raised but the only issue I have with the issue of citizenship is in Section [173]. If you go to the report, it tells you something different. People that are born in this country Honourable Speaker, they must be citizen of this country. I do understand why people are thinking a lot about the resources of this country but that should not mean we should deny them right. My first 2 children, they were born outside this country because I was away automatically they were given citizenship. Why would I stand here and deny somebody the same right that was accorded to my children outside this Gambia, why? Why should I do that Honourable Speaker? If you are born in this country Honourable Speaker, regardless of your parents you should be a citizen. I do understand in other jurisdictions, there are steps that you have to take, maybe you call them second class citizenship fine, but here my belief is if you

are born here you must be a citizen of this country. Interestingly enough Honourable Speaker, when you look at page 49 of the CRC Report on the issue of citizenship, it was very clear that the majority of Gambians that is what they wanted that is what they told us. It is not our making that is what the CRC told us that the majority of Gambians from their consultations they wanted anybody born in this country to be a citizen of this country. How comes then they have not indicated the will of the people in the draft? Why if the consultations should be the opinion of the people that you have consulted and they said this is what they want to be put there but what they put there was the contrary? And if you look at the people in the diaspora, most of them that is exactly what they agreed on. So, this is what people wanted then put it there and let others decided the next step. This is why I tend to have two minds on that particular issue when people said that the draft reflects everything on what the people actually wanted. I say no and I give you reasons later on Honourable Speaker, I will give you 5 different examples where the people said this and CRC gave us different. Honourable Speaker, the issue of age limit Honourable Speaker, Upper Age Limit I mean, I now refer you to page [94]. The CRC is actually talking about Upper Age Limit in their consultations on page [94], their suggestions that there needs to be an upper age limit, most of the people they consulted wanted to have that there but they could not agree on the age whether they wanted 70-75 or 80 they could not agree on anything but CRC took it upon themselves to actually remove it and people wanted to have upper age limit why?

Honourable Speaker, you see when we are dealing with situations like this, we need to be very careful. You said if you are 18 years of age, you can register to vote but you cannot be a president until you are 30 years why because they said that by the time you are 30, the experience may come. Honourable Speaker, let us say the facts at the time you are 80 or 85 or 90, they will start calling you "ki dafa nadh" that is the reality. We cannot have a president who would stand only to be helped by somebody. We cannot have that and we have seen that in Africa why? Why when we have energetic people of that nation that could do the work but you stand on the podium and protocols have to stand and flank you that is what we have here in this continent why? You see people contesting for elections when they are 80 when they are 85 or 90 why? I think there are citizens in that particular country that could take the affairs

of the country forward. Why do we not have that? CRC has denied us because I fully support the Upper Age Limit to be a president in this republic. I fully support that but when people spoke in their reports here, it is very clear what they said on their report; It says [94] CRC said this not me: "having carefully reviewed public opinion, it is clear that an overwhelming majority of Gambians prefer that an upper age limit be prescribed for an aspirant for the Office of the President" that is what people wanted, this not my making but they reviewed it why because they could not agree on the age 70-80. Well, if you remove it just put something there then when it comes to parliament, we can look at it to see what is actually reasonable and justifiable and we put the age there. But I fully support the upper age limit that the Honourable Attorney General, you have to give me some explanation why was it removed when the majority of the Gambians wanted it? Why because you are the one that bring the Bill here so, you tell me why?

Honourable Speaker, the other area I want to touch on is the independent institutions, these independent institutions I think is a good idea, you are talking about the National Audit Office, you are talking about Anticorruption Agency and you are talking about National Human Rights Commission etc. I think they have been mentioned very clearly in the Constitution that their offices need to be very independent which I actually agree 100% but their funding mechanism to allow them to be able to do their job I do not agree and I want the Honourable Justice Minister to tell me exactly why. In fact, even if their budget has to be reduced, it cannot be below what was approved the previous year. Where is good public finance management? Where is it? Budgets are estimates, they are not cash and sum they are estimates. I will come to the Judiciary later on but I just want to make sure that independent institutions cannot have that open concept of their budget that they budget whatever they want to budget and National Assembly cannot do anything about it, we cannot do that. We should be able to control it. Honourable members I am telling you, if you agree to this particular Section here, we are tying our hands we are tying our hands and we are tying the hands of the Ministry of Finance that is exactly what we are doing here. We cannot do that, you and I know the nature of this economy, you and I know what GRA collects every month, that is what is taken and distributed to all the ministries, first about salaries, second about loans that we have taken to pay and now you are going to

allow 5 or 6 or more independent institutions a budget that we cannot control you tie yourself. Is that what you want? Where is the democracy we are talking about? We need to be very careful and I would like the Honorable Attorney General, I am sorry but again you are the one that brought this to me okay so, you have to help me understand. I want you to convince me that this is the right thing to do thank you.

Honourable Speaker, another area that I have also gone through, you see the confirmation of Ministers, confirmation of the Supreme Court Judge including the Chief Justice, the confirmation of Executive Director of State-owned Enterprises. Honourable Speaker, you see the confirmations are really very good but let us tell ourselves the truth, the reality in the current situation in the political pluralization of this parliament, let us talk to each other Honourable Speaker, the situation here we know what happened to Ndow Njie here when he was brought for confirmation. We know what happened, the vote was purely based on political lines. Is that what we want for the Judiciary? Is that what we want? We want to have an Independent Judiciary that is what we want and if we really want to have Independent Judiciary, we must not take part in their appointments, we cannot let them be free but if the political situation allows where people think independently from their political parties yes! I do not have a problem with that but as long as you are driven by political party agenda Honourable Speaker, I cannot accept that and let me make this clear Honourable Speaker, in some jurisdiction, we have seen that some call themselves the beacon of democracy, we have seen them, we have seen how they politicize confirmation of judges. Right now as we speak, in one state I do not want to mention the country but right now what happened is that, one of the supreme court judges passed away last week now they are trying to use the political vultures going on and what is happening in this, when they go back to the Senate to do confirmation, you know what is going to happen party lines to be honest with you Honourable Speaker, I do not want that to happen in here otherwise we are going to politicize the Judiciary and that is not what we want. We want to have an independent Judiciary. Let us take ourselves from there to confirm a Minister, I do not have problem with that but we must be really careful that every single thing for parliament to confirm it and we know we have a lot in our plate. We know that we have lot of outstanding things that we need to do here, we have more than 20 something Bills waiting for us to do something together with ordinary accounts

of institutions, we have a lot in our backlog, so if you want to add something else on top of that, how effective would it be? I know a member did mention that we need to ensure that we have Ministers that are fit for purpose and even went to the extent of measuring their education, let us be careful let us turn the mirror and look at ourselves. Do we really have what it takes to be proper representatives of the people? Do we have what it takes? Let us turn the mirror and look at ourselves.

Somebody that is unable to speak proper English Honourable Speaker in this African continent, I think it is not a disgrace. English, French, Portuguese, Arab these are all foreign languages and that do nothing other than to divide this continent and I think Honourable Speaker when we were at the Pan African Parliament, I told them francophone, Anglophone, Arab phone all these phones, the only thing that they do basically is the same to divide us that is why I like the provision where we can speak our mother tongue in our Parliament. I like it when the people of Saloum can understand again what I am talking about here. I will feel ashamed if I cannot express myself in the "Couche barma" language, I will feel ashamed if I cannot express myself in Fula but in English Language or French, no! It is not my mother tongue. Somebody must not be ashamed to speak bad English, no! But you must be ashamed of yourself if you cannot speak your own mother tongue. You must be ashamed of that but foreign languages no we cannot. So that is why the provision where they allow us to speak in our languages where the people can understand I love it and I think that is also another progress in this draft. So we must not caricature people, we must not look down upon people because they cannot speak English we need to move beyond that. So in short Honourable Speaker, as far as confirmation of the judges is concerned, I really want them to be independent, leave them alone, let them be independent. I do not want any confirmation because of the polarization that we have seen here. The Ministers well, we can look at it but the Judiciary leave them alone.

Honourable Speaker, there is another particular area here also on financial matters which I think I did confirm already. If you check Section [198] I will refer to [198] Subsection [3] financial matters that is now dealing with the Judiciary. Honourable Speaker, let us call a spade a spade. It is saying in Section 198(3) "in considering the annual estimates of the Judiciary, the National Assembly shall not reduce the budget



of the Judiciary below the amount that was approved for the immediately preceding year". When CRC came here and met FPAC our committee, I did highlight this particular section, I said this is very dangerous for us to do that. I gave them reasons why if we had to budget for billions of court complexes this year, we budget for the purchase of motor vehicles for the Judiciary, we are going to have to do the same thing the next year, is that what you are telling me? These are capital expenditures that could be dependent on the kind of cars you use, you can take 3-4 or 5 years before you buy it again. Why do we not have the permission or why do we not have the right to be able to reduce the budget based on the economic situation of the country? Let us not tie our hands, I am telling you. If you leave it like that, we should change this, if you leave it like that you are tying your own hands and you are tying the legs of the Minister of Finance. Let us remember the economic situation of this country, we depend on what we can describe as "from the hand to the mouth" that is exactly how the Government operates also, they collect and then distribute so, if you tie your hands that is a big problem.

Additionally, Honourable Speaker on the same note, the Judiciary shall be self-accounting which is fine and the monies charged on the consolidated revenue fund or approximately the Act of the National Assembly for the Judiciary shall be paid quarterly. You see another area in as much as I want the National Assembly to be paid quarterly, sometimes your own personal reasons because I understand here more than the Judiciary but we must be careful making quarterly payments or cash allocations quarterly we need to be careful. If you give National Assembly cash allocation quarterly, you give the Judiciary cash allocation quarterly, you give all the independent institutions quarterly, let me show you an example why that is dangerous. Currently, the average monthly collection of revenue I am talking about revenue from GRA is about 1 billion on average, about 30 to 40% goes to salaries, another 40% is taken by debt servicing, you are left with almost 10 to 15%. So, the first quarter of the following year is going to be a problem because you would not have enough in your reserve to be able to pay the National Assembly, you pay the Judiciary, you pay independent institutions, you cannot do that. This alone also is tying your hands. Let the Ministry of Finance take the responsibility to divide both finances based on what is available to him because otherwise if they do not have enough in their coffers do

you know what they are going to do, they will go to the treasury bills, they are going to borrow short term borrowing from Central Bank and what that does is, it is going to squeeze out the small enterprises because the banks will go and sell the treasury bills to the Central Bank of The Gambia. Now, the small businesses would not have enough to be able to survive. Let us think twice about this one, this one here we have to change. When the economic situation of this country changes, we pray when it changes when we have enough funds in our consolidated revenue fund then quarterly I have no problem but at this stage if we do really I am telling you, we are tying our hands and tying the legs of the Ministry of Finance. We have to be careful.

Honourable Speaker, one area also Honourable Speaker, I just want to highlight and I would really want the mover of this motion to help me understand because I have a big decision to make today and he needs to play a part in helping me understand which is 'presidential pardon'. Mr. Attorney General or Honourable Speaker, we need to be careful about presidential pardon, presidential pardon actually is all over the world yes! But what type are we talking about. Is it the open one or is it the conditional one? if you are going to write that in this Constitution you need to tell me which type you are referring to. Are you referring to the open one or are you referring to a conditional one? I, for a fact, I would not agree to a presidential pardon that would give somebody a 'clean bill of health' if you are convicted by the courts of law here and you want to challenge it, follow due process, go to the court get your conviction overturned if you have a reasonable belief that you were convicted wrongly. Acquittal! Honourable Speaker, let us be careful here, we must not give any president any right on a pardon that would equate to an acquittal. Let them give it to the courts, let the courts decide that we cannot allow any president to give any pardon that would give somebody clean bill of health. The president may choose to pardon you to not serve what remains of your prison term. I do not have problem with that because it is all over the world for lot of other reasons why you want to do that I am fine with that but for you to be pardoned just because of political connections, they remove or pardon you then you are a clean man no! no! you must serve your term for the bad thing you have done for in the society. If you have broken the law, go to the court. When you are convicted, you are a convict, the president should not be able to wipe out that conviction, only the courts of law will be able to do that and it is the reason

why I am saying in this draft here that we must be very clear what kind of conviction you are talking about. If it is an open one, I do not agree. If it is a conditional one yes! I am fine with that, that person is acquitted or the person is actually being pardoned not to serve what remains of his or her sentence. I am fine with that but anything else no!

Honourable Speaker, to conclude or just to mention one particular area which is the implementation of the Constitution once it passes, if you go to page [157] schedule of the Bill, it says commission for implementation of the Constitution number [18] "There is established the Constitution implementation commission which shall have responsibility for the implementation of the provision of this Constitution"; Subsection [3] "The Chairperson and other members of the commission shall be a person of high moral character and proven integrity"; [3b] says "at least two of whom had served on the Constitutional Review Commission established under the Constitutional Review Commission Act". Why do they have to be in this Commission? I need justification if you think it is fit for purpose, they can be there you tell me. I think it should be opened to every qualified Gambian with criteria not a particular sect of our population. They must be opened to anybody that qualifies with criteria but just to say that well their work is done, in fact if you look at the Act it tells you one month after they submitted is finished except the secretary who could continue depending on what the Minister actually wants, that is up to what you want him to continue as a secretary fine but otherwise everybody else after one month, it is finished. So, why do you want to add two more people on the particular Commission as this thing here why? What is special about them?

Honourable Speaker, on the last note, I want us to be realistic and be very careful, few months ago Honourable Speaker, the former Attorney General brought us Public Service Pension Bill for the Public Service which we are yet to deal with in the draft Constitution, by the way I do not have anything against the Judiciary. Let me just be point blank. I do not have anything against the Judiciary but we must be fair to each other. We all work for the same government, we all work for the same country there must not be any preferential treatment and Honourable Speaker, if you look at the preamble of the Constitution here the draft bill that is brought to us here the schedule

1: "We the people of The Gambia as a sovereign independent state having had the opportunity to express our views and aspirations on how we wish to be governed, affirmed that the Constitution is the embodiment of our will and resolve for democracy, good governance, separation of powers, sustainable environment and equitable distribution and use of our resources". That is what it is saying. So, why do you want to make the Judiciary so special? I want to have answers as to why they are special, where they would retire after 10 years as a high court judge and they continue to get the same salary they were getting when somebody in the public service here be it a nurse, a doctor or a teacher or a police officer or army officer, they cannot have even 1 quarter of that. Is that equitable Mr. Attorney General? Tell me is that really equitable? Now tell me Honourable Speaker, I really want to be clear about this thing. A medical doctor, a nurse, a midwife that are actually taking care of our patients risking their lives. The military officer or the police officer who is protecting our property and our lives, why do you want to create a special thing for the judges? And do not tell me, this is a noble profession because a teacher is a noble profession, a nurse is a noble profession, and the entire health profession is noble. What is special I want to know? Why do you want to continue to pay a judge the salary that he retired with and on top of that, he only needs to serve 10 years in that position and if you do not have 10 years, let us say from 5 years to less than 10 years, you take 3 quarters of that. What is special? A medical doctor that is risking his life, a nurse, a teacher that has been teaching for over 30 years, in fact, teaching that judge. For example, right now the basic salary of an Army Captain is almost Nine Thousand Dalasis (D9,000). When they retire, do you know what they have? Using this, they have Two Thousand Dalasi (D2,000) plus. That is what they should have as the minimum while a Judge is sitting down there taking full month salary and anytime government increase salaries his salary will also increase. What is special Honourable Justice Minister? Tell me, please. **APPLAUSE**

Honourable Speaker, in fact, I think I have come to the end of my deliberations. I want to tell people that have been telling me, say YES or NO, let us wait. Let him convince us on those issues. I have to make a decision and his answers to those issues that I have would actually help me to make an informed decision. On that note, thank you very much Honourable Speaker.

**HON. MAJANKO SAMUSA [NOMINATED]:** Thank you Honourable Speaker for giving me the floor to add my voice to the previous speakers. Honourable Speaker, today is another day. That is why there is a saying that the world is a progressive development. Every time changes, time is all the time changing.

Honourable Speaker, before starting my intervention, may I first of all seek permission from you, in laying the foundation. Honourable Speaker, thank you for giving me the approval for the foundation that I am going to lay. Why I say the world is a progressive development, anytime changes come, you see yourself into new things. That is the change but today is another history that we are making. That is the Qur'an of the nation i.e. the constitution, where you have the life of the Gambian people, how we are going to govern ourselves. There is no other important document apart from the Qur'an and the Bible, than the constitution. That is why I say today is another day of history.

Honourable Speaker, I remember 1966. When I voted in 1966, I was 17 to 18 years old but then the constitutional requirement is 21 years. In those days, they just come to the Bataba and write down your name. You will not even come with your mother, father or one of your parents. Any elderly person or the Alkalo just come to the Bataba with the book and then register. I happened to be registered and voted in 1966 referendum. I can fully remember when my cousin brother, Alhagie Kalilu Singhateh, who won in 1962, was the MP. It was attempted and it failed. It could not go through in the 1966 referendum. My late uncle Sir Farimang Singhateh was then the Governor General. After he was accused of interference with the referendum and sacked, the late Uncle Sir Alieu Jack replaced him. In 1970 we went for a referendum, got the Second Republic and had the 1970 Republican Constitution.

I witnessed all these things Honourable Speaker, that is why I am so delighted today. I pray to God and thank Him for enabling me to witness all these events in my lifetime. That is why I always say I am the father and grandfather. That is the beauty of change; when you ask for change, when it changes, it comes with something that will be beneficial to citizens. You must not change into something that the one you are criticizing is far better than. Honourable Speaker, I witnessed all these things: First

Republic, Second Republic and now we are going for the Third Republic. I witnessed the Second Republic in 1997, during which I voted.

I voted in 1966 which never went through. Then I voted in 1970 and 1997. Honourable Speaker, today we are here to discuss the Bill, whether it will go through or not. If it goes through, we go for referendum and if it does not go through that is where it is going to be buried and we forge ahead. I witnessed all these Honourable Speaker. When we make change, we have to change with something better but not something to the detriment of the citizens. On that note, Honourable Speaker, I have exhausted my foundation. I will now go into the draft constitution.

Honourable Speaker, honestly between myself and God, as I was sworn in here, my conscience cannot allow me to accept this Draft Constitution and I have my reasons. The CRC Act was brought in this august House, Honourable Speaker. It was passed by this Assembly for them to do their job. I am not telling them thank you, I will never commend them. I will never commend them because I have my disappointment and dismay about the whole thing. Since Thursday, all the clauses and all the revelations and going through you read it, I am definitely surprised, I never expect that a commission of that kind, the hope the Gambian people have in giving them the responsibility, thinking that they are with high profile integrity, we do not expect to come up...

*[Point of Order]*

**HON. OMAR CEESAY [NIAMINA EAST]:** Honourable Speaker, Standing Order 67 (1) did indicate that we must restrict our deliberation on the merits and principles of the Bill that is before us. It is like the Honourable Member is attacking people who were given assignment. If the Honourable Member is not satisfied with what was given, let the Honourable Member bring the case before the National Assembly but not to personally attack the dignified people of this nation. Thank you.

**THE SPEAKER:** He is referring to clause 67 (1), it is still the same that we have been discussing and talking about. We discuss just the general principles and merits of the Bill before us. You have laid your foundation and you have given your reasons for not saying A, B and C which we do not have any quarrel with but then the next stage

should be for you to deal with the Bill on the merits and principles of the Bill as presented. Thank you.

**HON. MAJANKO SAMUSA [NOMINATED]:** Thank you Honourable Speaker. I am dealing with the merits and the principles. I am not attacking any Member of the Commission directly. What I am saying, the hope that we have with a high-profile dignity, as far as I am concerned, I have my dismay, which is my constitutional right, Honourable Speaker. This is my right and I never deviated. I have my reasons why I am not satisfied. It is my right to express it, I had my disappointment. The money spent on this, Honourable Speaker...*interruption...* Nobody can distract my attention.

**THE SPEAKER:** I said you are right to say that you are disappointed. That is what I am saying but after expressing your disappointment, I would want you to proceed with your intervention proper on the merits and the principles of the Bill. That is all I am saying.

**HON. MAJANKO SAMUSA [NOMINATED]:** I am in order; the Point of Order by the Member is totally out of the issue.

**THE SPEAKER:** That is for the Chair to rule. Forget about that, just proceed.

**HON. MAJANKO SAMUSA [NOMINATED]:** Honourable Speaker that is my dismay about it because the money there is ours. National resources that have been spent on this Commission, how many millions of Dalasi? In my view, I am not seeing anything that is satisfactory to me.

Honourable Speaker, the Member for Busumbala has said it here. I am a Member of the Standing Committee on Defense and Security. I was so disappointed during the interaction with the Armed Forces, the CDS of Gambia National Army. The CDS made a complaint that all the recommendations they sent to the CRC, nothing has been captured in this book. Our security, we know we should not compromise it. These are the people that make us feel comfortable 24/7. Without security, woe betide us, people will be eating each other every 24 hours. Why are they not captured?

Honourable Speaker, I do not need to quote clauses here and there. Since Thursday, I have been listening to Members during their deliberations. It is very disappointing; we cannot just take this book to adopt it. As for me, I am totally against it. I am not going to say any more things and even if this Parliament adopt this constitution, honestly Honourable Speaker, I bet I will be in field during the referendum and I will make sure that it fails, which is my constitutional right. I will campaign vigorously. You cannot bring a constitution from Kenya which, up to date, is in the Kenyan High Court, challenged by Kenyans, expressing their concerns that it is a very unscrupulous constitution. How can you bring that word-for-word, photocopied and put it in our constitution? In my view, there should be a commission of inquiry set into the CRC, to look into the way and manner the money that has been given to them to facilitate this was used.

Honourable Speaker, this is another point. So many issues were mentioned here. We said two (2) terms, yes! We all know and that is what we are saying. In 1997, we said two-third majority, it was amended. Now we say we going for two (2) terms. There is nothing wrong with that but the way and manner this is specified in this book is totally wrong. They have their own agenda, otherwise, they have to take the view of the people. Let us look at their reports, let us go round all over the country. We are politicians, every village I know in this country *...interruption...*

*[Point of Order]*

**HON. SULAYMAN SAHO [CENTRAL BADDIBU]:** Honourable Speaker, I am rising on a Point of Order. Standing Order 29 (1): *"Every Member shall restrict his or her observation to the subject under discussion"* and if you go to (5) too, *"No Member shall impute improper motives to any other Member"*. If you look at it, the Member is not restricting his contribution or observation to the subject under discussion. He is trying to build up and make an allegation against the team.

**THE SPEAKER:** Reading the section, it says no Member shall impute improper motives to any other Member, I read it to mean Member of the National Assembly. Of course, 29 (1) says that every Member shall restrict his or her observations to the subject matter under discussion. Honourable Member, the subject matter under



discussion is this very constitution. Let us just be careful and use parliamentary language, not improper or offensive language to outsiders or strangers because they will not have an opportunity to come and defend themselves. Let us just be parliamentarians. We can express our dismay, disapproval, concern and everything but we need to exercise decorum as far as the language is concern. Thank you.

**HON. MAJANKO SAMUSA [NOMINATED]:** The Honourable Speaker has ruled the Point of Order. I totally disagree because I am discussing and I did not attack any individual. The previous Member raised a Point of Order, it is the same similarity.

Honourable Speaker, I still stand by what I am saying. I do not attack anybody who is an outsider who cannot come here to defend himself or herself. I know what I am saying. Anything said here I am confining myself to the merits and principles of the Bill. That is why I am confining myself. Nobody can distract me because it is a divided House. I am not sharing the same views with them but whatever they come with, I can deal with them until daybreak. Nobody can distract me.

The whole world is looking at us. All the points that have been raised here today are big disappointments to the Gambian people. D162 million of our resources have been spent on something and today the revelations that came out of this thing is so disappointing. They think this parliament is a rubberstamp. Who are they to say we do not have the mandate to question or challenge this constitution in court, when we pass it? We all know each other here; we know there is no secret. Whatever happens, we know what is happening but please The Gambia is bigger than all of us. When responsibility is given to you as a citizen, you to have to be loyal and honest and do it for the interest of the Gambia people without any fear or favour. No lip service, if anybody comes here to think that you can bring lip service or you think that the people here are all fools, it is not everybody. Nobody can fool me. With my experience, since the First Republic I voted and witnessed a referendum. I served the First Republic in the National Assembly; I served the Second Republic and I am serving the third one. That is why I am privileged to say what I am saying today.

Your academic standard, whether you are the professor of the whole world or whatever, what is important is the experience that I have. You cannot buy that and

that is why I am expressing my concern. It is a bogus constitution and rubbish. Honourable Speaker I beg to move.

**THE SPEAKER:** Thank you very much. What I am saying is that we are all at liberty to express our views but all I am appealing is for Honourable Members, in expressing their views, to just do it with proper decorum,

**HON. BILLAY G. TUNKARA [KANTORA]:** Thank you very much Honourable Speaker for giving me the floor. It is a very long day. Permit me to recognize the time and effort of the CRC and also recognize the Ministers in our presence here and the Media fraternity as well.

Before going further, I want to seize this opportunity to really condemn certain attacks or social media. Campaigns on Facebook and Twitter, writing all sorts of unpleasant words or comments against Members of Parliament. Really, I see it as a contempt of the National Assembly. We should not be dictated, harassed or forced/squeezed to the corner just to take a decision. I believe, coming to this parliament, we as Members of Parliament have been elected and they bestowed trust and confidence on us and we are expected to really fulfill our functions and obligations as the peoples' representatives.

To my dismay, I have seen very disturbing comments, even by Members of the Press. Secretary of the CRC making unpleasant comments about Members especially the dissatisfaction and other things. Members of the press, media users, Facebook, WhatsApp and what have you. These are really disturbing and it is uncalled for. It is a crucial moment; it is important for us to allow the Members of Parliament to be guided by our conscience because when we came to this parliament we were sworn here to protect and abide by all laws of The Gambia and uphold the 1997 Constitution as the supreme law of the land, which will actually take precedence to guide us in this entire process that we are doing.

Honourable Speaker, having said that, I also want to condemn external influence i.e. Embassies and EU Commission trying to interfere or meddle in the internal affairs of this country. It is an independent country and should be left to make decisions on its own rather than trying to pin or give them conditions like isolating them. They are

partners in development but regardless of the size of the country, it is an independent and free country. Matters of the internal issues should be left to be discussed by the citizenry of this country, and not influenced or controlled by any external forces.

Have said that, let me go into the discussion proper. I would like to go into history because we gave the CRC this historic task to undertake and to usher us into the Third Republic. We all agree it is not an easy task and the final outcome is the Draft Bill. Of course, it has its pros and cons. We sincerely appreciate the term limit as alluded to by other Members.

However, if you look at the whole scenario you would understand that Gambians are of the belief that there was so much power vested in the Executive, which has been subjected to abuse. Therefore, coming up with a new constitution, they have to rip off the powers of the Executive and try to empower National Assembly. Losing sides, in my opinion, is a separation of powers principle. These are co-equal partners that are independent. However, their interdependence is as important as their independence. If we are to uphold that principle therefore, you cannot agree in toto with some of the provisions or sections that are contained in this draft constitution.

Honourable Speaker, one should not also lose sight of the fact that we in a newfound democracy. The euphoria of democracy should not also be abused by making certain unrealistic legislations whereby if they are put into practice, we would have a shortfall in the long run. The reason why I say that is the issue of the three (3) arms of government. i.e. subjecting the judiciary to the confirmation of the legislature, which in my humble opinion, is a political institution. It is a political institution in the sense that it comprises political parties. Believe it or not, they might fool you to say we have seen the nation first but you cannot detach politics from parliament, that is the hard fact.

Over the years we have seen how party positions emanate in this parliament; we have seen how political interests overshadowed national interest. Nobody should be fooled that parliament is not a political institution; it is a political institution.

If we still want to maintain Gambians' trust and confidence in the judiciary, if we really want to boast of the issue of trust and confidence in our judiciary, there is the need

for us to make sure that there is no interference in the judiciary. I am also with the opinion not to support. It should not be like a trick, giving so much power to the legislature just because of we have the power, what next? Did you look at outcome of the power? If you should test run it now, what is the result?

Asking the Executive to bring Ministerial appointment for confirmation, I totally go against it. We should not lose sight of the fact that we are really operating a purely presidential system of government. Somebody went round and canvassed for votes. Those are the votes of this country. You are telling him or her you cannot have the power to form a government unless and until it goes through our arm for confirmation. Knowing that particular arm, how political pluralism plays in that parliament, it is a non-starter. Because of that, I am not in conformity with that particular provision.

Honourable Speaker, there were interventions made where people call this constitution a copy-and-paste constitution. However, if you do a comparative analysis, there is no harm in trying to review other constitutions. What is really a harm is to copy verbatim, word-by-word, letter-by-letter. It is incumbent upon you to paraphrase, to finetune the language and appreciate the work that you actually looked or reviewed by making references. We have noticed and observed such issues manifesting in our constitution.

Honourable Speaker, if you look at Section 47 i.e. freedom of the media, and you go to the report, it says freedom of the media. In the report, CRC did recognize the will of the people in controlling the social media because if you look around the world, nations were set on fire because of abuse of social media, more especially in this new found democracy. If there is no mechanisms to control the social media, look at the insults raining right now. That is why they are still sitting here.

They are really expecting this draft constitution to address the use of social media abuses, insults, hate speech and tribal sentiments but to my surprise the constitution does not really cater for such provisions, to make sure that people face the consequences of their actions. We need to really understand the social fabrics we have. We should not lose sight of our social realities, our codes and norms.

When those are really put into realities, then we can know (as a nation) what kind of laws are applicable. It is not enough to just say it is a best practice that the media has to be free. Media has to be free but it has to be also controlled. Rights go with responsibility. If you look at this page, the state shall not penalize any person for any opinion or view on the content of any broadcast publication or dissemination. I am of the opinion that governments operate in tacit as opposed to overt.

There are some information that may not be due for broadcasting or of a highly sensitive nature. They are saying that you do not have a right to penalize based on any dissemination of information. Government employs its employees working under the government. Doing things out of ethics or misconduct should be really looked at.

This area has been really dealt with i.e. the restriction on the activities of public offices. In our opinion, we are seeing some offices of full-time workers have been deprived of some of these rights, that they should not be engaged in. I think that is really dealt with. And of course, the issue of 48 hours detention that has also been adequately dealt with by Honourable colleagues.

If you look at the right to marry and start a family, we want the mover to enlighten us. If possible, I am proposing that we should have in our constitution that same-sex marriage is illegal under this constitution. For it to be written so that with this fear of interpretation or ambiguity in the constitution can be allayed. My religion is against same-sex marriage and I will not be shy to defend that particular provision and ask for that particular provision to be captured, that same-sex marriage is illegal in this country, if we truly recognize that Gambians have their say on how they should be governed.

If you look at the threshold or imbalance, dismissal from office for misconduct bars you from really contesting elections. I think that also have been really deal with. If you have been pardoned as a convicted criminal, that has waived both that particular sentence and the conviction. I am not in agreement with that. I cannot agree with the drafters on that particular section because if you happen to balance these two (2) provisions, that is unjust in terms of comparing them.

To remove a high court judge, the threshold required three-quarters compared to Head of State, whom the entire country has elected to serve, you are asking parliament to have half their majority to remove him or her from office. That is really imbalance. It is unfair so if it is possible, you have to propose three-quarters in that area as well.

Honourable Speaker, I have a problem with these two (2) concepts. I am of the strong belief that it should not be written this way unless otherwise proven by the mover. That is the national days: you have the Independence Day (18<sup>th</sup> February). My understanding is that this day occurred only once i.e. 1965. What you have are Independence Anniversary Days and Republican Anniversary Days. You do not have Republican Day or Independence Day. Independence Day, 1965, that happened that very day. The rest are anniversaries so it might be a drafting style but I am really proposing this particular section to be looked at.

Honourable Speaker, Independent Boundary and Electoral Commission, Subsection 3: *Members of the Commission shall be appointed by the President, subject to confirmation by the National Assembly with a vote of not less than sixty percent (60%) of all Members of the National Assembly.* This is an important commission which is related to vetting the National Assembly. My fear is equally the political pluralism. If this position can be compromised to simple majority, then it would have been better.

Also, if you go to Powers of the President i.e. on behalf of the Gambian people, negotiate, sign, enter into and accede to bilateral or multilateral agreements including treaties that are not against the public interest of The Gambia which... "shall be" ... I want that to be captured there "...which shall be subject to ratification by the National Assembly". That *all treaties or bilaterals negotiated and discussed should be brought forward to this august Assembly for ratification.*

Honourable Speaker, if you also look at immunity, "The immunity granted to the President under this section shall not, after the President leaves office, extend to any offence the President committed during his or her tenure in office". If you also look at the term limit, I said it earlier, it is really welcoming but I am also not really comfortable depriving the President not to run for elections after this term by trying

to revise this Constitution to take effect from 2016 or to count that particular provision in the term of the President. It is left to him, the onus lies on him to decline by saying that "I am not interested to run anymore" but it should not be retroactively taken as a vested right trying to put it under this current Constitution.

Honourable Speaker, there is this particular provision which reads: "The president shall within 45 days assume office, nominate and appoint Ministers subject to confirmation of the National Assembly" which I totally disagree. I am not going to buy that idea. The National Assembly should not be seen as if yes these are rights and powers given to us, so we have to vet these things. Because of political pluralism, we have seen what has really transpired in this parliament so we are not going to subscribe to that particular idea. We want to recognise and appreciate 'the separation of power principle' whereby there are lot of mechanisms to check on the excesses of the Executive and equally the Judiciary. So, in terms of brining semi or quasi federal system should not be the way forward as far as I am concerned.

Issue of the speaker as well, I think many of the members have deliberated on it that it has not given a clear path way, a clean way on the modalities of how to really go about it. Therefore, this issue has to be looked at and then what are some of the provisions that we can rely on to carry that particular issue.

Also the issue of secularism, I think it has been really addressed by many members who gave their submissions to the Attorney General to really look at it because it has really created a public outcry. As I alluded to earlier, we are not going to be shy to defend the religion we believe or worship that is a right. If people are not shy advocating for gay and lesbianism right, why would we be shy to defend our religion? Therefore, we would say an affirmative no and also ask the Minister if possible to actually insert that lesbianism and gay if illegal in this country so as to really allay the fears of the general public.

I think those are my submissions other than that we appreciate the youth representation, women participation and equally the issue of the term limit. It is very important that we have it in this document but of course, these points that we raised need to be answered because we are representing people and any decision we take

today should be in the best interest of the people that we serve. Therefore, those interests or issues need to be cleared.

Lastly but not the least is the issue of the Judiciary as it has been addressed somehow. You see let us be realistic with the crippled economy that we inherit, you cannot really subject this Government or this country to be giving this take home to the Judiciary. Giving them retirement salary, creating provision for any subsequent salary increment to reflect on them, which economy can sustain that? Equally also, to subject the Ministry of Finance to be giving out quarterly allocations to the Judiciary, I do not really agree with that provision and I really want it to be looked at as I totally reject that particular portion. Let it be determined by an Act of Parliament. We can engage them to draft their pension scheme which will be vetted by this august Assembly but we cannot just pass this particular Bill like that. To subject the Ministry of Finance to be giving out the Judiciary quarterly allocations knowing that as a member alluded to these are estimates, it is not as if these monies are in the Central Bank, it depends on the monthly receipts or proceeds. So, there is no wisdom to really support that Particular provision. They should be treated like any organ or government. We respect their independence that is why we are not even asking parliament to go into the issue of vetting the judiciary because what qualification do you have to vet that person? How competent are you? Do you have what it takes to vet lawyers? Also, we do not want to compromise the Judiciary because it will create a society whereby if you do not belong to a particular political cohort, then it is going to be difficult for you to obtain this appointment or be given that confirmation in the National Assembly. So we are likely on the long run to see elements of corrupt practices taking place in this Parliament. So, to advert that, we are saying affirmative no to that particular provision. So, thank you so much for your indulgence and that we hope you come up with those clarifications and that it will really help us in terms of making decisions in this National Assembly. Thank you so much.

**HON. ALAGIE JAWARA [LOWER BADDIBU]:** Thank you very much Honourable Speaker for giving me the floor. First and foremost, I would like to thank the members of this august Body for their wonderful deliberations.



Honourable Speaker, I have few observations in this draft Constitution. To start with, there is a saying that, "there is a difference between what is right and what is correct" and as leaders, we must not say this is what is correct but what is right always and we must go by that. The observations that I made on the draft, first of all is the issue of the language. The national languages to be used in this National Assembly. We do not have a language policy. We are representing people and 75% to 80% of those people do not even know what we are doing here. We have seen in this draft Constitution that national languages will be spoken in this august Assembly but after five years. I would like the Honourable Attorney General to clear my doubts as to why after five years. What we are trying to do is to make sure that there is rule of law and justice. If we say we prepare this draft Constitution for ourselves to suit our demands and to regulate our activities and actions, I believe whatever we say here we should mean it.

Honourable Speaker, this issue of national languages, you as the Speaker sitting over there, we know that we have many tribes in The Gambia. If we allow our national languages to be spoken in this Parliament, we believe that the Speaker responsible for this august Body should speak all these languages so that if anybody is found wanting, the speaker can know that and put you into order. I would like the Attorney General to clear my doubts on how are we going to select the Speaker and the criteria of selecting a speaker because the person must speak all these languages. It will not say we are going to choose language a, b or c that is going to be discriminatory.

The issue of separation of powers, we have the Legislature, Executive and Judiciary. If you go to Section [190] of the draft Constitution, we were told that the High Court Judges will be nominated and the confirmation will be done by this august Body. I could remember vividly that in 2017 towards 2018, I supported this august Body to vet certain people that were supposed to be appointed by the president and there was a reason why I said so. This is an open secret now and the reason why I am saying this is that, the issue of Ndow Njie and Yusupha Dibba with regards to the confirmation of their appointments were politicised in this august Body. That is the fear I have for us in the National Assembly as a political institution. If we want to confirm the appointment of High Court Judges, we may politicise the Judiciary Sector. I think we

need to think about this because the reasons are if judge A, B or C know that I participated or facilitated his or her appointment, if I happen to be anything or be in a situation whereby I should be convicted or sentence, If for example the current Attorney General Knew that the Majority Leader or the Member for Wuli West or Janjanburreh contributed in his appointment as the Attorney General and these people happened to have a problem, do you think the Attorney General will play a fair game? Where is justice? And in the absence of justice, injustice becomes the order of the day.

Honourable Speaker, we have to make laws that suit us, we should not make laws just for the sake of making laws or trying to follow others. It is very bad and sad for us as Africans who have norms, cultures, values and traditions, but we want to copy certain people at times and in those societies the way they operate and the way we operate is quite different. So I think when we are making laws we should be very careful as to what to do and what to say.

Honourable Speaker, the issue of Ndow Njie and Yusupha Dibba raised an alarm bell with regards to this appointment or confirmation of the Executive, Ministers and High Court Judges. The whole Gambia witnessed what has happened here? If we want to say that the Minister should be confirmed by the National Assembly, I can tell you the Judiciary and Executive will be politicised. Should we allow that now, you tell me where the separation of power is and where are the checks and balances? We should be very careful in whatever we are doing. We are not making these laws for ourselves only, no! We should think rationally and holistically about those people sitting over there who entrusted us to be here. Honourable Speaker, I am saying this for the fact that history is the best teacher. A member of Niamina Dankunku brought a Private Member Bill here with regards to Section 911[d] and I was the only person who acted against that Bill but I have seen the effect and the impact.

Honourable Speaker, there is no fair law. Any law that suits an individual is fair to that person, but any law that does not suit you is not a good law for you, that is how I see and interpret it. I have my reasons of saying so Honourable Speaker. I brought a Private Member Bill here and members stood in this august Assembly and say they know that it is a bad law but they are going to approve it because it favours them.

Now where is justice? Where is good or bad law? So today, we are here to tie ourselves but if we are to tie ourselves, let us be careful of certain things there so that we can untie ourselves when it is difficult.

Page 49[3] freedom of religion and conscience, I would like the Honourable Minister for Justice to clear my doubts about the last option on that Subsection [3] where they say "opinions on the proclamation" they say other opinions but in the draft, they say opinions. I would like you to enlighten me on that.

Honourable Speaker, the Supremacy of the Constitution on page [5] Section 7[3] ... "the validity or legality of this Constitution is not subject to challenge by or before any court or other organ of the state". We made laws and we are called the law makers but we do not have the power to interpret these laws. We are making something that we do not have the power to interpret, it is funny. I know there might be reasons of doing so. So, if I cannot interpret these laws and I have the Attorney General before me, I would like you to explain this to me as a layman to understand why the validity or legality of this Constitution is not subject to challenge by or before any court or other organ of the state. Why? Because we are not mandated to interpret the law.

Having said that, I would go back to history a bit to remind ourselves in terms of decision making especially when it comes to law. The Constitution is one of the most important documents of this land. In 1965, there was a Constitution here and that Constitution is not our Constitution, we were under the influence of the colonial powers. In 1970, when we gain independence, some people will tell you we have our independence in 1965, but an independence in which you are ruled by foreign powers. It is in 1970 that I feel we have independence based on the reason that it is that year when we have our sovereignty. We are ruled by the words of ourselves. We have seen the 1970 Constitution, I got a copy from the library. Right away from 1970, we have seen another Constitution one may called it the 'decree' after the 1970 Constitution was thrown. We have also witnessed the 1997 Constitution and we said there are bad laws, there are this, there are that and now we are here trying to make another law for ourselves. So, I think it is enough now, history has already thought us what to do. That is why I said there is no good law, there is no bad law. Any law that suits a man is good and any law that you feel does not suit you is a bad law.

Honourable speaker, people said there are certain sections in this Constitution that are direct carbon copy from the Kenyan Constitution. Everyone is entitled to your opinion and in academia and even in Parliament here, we are allowed to quote references but why are we not allow to read directly from our books or notes. If anybody wants to read directly somebody may raise a point of order. We do not say that CRC should not benchmark or copy certain things from certain countries but we feel that this is a carbon copy. We should bring our facts to the public and to our colleagues. If you go to this 2020 Draft, the Supremacy of the Constitution and you go to the Kenyan Constitution Section 2[3] is the same. In Section 7[4] of the Draft and in Kenyan Constitution 2010 Section 4[4] is the same. In the draft Constitution 145[2] and in Kenyan Constitution 2010 106[1] is the same. In the draft Constitution 190[1] is the same as 166[1] of the Kenyan Constitution. Financial matters at the Judiciary level, 198[1] is the same as Judiciary funds 173[4] of Kenyan Constitution. If you go to their independent boundaries 81[1] is the same as 88[1] of the Kenyan Constitution. So people also do their research and made the comparison and that is why people say this is a carbon copy directly from the Kenyan Constitution. It is their right to make references to Malawi, Ghana and others but where are those facts, can we compare and contrast them? We cannot so what we have seen is what we will say. So people might be right by saying that it is a carbon copy because the facts are very clear. The culture, norms, values and principles that might suit Kenyans may not suit us as Gambians. We have norms, traditions, culture which might be different from the Kenyan type. So if you say this is the people's Constitution, people opinions and views should be captured. I think whatever they give should be captured but not a carbon copy type.

Having said that, I like one thing, as I said there is no constitution which is hundred percent perfect but the issue of the powers of the Auditor General, I am very much impressed about that. I think that is in line with good practices and good governance. There are certain institutions that should be independent, when they are independent, it will be good for this country.

Section [239] Local Government, Honourable Speaker people talked about the autonomy of the Local Government but still the Local Government is looking for a

percentage rate from the Central Government. If you are looking for an autonomy and independence, it is not easy. The word independence is sweet to say but I do not see any country that is independent and I do not see any continent that is independent. So when the Local Government says they want an autonomy and independence and still they are looking for a percentage rate of support from the Central Government, where is autonomy and independence? We are not living in a federal state, so we should be very careful and we should inform the public what is happening exactly.

I would quote an uncle and a friend who normally mentions this in this House. When people are confused outside, we should try to make sure that they understand issues. We should try to make sure that they are not confused anymore about that particular issue, but when people are confused outside and we are trying to add that, what are we doing?

Honourable Speaker, the issue of citizenship, the report of the CRC and the opinion that they say on page 49 that what people said and what they did is different. Now where is the public view and public opinion? You yourself reported that this is what people want but this is what you do. Then who assigns you to do that now? You are doing something that people do not assign you to do and still you want to claim and say that it is people's Constitution. If people's view were not captured how can it be people's Constitution? Because this is what they assigned you to do and you did not do that. You went and do different thing and you want to claim that it is people's view and opinion.

Also, Honourable Speaker, page 70 Sections 89[2], Honourable Speaker with your permission, "Duty to attend and address the National Assembly", Subsection [2] "the address by the president shall relate to matters concerning the state of the nation and may include previous, current and future policies of the government". I believe if we say the President shall relate to matters concerning the state of the nation and the word that should follow should be "shall". It should be mandatory for the president to inform us the previous development that the government has done, the current and the future but if you say "may" which means he has the prerogative to inform us about the current ones and leave the previous and he may not tell us the future. So where are we? And what are we going to tell our people? Because we approved a budget

and give it to the Executive for them to do what we expect them to do. If you say those people “may”, they can just inform you about the current development and they will not tell you the past neither the future. So where are we? I would like the Attorney General to clear my doubt on that.

The term limit of the President, Honourable Speaker, this is a burning issue into the society. I think I myself will now denounce anybody to call me Honourable as mentioned by the Member for Wuli West. Honourable Speaker, there are Members who will tell people things that are not even existing, misleading the public based on the political interest, telling the public what is not even happening. The issue of the term limit of the President what people were saying is that the law cannot be retroactive. I think if anybody attacks you on this you should give the person the benefit of the doubt, but people have gone to a certain stage that their political interest has covered everything. And we all know the political trend right and down from the Coalition. People said let this particular person be a Coalition President and there are clauses and sections in the Constitution that give or pave a way for the President to resign but based on the political interest, some people say no to that. They said he is going to be an Executive President because that is what the Constitution said and others said yes, it is ok. Things have revolved and they changed so if people are saying the President should do this and that because this is moral versus legal. Where is your morality at the time you were talking? Where is the legality? Honesty and sincerity are very important. We are all Gambians we knew what is going on. People stood and say here no this should be a Coalition Government of three years and we have a Coalition agenda, principle and objectives. This is what we are going to do and after that then the President moves and we have a new Gambia. Others challenged that legality and say no he is going to be an Executive President and now you want to acquire that vested right from that person by retroactive measures. Is this justice? It is a shame, a big shame. Politicians want to use us as youths, they rally behind youths and say concerned youths say this and that. During the time of the Coalition, where are those concerned youths? Because now you have an ambition and target, all those targets failed and you want to go back. *[Interruption]*

*[Point of Order]*

**HON. SULAYMAN SAHO [BADDIBU CENTRAL]:** Section 29[1] "Every member shall restrict his or her observation to the subject under discussion". We are not discussing Coalition 2016, it is the draft Bill please.

**THE SPEAKER:** Honourable Member for Lower Baddibu, you can limit your contribution on the subject matter please. You can go ahead.

**Hon. ALHAGIE JAWARA [LOWER BADDIBU]:** Thank you very much Honourable Speaker. It is a saying that the youths can walk faster but the elders know the road. Based on that, I will give this due regard to you and accept his point of order but it is through the Coalition Government that this new draft Constitution emerged. You cannot separate the two, can anyone separate the two? It is part of their agenda, objectives and principles. So we must know the history, why those things failed should be known by Gambians. I do not go out of topic; did I go out of topic? Janneh Commission, the draft Constitution and TRRC emerged from this Coalition Government. Today how can you talk about the draft Constitution without the Coalition Government? So Member for Central Baddibu take it easy.

Honourable Speaker, this term limit of the President, many members misinformed the public the reason why some people do not want to support this draft Constitution because they want Adama Barrow to be this and that. You cannot even understand because you do not have anything to say again. The only thing you can say as politicians we all know one another is to confuse the public by tarnishing the image of certain people. These are vested rights acquired by him and had it been that people listened to the pioneers of the Coalition leaders, what we are in today we will not be in that. That is the fact, whether one likes it or not that is the fact. Now here we are because there are certain things embedded in this Constitution that are hidden agenda, we knew very well. People mentioned certain characters here, certain people and high-profile people, it is true we do not say no to that. I believe even in the Judiciary Sector there are certain people who are specialist in that. Go to the Medical Field you have the surgeon, pharmacies and pharmacologist. So those who drafted this Constitution Honourable Speaker, not all of them are draft specialist. Anybody can challenge me on that. You have criminal lawyers, other lawyers and draft specialist. In fact, the draft specialists are not more than two or three. So how can you convince

me that these are high profile people, these are this, fine we do not say no to that, we understand that. But if I say my father is a doctor, he operates people, let me also go and operate people, the next minute, I will see myself somewhere. So, we should allow the public to know the truth, we should give the public the benefit of the doubt. Gambians are confused because those who represent them do not want to tell them the truth. It is very disheartening Honourable Speaker.

Having said that, I would like to see in this draft Constitution, in the area of party politics, the term limit of political leaders to make sure that there is internal democracy but at the party level you do not have an internal democracy and you want the top to have a democracy. What kind of democracy are you talking about? Democracy is just a name. Even those who are saying that they are the champions of democracy where is the true colour of democracy? We have seen here everyday blacks being killed in the US and other places. Do they want to tell us that there is no democracy, rule of law and justice there? But when you kill a black you do not kill a human being for them and still there propaganda is we want third world countries to have good democracy, good governance and rule of law and there is no rule of law in that place. Then who is fooling who?

I would like this new Draft to capture the internal party democracy that is the two-term limit. Somebody had mentioned it here that it is only one political party that is following that principle and what about the other political parties? We want that to be captured in this draft Constitution. I would like the Honourable Attorney General to take note of that. What intellectuals also want to do is to play with our minds but they cannot do that again. The reasons are... *[Interruption]*.

Honourable Speaker, if you go to page 64 Section 84[g], they thought that they will continue to clap for them but the youths of this country will never do that and we will make sure that even at the parliamentary level two terms is enough. When you serve that just go and let others come in. What they said is youth participation, youths of this country will never be fooled again. Section [g] says: "Ensure that at least ten percent of candidates for election to the National Assembly are youths". Why ten percent? Why did they give us the percentage rate? And who are those youths that CRC people met to discuss this ten percent? Can they give us the statistics? Or what



is the rationale behind that? We want the Honourable Attorney General to convince us. Who are those youths they met to give them those figures and percentage rate? Because when they said this, youths like Alhagie will say oh! Now we are captured and in fact, it is not an entrenched clause so we cannot be fooled. We know what we are doing and we are representing the youths and we will inform them because we are inside the Government. If there is any attempt to fool the youths of this land, we will inform them.

Honourable Speaker, upper age limit... *[Laughing]* people want this but why is it that it is not captured by the CRC. Before it was a conspiracy to repeal this clause or section because there is a specific agenda but we can tell them that no we have the lower age limit and we must also have the upper age limit.

Honourable Speaker, the Facebook warriors with regards to this draft Constitution, the media. We do not want to be Facebook or Whatsapp MPs, let them carry it. We want to be MPs in this Chamber to represent the views of our people. If you are looking for cheap popularity go to Facebook or WhatsApp. You have to prove yourself here for people to know that you are working for them. I have seen certain pictures of members on Facebook in relation to this draft Constitution and I was told about somebody who is part of the CRC and talking to members, directing them what to do to this draft Constitution. If you believe in your work, you know what you did, why should you force members to approve this? Leave us with our conscience. You can lobby, campaign but you cannot force me to do certain things. It is out of order and it is a contempt of the National Assembly. We have also seen on social media and we need clarity on that, the joint communique of EU, USA, UK and German Embassy. It could be them, it could be planned by others to urge MPs to do this but I will refer this august Assembly to page 193 Section [213] of the Constitution, it says: "The state and all citizens of The Gambia shall endeavour to protect and enhance National sovereignty including social, political and economic independence and territorial integrity". So I believe there is no Western power that can force us to do what we do not want, we are a sovereign state. They do not have that mandate, they do not have that right to tell us this is what you are supposed to do. We cannot be colonised twice. If it is UK, US whosoever, we condemn it, we do not want it. It does not go in line

with the direct principle of state policy because if you read Section [211], you will know that direct principles of state policy do not go with it. So they cannot dictate us that this is what we are supposed to do. It is not correct. If it is not them, let them go to the media and clear themselves. We are sovereign state, we got our independence, we are governed by ourselves nobody can govern us again. So if people are using that for campaign purpose to say hay! I heard that US, UK and others are saying that the members should approve this, if you do not know what you are doing, the members here know what they are doing. We are a sovereign state and we will not compromise our sovereignty. We are an independent state, we have our president, we have our Constitution and we have our National Anthem, Coat of Arm and everything. So nobody can direct us and we condemn it and The Gambia will not be colonised again, that imperialism is over. If it is not over, Gambia will not be part of it.

Honourable Speaker, I have been saying that the issue of the public servant, we have come across in this new draft Constitution that if you are terminated or dismissed from public office due to other errors, you will be banned for life. I want the Attorney General to convince me as to why should that person be banned for life? And he is a citizen of this land. No man is perfect and human beings are bound to make mistakes. Why should we say that our own citizen will not work for life and if you say that person should not work for life but you said somebody being pardoned by a president that person is qualified to do certain things, my friend where is justice? That is why among the previous speakers, someone said that, this draft Constitution is ill-intended for a purpose and we knew the purpose now because we have seen key figures going out begging, urging people to approve this. What is your interest for people to approve this? But we have now seen the reasons why people want this to be approved. That is why at the beginning of my submission, I said there is no good law, there is no bad law any law that suits you is a good law and I have evidence of saying this because I am an example to that. When I brought a Private Member Bill here, there is a section of the Assembly that says no and when I ask them to give a reason and they give me their reasons, I say "wow" before you said this is bad and today it is good for you because it suits your interest. So those who are advocating for this draft to go, it is for their interest, especially for most of the political leaders who are campaigning vigorously for this to be passed. What is their interest in that? Can they inform the

public? Leave the National Assembly members to do their work diligently. Nobody is perfect but it will be hard to sanitize this Assembly again.

The Member for Wuli West always says this here in 2017 that if anybody comes here with a political tag please drop it outside, all what we should see here is Gambia. I was called by many yesterday and day before yesterday pleading with me saying: "alinying approve" and if I ask them the reason why we should approve this to give me the benefit of the doubt as to why should I approve this, and what is their reason, they cannot say anything but they say no, "Ala approve" yes just approve it and others will call you and say "Alinying Faye Nyamocono" if you ask them their reasons, they will not give you any tangible reason. So I believe the social media warriors and the PRO of the CRC should stop doing such. They should not do such, they are part of the team and should not urge or force members to do something. You leave them on their own level, we know what we are doing.

Honourable Speaker, right to education 57[2] it says: "All persons have the right to equal educational opportunities and facilities and with a view to achieving the full realization of that right", you know when you are making laws, we should make laws that suit us and that match with the reality. We always advocate for this education is free, basic education is free but this is not true, this not right and if our Constitution says that, it shall be right who is fooling who here? Are we fooling ourselves?

Honourable Speaker, I believe we should make laws that suit our society not to make laws to impress others or the West or to impress other people that yes, we can go with this whereas we ourselves know that we cannot go with this. So, as I said Honourable Speaker, I do not want to take the time of this august Assembly but let the Facebook warriors or whosoever knew that they cannot change our position. We are leaders, we knew that people will insult us, people will say all sort of things and to that effect before I make my conclusion Honourable Speaker, there was a time here the former Attorney General wanted to bring a Bill with regards to the issue of insults and I did not see that one in this draft Constitution and the trend this country is going, there are two things insults and hate speech, I think CRC should have captured that here because politics is now dirty in this country but before, when they are insulting

people others are jubilating, the table has now turned. We have seen what is going on.

So I would like the Attorney General for those sections or clauses to be captured here and again there is an issue with regards to the issue of this gay and lesbian marriage, I consulted a legal person and what he told me and what I have seen in this draft and the 1997 Constitution is quite different but as I said, we are not mandated to interpret the Constitution but I believe you are, I want you to clear my doubts before I take any decision on this draft Constitution that is if you go to 1997 Constitution page [43] right to marriage Section [27] it says: "men and women of full age and capacity shall have the right to marry and form a family and what this person told me is that this 1997 Constitution there is no possibility of gay marriage but what he told me in this draft Constitution, if you go to page 43 Section [54] "a man and a woman of full age and capacity have the right to marry and form a family and such marry shall be based on free and full conscience of the man and the woman.

He said the article (A) a man qualifies a man himself to marry a man and there is a conjunction (and) a woman which means also a set of her own, so you are here to clear our doubts. I will like you to elaborate more on that because one thing that I will not do is to give my blessings to something that I myself knew after here I know the lord of the lords is waiting for me to account. So I would not fear any human being to do something which is not in line with my faith. Honourable Speaker, having said this, I would like to thank the members of this august Assembly for giving me their ears thank you so much.

**HON. KAJALI FOFANA [JARRA WEST]:** Thank you Honourable Speaker, Honourable Speaker, I think I have to start with this question whether I can find an answer to this question from the Attorney General who laid the bill. I want to know who the PRO is for CRC because the documents that we have from day one up to now, I did not find any name that has been labelled as the PRO for CRC. If there is any, I want to know that first question Interrupted ... Point of observation!

**HON. SAINÉY TOURAY [JARRA EAST]:** Thank you Honourable Speaker. I just want to make a quick clarification. Many Honourable Members are fun of saying Anthony General, it is Attorney General thank you.

**HON. KAJALI FOFANA [JARRA WEST]:** Thank you very much, okay thank you Member for Jarra East. Honourable Speaker, I just want to start by saying to move forward, we must always look forward. If you want to move forward and you start looking behind while going forward you probably going to fall down, and you may not walk fast. From the beginning of the debate, I learned from one of the senior members of the National Assembly that probably we are the luckiest National Assembly members since independence up to now because we are the only set of members that are fortunate to have a draft Constitution before them to look into it and to give their blessings too.

I was really happy with that statement but as I am standing right now if I have to tell you the truth, I am sad and annoyed and I will tell you my reasons along the line. In fact, I was about to drop all my reservations after looking at the pattern of our contributions as it seems like we are dealing with something that we did not even understand. The draft Constitution that we have contained [319] clauses if I am right, from the first day we start the debate, all the reservations all the observations that we have done are circulating within 1 and 30 is not more than 30, if we count all of them because we seem to be repeating one another. If that will give us the visa to throw the entire draft that makes me sad and I have to say that but I will come to that later.

The reservations or the concerns that I have in the draft Honourable Speaker, this one I will make it very short because it is mentioned by many members that it is cut and paste some are calling it plagiarism. I want to believe that we are a sovereign state, we are a nation of our own, we are not under any colonization, nobody is taking care of us but we have to know that we belong to a global village. This present trend of the world or of all the nations if you observe is going beyond national sovereignty, we are going towards globalization we call the world a global village. There are general ideas that bind us together especially when it comes to politics and governance, there is nothing we can do about that. Whatever you want to do today has been done since

yesterday. You cannot run away from that, in fact we fail to think twice how many National Assembly teams leave The Gambia to go to other countries to study a case just a simple case. I went to Uganda for case study why not in The Gambia here? Look, we live in a global village, we are a globalized world. We must do things together, we must have to learn from one another. That is not a problem.

My observations are touched by some members and in fact, I am happy with the new draft Constitution regarding that contribution that is the religious affairs. The provisions that are provided in the draft Constitution are more explicit, more understandable than what we have in the 1997 Constitution. It is very clear in the draft, the only reservation I have there is, I hope there will be a clause that will provide the National Assembly the power to be able to make an Act for religious affairs in this country which I have my own reason for. If National Assembly can have an Act, a power in the new draft Constitution whereas they can make an Act or regulation regarding religious affairs otherwise having a secular or not having it in the draft Constitution, the clauses that are provided for our religious freedom in this draft Constitution are good. I do not have any problem with them but my problem is, there is no existing regulation in this country regarding religious affairs.

I have made that research myself well before we get this draft Constitution and to my own calculation, I have seen that it is necessary looking at our situation, looking at occurrences in our country, I say it is necessary for Gambia to have a policy document regarding religious affairs. I do not think that means the government is going to interfere in religious affairs. A clear example is, we all remember and see it together, there was a former governor that was taken to TRRC and was asked by the council what authority did he had at that time to go and arrest that religious leader and his people? But he cannot provide any authority. What he said was very clear, he only acted on an Executive order and we did not want that to continue in our country anymore. So, we have to have regulations in our country regarding religious affairs. It is alarming, it is quite alarming! There is religious co-existence between the Christians and the Muslims in the country that is not a problem but we do not know what will happen tomorrow. The people of the same religion are always at fight, we can all attest to that, we all know about it. A respectable religious leader with his

scholars preaching against another leader to an extent that they insult one another. We heard and see them.

This is happening in some of the religions and through my research, I think the biggest problem I get was, there was no connection automatically between these two councils in the country that are established. I think by the Act of the National Assembly. I do not know that is the Christian Council and the Supreme Islamic Council but there is no connection between these two councils and the Ministry of Religious Affairs or Ministry of Local Government and Religious Affairs because that is where the portfolio is.

So, I am suggesting if there can be another provision in this draft Constitution that can allow the National Assembly to make an Act regarding religious affairs. The other thing is citizenship, I just do not want to go too much in to it because already my colleagues have spoken extensively in that area but my problem there is an automatic birth right that is my problem. I think the Minister has to make me understand what exactly he means by that looking at our country and looking at our sub region, I do not think statelessness is an issue in our county as at now, of course, if you look at the global trend, you know that it is on the increase because globally, you have more than one million stateless people but when it comes to our African context, it is about seven hundred and fifteen thousand. Infact, there is no registered case in the Gambia yet unless, it is not registered. According to the statistics, it is not registered. So, now why unconditional birth right? I need to be told why so that I can understand, that is my problem and finally I came back to my argument.

You see why I am ashamed, we all know that this Commission is established by an Act of the National Assembly 2017. We did not inherit it, we made it, it is our own made and the CRC members did not come from any country, they are Gambians, we give them this assignment with the hope that they are going to give us a good result and if you look at the processes that they took, personally I do not want to take the time of the members anymore because we have been sitting here since in the morning. So, I just want to summarize it. There are 51 fundamental questions that they set and submitted and if answers are fine for all these questions that will enable them to have foundation to build a better Constitution for the Gambian people. They did their

consultations at every region almost every constituency, in fact, I personally attended three of their consultative meetings to call them that they have not done anything, really made me sad and just to think about it, how many clauses did we have problem with from the time we start this debate how many clauses?

And how many more behind? Why do you want to change them all and throw them away? Does that make sense? You cannot assign people give them money and make them work in and outside of the country, at the end of the day, you said they have done nothing to an extent that, you tell them something that is not even appreciable because everybody is just listening to the National Assembly right now, whatever word you utter, you are on record, we should not do that.

Why should we say what we are not ought to do **"kabura maktal endallah anta kuluna maalaataf aluun"** do not do it, do not say it if you know you cannot do it. **"kabura maktal endallah"** the biggest anger with God, the Almighty Allah, is to say what you are not going to do. Do not do it, do not say it. If you say you are going to do it you must stick to that and do it. We owe the people of this country a lot, we owe them, they are crying that is why they are using all the channels that they can do just to get to us so that we can listen to them.

You see I want us to be very careful. We are all Muslims are Christians, our decisions here the repercussion are not going to be final. We must answer to another question as leaders, when we were coming here, as Muslims we are given the Quran because you are expected to say what you are going to do **"kabura maktal endallah anta kuluna maalaataf aluun"** why did we say it? When we know we cannot do it. Jesus Christ say in the Bible "you shall know the truth and the truth shall free you", it is only the truth that can free you unless you take the truth you will never be free.

I think we have to look at this and look at it again. It is not started today but today is going to be the end and our decision today will determine our position in the society **"Hubul watan minal imann"** to love your country is an act of a believer **"khubul wattan minnal Iman"** unless you love your country then you will not be respected thank you Honourable. I will never do that again I just want to have a simple and



clear definition for politics, a simple and clear definition for politics, political parties are not created like you think they are created.

There are basis on which political parties are formed. There are ethics that political parties performed on, there are principles, there are rules in every political party, you cannot just judge the book by the cover, you cannot. Political parties are individual organizations comprising people of the same political ideology. So you do not expect a political party especially a political party that is not leading the government to do what the government has to do. I think at certain point, we should be very sincere to ourselves and we take the decision on any basis that we want to take decision on, whether you are going to take it personal or you are going to take it anyway, just take your decision but respect the decision of your colleague. I thank you Madam Speaker, I beg to take my seat.

**HON. DAWDA KAWSU JAWARA LOWER BADDIBU:** Thank you Madam Speaker, "Yes" thank you I will do that, it is Clause 53© of the Standing Orders Motion for the Adjournment of Debate Madam Speaker, we are dealing with a very important Bill yes.

Motion without notice [53C] 'motion which maybe without notice the following motions maybe made without notice and [C] a motion for the adjournment of the debate Madam Speaker. The reason why I am raising the motion is that we are dealing with one of the most important, if not the most important Bill in our tenure of office and I see visibly that Members are tired and I still believe there are about five or more members still to speak after which the Attorney General has to come and respond, to give it a fair consideration. I just want to appeal to this honourable house to adjourn the debate till tomorrow morning then we can come back and finish what is left. it is a very important National Process that I think deserves the wait.

**THE SPEAKER:** Under the rules and it is your decision. It is a motion and it has been moved. We will follow the procedures to have it seconded. Any seconder? Honourable Member for Sandu.

**HON. MUHAMMED MAHANERA [SANDU]:** Yes, Madam Speaker, thank you. I rise to second the motion.

**HON. MUHAMED MAGASSY [BASSE]:** Madam Speaker, thank you very much. When it is about the end of time, that is 6 o'clock, I raised a concern whether we continue or we stop at 6 o'clock and a motion was passed here that we are going to sit beyond 6 o'clock to finish business, and I was even saying business of the Order Paper is too huge because if you look at the Order Paper dealing with the SoNA 2020 is also part of the agenda, so if you want to finish the order of the day that means we are going to deal with that also. I called the concern on that particular issue but the motion was moved and seconded that we sit beyond 6 o'clock to finish business so, I do not think any other motion can come to contradict that motion unless we repeal that motion.

**SPEAKER:** So, are you saying in effect that once a motion was moved, seconded and approved, you cannot have a subsequent motion, is that what you are saying? We need to be clear, I understand you that is why I want to get you very clear.

**HON. MUHAMED MAGASSY [BASSE]:** I also want to make it very clear, I am submitting, I am saying if a motion is being moved, seconded and approved, there is no other motion that can be moved, if that motion is not being repealed or is not being countered for. So, there should be a motion to repeal that one first because we agreed to it, and we voted for the motion that we are going to sit beyond 6 o'clock to finish business. If you know that now we cannot go by that, the member can still use the Standing Order to repeal that motion and we go for another.

**SPEAKER:** That is why I am saying that. Are you saying in effect that even though a motion was already moved, seconded and approved, a subsequent motion cannot come on? That is the point! is it proper under the Standing Orders to bring a subsequent motion? Exactly that is my issue...

**HON. HALIFA SALLAH [SERREKUNDA]:** Honourable Speaker, the motion that was brought is a motion without notice and the motion is to adjourn the debate.

So, the debate is on but is a motion to adjourn the debate. So, unless the Member can quote a section to show that we cannot move a motion without notice and to adjourn the debate then I think...*[interruption]*

**SPEAKER:** I am of the view that we are not annulling anything. It is just a suspension if I get it right. And look at the title, it even says motion which may be made without notice. So, I think in all fairness let us proceed, follow the procedure. We can do so, a motion has been moved, has it been seconded?

So, it has been moved and seconded that we adjourn the debate on the Constitution Promulgation Bill 2020 till tomorrow for continuation.

*[Question Proposed, Put and Agree to]*

### ***Adjournment***

*The House stands adjourned till Tuesday 22<sup>nd</sup> September 2020 @ 11:00am prompt*