



■ DEMOCRACY WATCH GAMBIA

CONSTITUTIONAL REVIEW RECOMMENDATIONS



■ MARCH
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GAMBIA



Introduction

The Democracy Watch Gambia (D.W.G) is a civil society organisation which emerged following the birth of the 3rd Republic. It is secular and non-partisan in nature albeit intrinsically political.

DWG Mission: “To inspire informed political participation, good governance, rule of law and democracy in the Gambia.”

DWG Vision: “We envision a Gambia with a fully politically informed citizenry and one which is totally free of executive excesses and despotic tendencies.”

Preamble

Contained within this 45 (forty - five) page document of 16,598 (sixteen thousand five hundred and ninety - eight) words is literature by the D.W.G which reflects our vision for progressive reform; and recommendations for meaningful holistic Constitutional reform. The ideas herein are the product of rigorous low-level consultation(s) and collective effort by our membership which we hereby present to the Government of The Republic of The Gambia through your noble Statutorily established commission (Constitutional Review Commission) as our humble contribution to the pool of ideas from which the anticipated 3rd Republican Constitution shall emerge.

This document shall be referred to as ‘The D.W.G Constitutional Reform Recommendations Pack’.

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THE D.W.G CONSTITUTIONAL REFORM **RECOMMENDATIONS**

Key

Obsolete (*)

Inconsistent with democratic principles (**)

Unfit for purpose (***)

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- 2.4 Introduction of an Entrenched Constitutional Provision to Reform the Legislature (security of tenure for the Speakers; abolition of nominations into the National Assembly; introduction of an upper revising chamber).
- 2.5 Introduction of a Constitutional Provision to Enhance and Improve Standards in Public life; Public Accountability and Scrutiny of Political Parties; Strengthen Internal Party Democracy; Restrain Ruling Party's Legislative Control.
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- 2.10 Introduction of a Constitutional Provision to Mandate Publication of Public Service Pay [including the President and Cabinet]; Set appropriate Wage ratios; Mandate Periodic Independent Public Service Pay Reviews; Pave the way for a Fair Remuneration Act.
- 2.11 Introduction of a Constitutional Provision [and broaden the scope of Section 218] to pave way for an Act to Protect, Strengthen and Preserve Gambian Art and Culture including Music.
- 2.12 Introduction of an Entrenched Constitutional Provision to Completely Overhaul and Sever the Public and Civil Service from the Political Grips of the Political Executive; and improve its Political Independence, Conditions of service, Quality, Productivity and Output (Also see Recommendations 1.42, 1.45, 1.48, 1.49, 1.50, 1.53, 1.57 and 1.63).
- 2.13 Introduction of a Constitutional Provision to pave the way for an Affordable Housing & Land Allocation Act (Also see 1.58)
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1. Proposed Reform Recommendations to Existing Provisions of The 1997 Constitution

Whilst most agree that that a lot of time, energy and expertise had been dedicated to the 1997 Constitution it is our firm belief that there are, contained within it a number of provisions which are either **obsolete(*)**, **inconsistent with democratic principles (**)** or simply **unfit for purpose (***)** in the post Yaya Jammeh era. With the aforementioned said and following a thorough examination of the contents of the above mentioned document, we hereby put forward our informed recommendations for Constitutional reform with respect to existing provisions as follows:

1.1 Section 5 & 6 – Enforcement; Defence of the Constitution (*), (), (***)** must be consolidated as follows:

- It must stipulate for every bill to be accompanied by a statement of compatibility with the Constitution and /or any international treaties from the relevant Ministry. Such compatibility must be examined and approved by an independent legal panel (independent legal practitioners independent of government) before such a bill can be presented to law makers.
- After any bill is passed by the National Assembly, such a bill must be re-examined by the above panel to ensure compatibility with the Constitution before it is sent for Presidential assent and becoming an Act of the National Assembly.

A Constitutionally established independent body must also be in place charged with the responsibility of dealing with breaches of the Constitution including filing cases of breaches to the Supreme court on behalf of citizens at taxpayers' expense subject to a petition system and reasonable rules and thresholds to be stipulated in the relevant provision and / or Act of the National Assembly.

Merit of Recommendation: This will inject a balanced level of judicial oversight in the law-making process curbing the excesses of any possible abuse by a Government dominated Legislature. More importantly, such a provision will ensure that all laws made by Parliament are consistent with fundamental human rights / the Constitution / international treaties / international standards.

Where there is a breach, such avails a feasible and transparent mechanism through which citizens can seek a petition and seek a legal redress.

1.2 Section 7 (c) – The Laws of the Gambia (*); ()** which incorporates into our current laws all the Decrees passed by the Armed Forces Provisional Ruling Council (AFPRC) must be reviewed and repealed.

Merit of Recommendation: To prevent the dilution of our Sovereign Constitution, promote and preserve democratic principles. The recognition by our Sovereign laws of 'laws' passed by an entity which was anything but democratic actually dilutes our Sovereignty and grossly undermines Section 6 – Defence of the Constitution.

1.4 Section 18 – Protection of right to life (*), (), (***)**. This provision is inconsistent with Article 3 of the Universal declaration of human rights (right to life, liberty and security of person) by the United Nations (UN) to which The Republic of The Gambia is a signatory. Sub section 3 of this constitution which states that:

“The National Assembly shall within ten years from the date of the coming into force of this Constitution review the desirability or otherwise of the total abolition of the death penalty in The Gambia”

Successive Parliaments from 2007 to date have acted in contempt of the above subsection which effectively adds weight to the settled argument in favour of a total abolition of the death penalty, such abolition enshrined in law and adequately entrenched.

Merit of Recommendation: This will elevate our Constitution to be in line with the UN treaties and 140 other countries worldwide which as of July 2015 abolished capital punishment for all offences (Amnesty international).

1.5 Section 19 – Protection of right to liberty of person (*), (), (***)**. The protections under this section whilst moderately adequate, they do not go far enough; and the absence of a constitutionally established independent oversight renders the purpose of this provision futile.

a. **Absence of independent oversight:** A body independent of all law enforcement bodies must be constitutionally established [not statutorily established] for the sole purpose of handling complaints of constitutional breaches / excessive or unlawful use of force or powers by law enforcement agencies and acting as an independent oversight for enforcement of this provision. This body must be fully equipped with powers to issue fines to law enforcement bodies, recommend prosecution of individual law enforcement officials and award compensation for breaches.

b. **Inadequacy:** Sub section 2 must at the very least guarantee all suspects an absolute right to free legal representation before being questioned by law enforcement in pursuant of any power(s) conferred upon them by law; it must automatically outlaw any cautionary statements recorded in the absence of a legal representative.

c. Sub sections 5 & 6 must be consolidated to the extent that any contravention of any part of this provision by the state or any state body /bodies doing so on the state's behalf will be construed as a breach gross enough to require total dismissal of case. This provision must also legislate for any such breaches to be automatically referred (by Judiciary, prosecutors, police, prison service, suspect or person acting on their behalf) to a body constitutionally established for the sole purpose of handling such complaints.

Merit of Recommendation: This will prevent abuse of people's right to liberty by the state and promote best practice in day to day business of law enforcement agencies. It will also ensure that where any abuses are alleged to have occurred there is in place an impartial, transparent, expeditious and comprehensive mechanism of addressing the matter. This, in our view will undoubtedly have the effect of enhancing the public's confidence in law enforcement agencies

and promote a culture of understanding and cohesion between the aforementioned duo and bring the Constitution in line with Article 8 of the Universal declaration on human rights – “Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law”.

1.6 Section 20 (3) (e) – Protection from slavery and forced labour (*), (*)**. This sub section does not prevent citizens from:

“...any labour reasonably required as part of reasonable and normal communal or other civic obligations.”

This provision is inconsistent with the values of a democratic society and must be repealed. The right to not be subjected to slavery or forced labour must be unequivocal and it is important for citizens to be guaranteed that this right will never be undermined by any “reasonable and normal communal or other civic obligations” whatsoever. Also see paragraph 5.1 (a). In addition to the above, a regulatory body must be constitutionally set up to serve as an oversight and investigate and handle all complaints of slavery or forced labour in the public service, state employment and the private sector.

Merit of Recommendation: This clarity will eliminate any likely possibilities / potential for the state or any other(s) acting on its behalf or anyone within the jurisdiction of the Gambia to subject anyone to slavery or forced labour.

1.7 Section 23 – Right to privacy (*), ()**. Sub section 2 (b) is not “necessary in a democratic society” and therefore is in contravention of sub section 1. Sub section 2(b) must be repealed in respect of searches of premises, dwellings, place of abode and /or vehicles unless such was the place of lawful apprehension of the subject of the search.

Merit of Recommendation: It will get rid of the apparent sweeping powers given to law enforcement to invade a citizen’s privacy. It will promote the right to privacy in line with democratic values and international standards.

1.8 Section 24 – Provision to secure protection of the law and fair play (*), (), (***)**. Sub section 3 (d) – “Every person who is charged with a criminal offence- shall be permitted to defend himself or herself before the court in person or, at his or her own expense, by a legal representative of his or her own choice;” which doesn’t absolutely guarantee state funded legal representation for persons accused of having committed an offence is inconsistent with the spirit of sub section 1 of this provision which guarantees “fair trial”. It is also inconsistent with the

notion of the right to a fair trial as per international standards and it must be repealed and replaced or accordingly amended.

Merit of Recommendation: This will prevent accused persons being put out of pocket, the absence of proper legal representation for the poor and less well off and also bring this provision in line with the Universal Declaration on Human and People's rights and international standards with respect to the right of accused persons to a fair trial.

1.9 Section 25 – Freedom of speech, conscience, assembly, association and movement (*), (), (***)**. Any “reasonable restrictions” on the freedoms guaranteed under this section as per sub section 4, restrictions which may be contained within the “Laws of The Gambia” must be reviewed with a view to amending or repealing them to ensure conformity with international standards and democratic values.

Merit of Recommendation: This will ensure that the fundamental freedoms guaranteed under this section are not unreasonably or unnecessarily restricted by the state against the virtues of a free democratic society which this Constitution promotes.

1.10 Section 29 – Rights of children (*), (*)**. A Constitutional body for the purposes of upholding rights guaranteed under this provision must be set up. Such a body must be given adequate powers to sufficiently enforce this provision in the interest best of children.

Merit of Recommendation: This will ensure that children are fully protected against the mischief this provision seeks to avoid befalling them.

1.11 Section 30 – Right to education (*), (*)**. This right must be renamed ‘the right to free education’ and widened to the extent that it will encompass specifically the disabled (including those with down's syndrome) and adult education. The right to free education must be guaranteed to all up to senior secondary certificate level.

Merit of Recommendation: This will ensure the right to free education is available to all including disabled citizens. It will also improve the level of literacy among citizens in a way that it would otherwise not have done.

1.12 Section 31 – Rights of the disabled (*), (*)**. This provision must be wide enough to cater for some state-funded financial support, absolute right to mobility / support equipment, guaranteed interview scheme in respect of any job application and exemption from identity card fees and medical fees in state health facilities for disabled citizens.

Merit of Recommendation: This will bring the spirit of this provision in line with international standards; enhance productivity and personal independence among the disabled citizen.

1.13 Section 34 – Declaration of a state of public emergency (*), ().** Sub section 1 which states that “The President may, at any time, by Proclamation published in the Gazette, declare that-

(a) a state of public emergency exists in the whole or any part of The Gambia;

(b) a situation exists which, if it is allowed to continue, may lead to a state of public emergency” must be amended to an extent that it explicitly specifies that such a declaration will only be made within good reason and not as the President wishes as the letter of the law appears to be representing.

Sub section 2 of this provision must be amended to require a judicial oversight for instances where the National Assembly is not in session. Provision for judicial oversight must also be made to cater for other instances where there is no sitting Parliament.

Merit of Recommendation: This will ensure clarity of the letter of the law, prevent abuse of the power and also prevent Constitutional crises in a state of emergency.

1.14 Section 36 – Persons detained under emergency powers (*), ().** This section must be reviewed to ensure consistency with fundamental human rights as contained in this constitution, international standards and the universal declaration on human rights.

Merit of Recommendation: This will ensure that the state does not exploit a state of emergency to trample on fundamental human rights. This is essential in a free democratic society which this Constitution seeks to promote, preserve and uphold.

1.15 Section 37 –Enforcement of protective provisions (*), (), (***)**. See 1.3 to 1.14.

Merit of Recommendation: See 1.3 to 1.14.

1.16 Section 41 – Electoral laws (*), (), (***)**. Sub section (d) of this provision needs to be wide enough to cover 365 days a year / at all times.

Merit of Recommendation: Equal and unhindered access to public / state media by all political parties is essential in a democratic society.

1.17 Section 42 – The electoral commission (*), (), (***)**. Sub sections 4 and 6 which confer on the President the power to appoint and dismiss the chairman of the independent electoral commission (IEC) must be repealed and replaced with a provision which confers such power to another independent body which is independent of the executive and / or any political control.

Merit of Recommendation: This provision undermines democratic principles and repealing it will ensure fairness and dissipate political control over the IEC by the executive or any individual or body whose election into public office it is mandated to independently oversee.

1.18 Section 48 – The poll on an election (*), (), (***)**. The original section 48(3) of the 1997 constitution must be reinstated to give effect to a minimum of 50% plus 1% of total votes cast requirement in a presidential election prior to one being declared the winner of such contest; this provision should also be entrenched to prevent future opportunistic amendment or repeal. This provision must also explicitly detail that such 50% plus 1% threshold is in respect of votes polled by any single candidate and that such must not in any case be construed to be a combination of more than one contestant's polled votes; it must also detail the requirement for second round voting (contested by the 2 (two) candidates with the highest number of votes in the first round) which must take place as soon as practicable in the event of no candidate polling the above minimum threshold in the first round of voting. Such provision must also detail what must happen in the event of death, resignation or dismissal from sponsoring party or incapacity of a candidate in-between the first and second round of voting; and before results (first or second round) are announced; and / or before inauguration.

Merit of Recommendation: It returns legitimacy and credence in presidential election contests and brings the process back on par with international standards. It also instils clarity and avoids electoral uncertainty.

1.19 Section 49 – Challenge to results of presidential elections (*). There is a good case in favour of repealing this to such an extent that such a case begins in the high court which shall hold a preliminary hearing and give a ruling on the facts. Following a high court ruling, an automatic right of appeal to the Supreme Court on a point of law must be open to both parties to the petition.

Merit of Recommendation: This will ensure a swift and expeditious Supreme Court hearing and judgement on points of law only as the facts would already have been established at the high court.

1.20 Part 6 – Seyfolu and Alkalolu (*), (), (***)**. Sections 58 and 59 must be repealed to an extent that Village and district heads are elected through direct democracy in non-partisan elections (locally-resident private individuals rather than party sponsored candidates) conducted

by the IEC. A future national assembly is to pass an act of Parliament governing the affairs of such elections.

Merit of Recommendation: This will promote, encourage and enhance local democracy and give democratic legitimacy to the relevant local figure-heads; such local democracy is vital in a democratic society.

1.21 Section 60 – Political parties (*), (), (***)**. Sub section 2(a) and (c) of this provision must be repealed as it is a duplication of the entrenchments in this constitution and can have the effect of purging smaller parties who may not be in tune with the briefed wisdom. Sub section 2(b) must be made wide enough to explicitly prescribe and mandate the relevant key “democratic principles” such as the selection of political party leaders through a compulsory open transparent primary; fixed prescribed duration of leadership mandate; financial matters etc. Provision must also be made to cater for state subsidy / grants for political parties through a robust but fair funding formula (**Also see miscellaneous Recommendation 2.5**).

Merit of Recommendation: It will prevent unwarranted political exclusion of minority, non mainstream or controversial political views and representation and encourage, enhance and promote participation in party politics. It also prevents despotic tendencies and undemocratic practices within political parties – something which could potentially threaten our democracy should such party win power.

1.22 Section 62 – Qualification for election as president (*), ()**, Sub section 1 (c) must be repealed to reflect a reasonable period, possibly of 12 months preceding the elections rather than a draconian 5 years period.

Sub section 3 must be repealed to an extent that it only restricts those convicted of serious offences like drug and / or discrimination offences (not rehabilitated), homicide, infanticide, sexual offences, or any offence relating to dishonesty by a competent court only.

Merit of Recommendation: It ensures sanity in the process without having citizens being unwarrantedly and unduly barred from contesting public office.

1.23 Section 63 - Tenure of office of the president (*), (), (***)**. This must be repealed to a term of 4 years with each president restricted to a strict two terms maximum in their lifetime.

Merit of Recommendation: This will bring our democracy in line with other advanced democracies around the world, promote democracy and good governance and discourage and lock out self perpetual rule.

1.24 Section 65 – Vacancy of the Office of the President (*), (), (***)**. Subsection (2) of this provision must be repealed / amended so that where the office of the President becomes vacant, the Vice President (VP) or the Speaker shall occupy the post in an acting role [but without any Constitutional power to introduce or make any policy or legislative changes / introductions including Executive orders] for a maximum period of 60 (sixty) days following which elections must be held by the Independent Electoral Commission (IEC); the provision should also bar any caretaker (acting) president from contesting such elections. Where the VP or the Speaker wish to run for the office in such election or are unable to fill the caretaker role for any reason, the IEC chairman shall occupy it under the same restrictions as mentioned above and hold elections within 30 (thirty) days.

Merit of Recommendation: This will avoid a Constitutional crisis and ensure a swift transition of power in the event of the office of the President becoming vacant. It will also ensure that following the post becoming vacant; it will not lead to such being occupied by an unelected person with little or no democratic legitimacy.

1.25 Section 68 - Salary and allowances (*), (), (***)**. (Also see Misc recommendation 11). There needs to be a fixed set ratio between the pay of the president and that of all members of the other arms of government and public and civil servants.

Sub section 2 of this provision which seeks protect post presidency remuneration must be repealed / amended to deny an ex president such benefit(s) [subject to National Assembly discretion] under certain circumstances eg dismissal / impeachment [not resignation], corruption and / or gross unconstitutional breach finding by a competent court.

Sub section 3 of this provision which exempts a retired president from taxation must be repealed to put him / her on par with ordinary citizens.

Merit of Recommendation: This will promote transparency of public remuneration and eliminate the excessive pay gap between those elected into public office and workers in the public and civil service. It also ensures that any pay increases at the top will likely be reflected at the bottom.

1.26 Section 69 – Immunity of the president from civil and criminal proceedings (*), (), (***)**. This provision gives a president sweeping and unreasonable privileges to act with impunity and must be looked into. A President accused of a serious criminal act whilst in office must be investigated by a national assembly select committee. Should the allegations be substantiated impeachment proceedings must follow. Whether or not such impeachment is successful, it should not bar or hinder further civil and / or criminal proceedings from being brought or considered after the president leaves office. The president may enjoy reasonable immunity in respect of civil offences whilst in office, however on leaving office there should be no bar (statute or otherwise) on claimants from initiating civil proceedings against them.

Merit of Recommendation: It eliminates those circumstances which may tempt a president to act with impunity, reduces despotic excesses and promotes the rule of law (all citizens equal before the law) it also ensures that a president is not perceived as being someone who is above the law.

1.27 Section 70 – The vice president (*), (), (***)**. Sub section 8 of this provision which requires the president to seek a 75% national assembly support in order to terminate the services of a vice president must be reinforced and strengthened with a mandatory and entrenched Constitutional requirement for Parliamentary approval of all VP appointments.

Merit of Recommendation: This is vital in a democracy as it promotes transparency, gives democratic legitimacy to such appointment(s) and enhances the oversight function of the National Assembly. It also significantly reduces the possibility of unconstitutional and appointments and / or the appointment of undesired persons into such high and respectable posts.

1.28 Section 71 – Secretaries of State (*), (), (***)**. Subsection 5 which requires the president to consult parliament prior to the dismissal of secretary of state must be reinforced and strengthened with a mandatory and entrenched Constitutional requirement for Parliamentary approval of each and every Cabinet appointment; there should also be an academic, moral and ethics threshold which must be satisfied prior to any appointment.

Merit of Recommendation: See 1.27.

1.29 Section 79 – Foreign Affairs (*), (), (***)**. Sub section 1 (a) of this provision must be repealed to the extent that where diplomatic ties are to be severed with another nation-state or international partner(s) such shall strictly be effected through an Act of Parliament.

Merit of Recommendation: This ensures that citizens' rights and entitlements which are dependent on the state' bilateral ties with another country and / or membership of an international organisation will not be denied them without good reason and unless their representatives in Parliament support such motion.

1.30 Section 82 – Prerogative of mercy (*), (), (***)**. The prerogative of mercy must be restricted to the pardon of convicts only and subject to consultation with and the recommendation of a parole board (which Parliament must establish to oversee rehabilitation of offenders); such an exercise by the president must not in any way extend to the tinkering of sentences.

Sub sections 1 (b), (c) and (d) can have the effect of undermining the credibility and effectiveness of the criminal justice system thereby having a knock-on effect on reoffending.

Sub section 2 must be amended to replace the prerogative of mercy commission with the parole board mentioned above which must be independent of the prison service and the executive.

Merit of Recommendation: It refocuses the exercise of this power by the president on effectively contributing to the reduction of the prison population with less risk of such leading to a spike in crime. This will enhance the public's confidence in the parole system.

1.31 Section 83 – Honours and Awards (*), ().** The honours and awards provision must be reviewed by the National Assembly and an Act of the National Assembly passed with a view to creating greater clarity as to criteria and restrictions with respect to persons who may be eligible for such awards etc.

Merit of Recommendation: This will prevent an abuse of the system whether for gain or not which could likely bring the entire honours and awards regime into disrepute.

1.32 Section 84 – Director of Public prosecutions (*), (), (***)**. Sub section 2 must be repealed; the Director of public prosecutions' (DPP's) appointment and dismissal must be independent of the executive and rather be squarely vested within the responsibility of the relevant National Assembly select committee. The processes for these are to be legislated for by an Act of the National Assembly.

Sub section 3 must be amended to strictly restrict the post of DPP to Gambian nationals by birth and / or descent only.

Merit of Recommendation: This will ensure the political independence of the DPP and his/her subordinates. It will also prevent executive control or influence over the dispensation of justice and criminal cases being prosecuted by the state. This is essential in order to promote the rule of law, due process and prevent miscarriages of justice as a result of political interference by the executive.

1.33 Section 85 – Control of Prosecutions (*), (), (***)**. Subsection 1 of this section must be repealed. The office of the DPP and the business of Prosecution must be completely independent of the office of the Attorney General. The decision whether to or not to prosecute must be one solely based on availability, sufficiency and admissibility of evidence and what is in the public interest which must be independently determined by prosecutors through a formula / legal test(s) similar to that of the masters of the common law (Great Britain – England and Wales) as per the CPS Code for Crown Prosecutors: The full code test available at: https://www.cps.gov.uk/publications/code_for_crown_prosecutors/codetest.html).

Merit of Recommendation: This will ensure the swift, fair, impartial and effective mechanism of charging and prosecuting suspects. It will also greatly reduce the number of ill-merited cases

ending up in court and clogging up the system without good reason or value for money for the taxpayer.

1.34 Section 89 – The national assembly (*), (), (***)**. Sub section 1 (d) must raise the bar of the required level of education to the attainment of Senior Secondary / High School certificate of an overseas equivalent. Such an amendment must not be applicable to current or previous national assembly members dating back to independence (18th Feb 1965).

Merit of Recommendation: This is needed in order to improve the standard and quality of debate in the national assembly, deliberations and scrutiny in parliamentary committees likewise the legislations being passed by law-makers.

1.35 Section 91 – Tenure of Seats of members of the national assembly (*), (), (***)**. Sub section 1 (d) which compels national assembly members to lose their seats once they cease being members of the political party under whose ticket they were elected is to be amended. This amendment must be such that in the event such a national assembly member ceases to be a member of their party by virtue of being expelled from it, the choice to either retain the seat as an independent or vacate and trigger a by-election must solely rest on them and not their party unless and until they voluntarily resigned from the party.

Sub section 1 (g) is against democratic principles and must be repealed and replaced with an internal national assembly disciplinary procedure (rather than a constitutional provision) with a pecuniary punitive effect.

Merit of Recommendation: This will give national assembly members greater independence and autonomy from their political parties to properly represent those on whose behalf they attend the house without the prospects of being held to ransom by their parties. This will further promote the principle of checks and balances.

1.36 Section 96 – General elections (*), (), (***)**. This needs to be amended so that Parliament is dissolved before Presidential elections are conducted.

Merit of Recommendation: The absence of a sworn in legislative body will prevent a rogue incumbent using Parliament to undemocratically extend their mandate after losing elections; save cost and minimise the impact a contested election result effects on business and the economy.

1.37 Section 98 – Sittings of the National Assembly (*), (), (***)**. Sub section (2) must be amended to have the effect of making it a compulsory requirement for all sittings (including committee sittings) to be televised live or recorded as may be necessary / feasible.

Merit of Recommendation: This will promote democracy and transparency of government business which is a necessity in any democratic society.

1.38 Section 151 – Withdrawal from Consolidated and other funds (*), ().** Sub section (4) of this provision which empowers the President to authorise the withdrawal of Consolidated funds (taxpayers money) for a period of 4 (four) months without National Assembly approval (Appropriation enactment) must be repealed so that this is no longer the case. All withdrawals of consolidated fund(s) must be mandated for by an Appropriate National Assembly Appropriation enactment.

Merit of Recommendation: This will prevent abuse and ensure that taxpayers' funds are not spent without authorisation by the people's elected representatives in Parliament (National Assembly) in a way which does not starve central government of funds: it strikes a sensible balancing act in the process.

1.39 Section 152 – Annual estimates and appropriation (*), () (***)**. The time frame for the tabling before the National Assembly of an annual estimate of revenue and expenditure by the Minister of Finance under section 152(1) must also be changed to a period exceeding the prescribed 30 (thirty) days before the end of the Financial year in order to avoid delays in the authorisation of an Appropriation Act by the National Assembly.

Merit of Recommendation: See 138, 1.40.

1.40 Section 153 – Supplementary appropriation (*), (), (***)**. This provision which allows for supplementary allocation of funds in addition to that which had already been approved under that specific financial year's Appropriation Bill should be amended so that any supplementary appropriation will be limited to necessary spending only and subject to a strict fiscal discipline test which is to be detailed in a Fiscal Responsibility Legislation (Act of the National Assembly) which shall detail and determine such.

Merit of Recommendation: This will instil fiscal discipline; and also prevent procedural abuse and restrict the use of this Constitutional mechanism in bad faith at the expense of taxpayers. (Also see 1.38 and 1.39).

1.41 Section 155 – Loans (*), (), (***)**. This Provision which seeks to protect and prevent the stripping off of public finances must be consolidated and broadened to include loans by means other than cash (eg. Current and fixed assets), bespoke privileges and / or tax incentives, all outsourcing (privatisation) [including the tendering out of contracts] / contracts / agreements / treaties / finance deals with financial implications on the public purse; and the creation and or establishment of new portfolios and or departments whether within Central government, local government or within departments, ministries or sub departments.

The National Assembly support threshold should for reasons of practicality and reasonability is set at simple majority or two thirds subject to the recommended miscellaneous recommendations (restrictions) in Recommendations 2.1(i) and 2.5(v) below.

Merit of Recommendation: This will ensure that the public purse (State coffers) is not burdened in order to serve a third party interest whether corporate, personal or otherwise which confers little or no benefit to the Gambian state; it will also ensure that the people's representatives (the National Assembly) is empowered in such a way that they play a much greater role in the day to day running of the affairs of their Constituents on whose behalf they serve; this will also improve and enhance transparency with respect to Public finances and eliminate the prospects of 'back door' deal making.

1.42 Section 158 – The Auditor General (Also see Miscellaneous Recommendation 2.12)

(*), **(**)**. Subsection (2) which places the responsibility of appointment of the Auditor General solely on the President must be repealed so that the President only makes a recommendation following a process of open competition recruitment (see Miscellaneous Recommendation 2.12) to Parliament (the National Assembly) who appoints the holder of such Office who shall also have security of tenure and only subjected to dismissal by Parliament for reasons stated in sub section (5) only following an independent investigation and adverse finding.

Merit of Recommendation: This promotes the spirit of political independence with respect to how the Office of the Auditor General conducts its affairs and appropriately cements their security of tenure.

1.43 Section 160 – Functions of the Auditor General (*)**. The functions of the Auditor General detailed in sub section (2) are administrative and not ones which fit in within the role of an Auditor and could thereby cause a conflict of interest where a failing with respect to the discharge of such function ought to be subject to an audit by the same body. This responsibility ought to be bestowed onto a body akin to one which instils fiscal discipline / responsibility as will be detailed in the recommended Fiscal Responsibility Act (See 1.40 above); this body should serve as an oversight on the state finances and ensure compliance, best practice and make recommendations for all of the aforementioned where necessary.

Merit of Recommendation: This will prevent a conflict of interest of the sort mentioned above and also improve best practice with respect to how public finances are administered and disbursed. (Also see 1.40).

1.44 Section 166 – The Public Service (*)**. Sub section (4) which details the Public portfolios which are not constituents of the Public Service must be amended to restrict such to elected office and those subject to political appointment only eg. Bona fide Ambassadors and those expressly excluded from being a constituent of the Public Service by Statute (Act of the National Assembly) which creates them. It must also however explicitly spell out the fact that such portfolio holders are still Public Servants despite not being constituents of the Public Service as the two concepts (Not being part of the Public Service and being a Public Servant) are not mutually exclusive.

This provision must be improved so that it explicitly defines what the Public Service is and what a Public Servant is as the Constitution appears to be silent about the true legal meaning of these two concepts; “Public Servant” is defined in Section 169(2) but such definition is limited to its meaning within the specific provision (Section 169).

Merit of Recommendation: This will ensure legal clarity and consistency.

1.45 Section 168 – Head of the Civil Service (Also see Miscellaneous Recommendation 2.12) (*), (), (***)**. Sub section (1) of this provision which bestows the power to appoint the head of the Civil Service on the President must be repealed so that such portfolio will be filled through open competition recruitment and on merit [but without the requirement to replace the current office holder by virtue of such new provision: provision must not be retroactively effective] as per Miscellaneous Recommendation 2.12 below.

Merit of Recommendation: This will ensure that rules on recruitment into the Gambian Civil Service are in line with international standards and conform to democratic principles (politically impartial civil service); it also ensures the Civil Service is recruited on merit rather than subject to political appointment. (Also see Miscellaneous Recommendation 2.12).

1.46 Section 169 – Protection of Public Servants (Also see Miscellaneous Recommendation 2.12) (*)**. This provision which seeks to protect Public Servants from unlawful victimisation and discrimination should be reinforced further so that it is wide enough to cover all in the Public and Civil Service and mandate the introduction of a reasonable standard set of rules, regulations and code of conduct for the Public and Civil Service. It should also mandate for every employee of the Civil and Public Service to at the very minimum:

- Upon employment through open competition recruitment be issued a written contract of employment and terms and conditions of service [and not just a letter of appointment] which must detail their pay and remuneration, pension & employee benefits, holiday entitlements, maternity pay (tax-free) entitlement and sick pay entitlement;
- Be promoted through open competition subject to a standard merit based process eg. Application, Assessment and Interview following a vacancy rather than by default and on time spent in service;
- Guarantee redundancy payments following an employee been made redundant for whatever reason.

This provision must also mandate for the introduction of a constitutionally established Labour Relations Ombudsman through statute (Act of the National Assembly) whom shall enforce the above and any other Labour relations issues as may be appropriate [including in the Private Sector] and to whom aggrieved employees can freely, in confidence, free from any reprisals whatsoever and free of charge can lodge grievances against employers and whom shall also be empowered to mediate between employees and employers (The Public Service Commission in the case of employees in the Public Service) and where such is the best course of action file matters at the employment tribunal on employees’ behalf and paid for by the taxpayer [subject to a appropriate contribution and reimbursement by the employer following an adverse ruling].

Merit of Recommendation: This will adequately protect the employees of the Public and Civil Service in a manner which is consistent with Employment Law standards and acceptable norms in the Labour market industry and ensures that no employee is subjected to those treatments the provision seeks to prevent.

1.47 Section 171 – Restriction on political activities of public servants (*), (), (***)**. Sub section (2) of this provision requiring public servant to take a period of 12 months unpaid leave should they wish to contest elections should be looked at with a view to reducing it to a much less and proportionate period of time.

Merit of Recommendation: This is needed to strike the right balance; and continue maintaining political neutrality in the public service without unreasonably impeding political participation.

1.48 Section 172 – Establishment of The Public Service Commission (Also see Miscellaneous Recommendation 2.12) (*), (), (***)**. This Provision which also bestows the appointment of the head of the Public Service Commission must also be repealed / amended in similar ways as recommended in 1.45 above.

Merit of Recommendation: See 1.45 and Miscellaneous Recommendation 2.12.

1.49 Section 173 – Powers of Appointment (Also see Miscellaneous Recommendation 2.12) (*)**. This provision which empowers the Public Service Commission (PSC) to make appointments into the Public Service must be repealed so that the PSC only manages and administers the recruitment process (fair, open and merit - based competition as per Miscellaneous Recommendation 2.12 below.

Merit of Recommendation: See 1.45 and Miscellaneous Recommendation 2.12.

1.50 Section 175 - Public Enterprises (Also see Miscellaneous Recommendation 2.12) (*), (), (***)**. The appointment of Board of Directors of Public Enterprises by the President under sub section (1) must be repealed so that the President following a fair, open and merit - based competition as per Miscellaneous Recommendation 2.12 below which shall be managed and administered by the PSC, makes a recommendation to the National Assembly who shall have the power to appoint such persons as Directors of the respective Public Enterprise(s); such persons shall have security of tenure and only subjected to dismissal by Parliament for reasons of infirmity, incapacity, gross misconduct or for any other reason which in the opinion of Parliament renders their continued service not conducive to the public good; and only following an independent investigation and adverse finding.

Subsection 3 must also be repealed so that the Chief Executive Officers of Public Enterprises are not appointed but employed through a fair, open and merit - based competition as per Miscellaneous Recommendation 2.12 below which shall be managed and administered by the PSC

Merit of Recommendation: See 1.44 and Miscellaneous Recommendation 2.12.

1.51 Section 177 – Public Service Pensions (Also see Miscellaneous Recommendation 2.12) (*)**. This provision must be amended so that Public and Civil Service Pensions are subject to income tax and periodic increment in line with inflation rather than salary increments.

Merit of Recommendation: This will ensure that pensioners also make a fair contribution to the Public purse and also ensure that they are not short – changed / out of pocket as a result of inflation.

1.52 Section 178 – The Gambia Police Force (Also see Miscellaneous Recommendation 2.12) (*), (), (***)**. This Provision must be repealed to take account of and give effect to Miscellaneous Recommendations 2.8 and 2.12 below.

Merit of Recommendation: See Miscellaneous Recommendation 2.8.

1.53 Section 182 to 185 – The Prison Service (Also see Miscellaneous Recommendation 2.12) (*), (), (***)**. The relevant provisions must be repealed so that the Prison Service is incorporated into the Public Service and subject to all such rules, regulations with respect to recruitment as per those recommended for the Public Service.

Merit of Recommendation: See 1.45 and Miscellaneous Recommendation 2.12.

1.54 Section 187 – Functions of the Armed Forces (*). Sub section 1(c) which requires the Armed Forces to: “to engage, at the request of the civil authorities, in productive activities, such as agriculture, engineering, health and education for the development of The Gambia” must be repealed to limit any such requests to that which is necessary and also mandate a Military technical / skills training programme to skill them up in other essential roles which may be of use to the Service and civil society. The use of the Military at the behest of civilian authorities including the President in the way set out by s.187 (1) (c) demeans the institution’s importance and renders it less appealing to potential applicants.

Merit of Recommendation: This will prevent the civilian authorities from unnecessarily burdening the military, impacting on its operational effectiveness and allow the organisation to focus on effective recruitment; training and nurturing men, women and officers into the Service for the defence and security of the motherland (Also see 2.9).

1.55 Section 189 – The Armed Forces council (*), (), (***)**. Sub section 2(b) must be repealed to delegate the responsibility of military promotions to an independent promotion authority (promotion and appointments board) which is independent of political control.

Merit of Recommendation: Military promotions are to be free from political control which is essential in a democratic society. (Also see 1.41 and 2.9).

1.56 Section 190 – Appointments in the Armed forces (*), (), (***)**. This section must be repealed and such authority delegated to an independent authority (promotions and appointments board).

Merit of Recommendation: (Also see 1.40 and 2.9).

1.57 Section 191 – National Intelligence Agency (NIA) (Also see Miscellaneous Recommendation 2.12) (*), (), (***)**. This needs to be looked at with a view to preventing this body being under the sole control of the president. Bringing this organisation under the command of the National Security Council and / or a parliamentary ‘privileged’ select committee will be a good alternative; the NIA should also under no circumstances serve as a law enforcement body but rather should remain an intelligence gathering, processing and analysis agency for purposes of maintenance of National Security and not day-to-day Law enforcement.

Law enforcement with respect to Serious Crime should be conducted by a high level Law enforcement body of the sort recommended in Miscellaneous Recommendation 2.8 below and not the NIA.

Employment into the NIA must be based on Merit and through open and fair competition subject to appropriate security checks rather than appointment.

Merit of Recommendation: It is unreasonable, dangerous, and undemocratic and not in the national interest to have such an important national security body under the sole command of the president; turning such body into a semi law enforcement agency also demeans and waters down its significance and distracts from the day job.

It also ensures that the Agency attracts and recruits from the best and the brightest; and improvement in the quality of its output and continued growth and development into a fit for purpose National Intelligence entity.

1.58 Section 192 – Land Commission (*)**. The Act of the National Assembly prescribed in this provision must be revisited with a view to amending or repealing it in order to take account of Miscellaneous Recommendation 2.13 below.

Merit of Recommendation: See Miscellaneous Recommendation 2.13.

1.59 Section 194 Local government authority (*), (), (***)**. The Act of the national assembly referred to in this section needs to be repealed to give effect to a local democracy system whereby political parties will be barred from participating in / contesting local government councillor seats thereby paving way for only independent members of the public locally resident in the respective wards to contest as independent candidates.

Merit of Recommendation: This will ensure local matters are addressed by local people and local policy makers rather than being turned into politicised (party political) footballs; it brings decision – making closer to the local communities and ensure that local communities are more actively engaged in the deciding matters which affect them. It will also promote local democracy, grass-root and youth politics thereby serving as a fertile political ground to groom, nurture and develop future leaders and national politicians.

1.60 Sections 195, 196 & 197 – The national youth service (*)**. These must be amended to give effect to the establishment of an optional (voluntary) national service scheme in either the military or fire and ambulance services.

Merit of Recommendation: Such a national service scheme can be used as an avenue to train and provide vital life skills to the youths and better equip them for the labour market as well as instil the virtues and values of civic awareness and responsibility; and improve and enhance their knowledge and understanding on areas of key national importance such as the roles, responsibilities and significance of different state institutions and their importance to our citizenry and democracy.

1.61 Sections 198 & 199 – The National Council for Civic Education (*)**. This provision and any Act of the National Assembly passed by virtue of it must be repealed so that within a reasonable period of the new Constitution coming into force, the National Assembly and the Ministry of Justice in consultation with Civil Society Organisations (CSOs) [both at home and abroad] constitute a body to carry out a meaningful consultation with the public including schools, CSOs and any other stakeholders as may be necessary with a view to making recommendations to the Ministry of Justice which shall inform the substance of an appropriate statute (Act of the National Assembly) to establish a fit for purpose authority and mechanism for the promotion, enhancement and development of a National Civic Education and Engagement programme which shall be completely independent and free from all political control.

Merit of Recommendation: Such is needed in order to maintain, enhance and grow our democracy and the political consciousness and understanding of our citizenry. Such will also render an emergence of another dictatorship and / or despotic tendency far less likely.

1.62 Sections 207, 209 & 210 – Freedom and Responsibility of the Media; Limitations on Rights and Freedoms & National Media Commission (*), (), (***)**. Sections 207 guarantees the freedom of the press, media and other information media, a Constitutional guarantee which sections 209 and 210 contradict and undermine.

Section 207 must be amended with a view to making it wide enough to cover citizen journalists who may not in the traditional sense be deemed to fall within the definition of a journalist; and decriminalise defamation but as a balancing act mandate the introduction [through an Act of the National Assembly] of an Information and Privacy Ombudsman to whom citizens can lodge complaints of defamation and / or breaches of privacy by journalists, the media etc at no cost and whom shall either mediate between the parties or direct for an investigation of the matter by an Independent Media and Press Self-Regulatory Body. Such Ombudsman shall have the power to recommend financial sanctions [against employers of the relevant journalist under the legal doctrine of vicarious liability] following an adverse finding; Press or Media entity may launch an appeal against such finding by their regulator which shall be heard by the Ombudsman whose decision shall be final. However, the complainant party will have a right to appeal to the Ombudsman and if unsuccessful shall have a right to sue in Defamation in courts in the usual manner.

Sections 209 and 210 must be repealed likewise any preceding Statutory Legislation(s) which seek to restrict the operation of the press, media and journalists. However, a provision must be introduced in order to mandate the enactment of a Statute which shall mandate for the introduction by the Media and Press of a Self-Regulatory Body which shall set a reasonable code of conduct for the profession and mandate the compulsory registration of Press and Media organisations with itself rather than the state (for licensing purposes) and to the tax authorities for taxation purposes only; mandate for all on its register to take out appropriate insurance to cover the payment of financial sanctions in the event of an adverse finding as detailed above. The above recommended Information and Privacy Ombudsman shall regulate such Self – Regulatory Body; establish [at taxpayers' expense] appropriate training institution(s), facilities and packages [in consultation with the Gambia Press Union and the aforementioned Regulator and other experts on the subject] for the development of the profession and improvement and enhancement of standards and quality; mandate for compulsory training and periodic up-skilling (refresher training) of journalists and reporters in line with those standards and requirements it sets and at reasonable costs to be accounted to the employers of the journalists and the Gambia Press Union in the case of freelance Journalists.

This Self – Regulatory Body shall be a tier one enforcement body rather than a trade union for the press / media and will therefore not find itself crossing paths with the Gambia Press Union with respect to the discharge of their respective duties.

Merit of Recommendation: This will enhance standards and ethics in the profession in a way which does not undermine the freedom of the press, media and journalists; it will also protect citizens from unlawful defamation and unreasonable intrusion of their privacy by the press, media and journalists; and where such occurs, it avails an impartial redress mechanism at no cost to the citizen complainant. This will also improve the development of the profession.

1.63 Section 208 – Responsibility of State owned Media (Also see Miscellaneous Recommendation 2.12) (*), (), (***)**. This provision which states:

“ All state owned newspapers, journals, radio and television shall afford fair opportunities and facilities for the presentation of divergent views and dissenting opinion.”

In line with this provision, an Act of Parliament should be passed to sever all state owned newspapers, journals, radios and televisions from any control by state bodies and / or agents. These state media institutions must operate completely independent from any state control whatsoever and also regulated as per recommendation 1.63 and accorded the same freedom of operation like any other media entity. Such Legislation must also consider protecting the budget of such state media entities beyond the reach of the state and entrench the spirit of such protection in the Constitution to prevent a ill-willed repeal / amendment.

Such legislation should consider bestowing the responsibility for recruitment of employees into the workforce of such state media in the hands of the Information and privacy Ombudsman whom shall recruit by fair, open and merit – based competition and in accordance with rules similar to those recommended for the Public and Civil service.

Merit of Recommendation: This will improve the quality of our democracy and promote a culture of political tolerance; it also eliminates the tendencies of the state manipulating state media to in its interest and at the peril of the people, democracy and the national interest. This will also avail such media the freedom to be creative and inform and educate the public in such a manner as it deems fit in the best interest of the country rather than any person in power or political aspirant. (Also see 1.61 and 1.62).

1.64 Section 218 – Cultural Objectives (*)**. See Miscellaneous Recommendation 2.11.

Merit of Recommendation: See Miscellaneous Recommendation 2.11.

1.65 Section 219 – Foreign Affairs (*)**. This provision should be reinforced so that The Gambia will not be committed into or severed from any foreign ties whether bilateral or otherwise without the approval of Parliament (the National Assembly) or the Gambian people in a referendum or without such being included in the manifesto of a ruling party seeking such foreign policy decision.

Merit of Recommendation: This will strengthen this provision beyond the reach of abuse of the sort seen in the past eg. the irrational decisions in the past by a loner to unilaterally withdraw The Gambia from the Commonwealth and International Criminal Court (ICC).

1.66 Section 223 – Declaration of Assets (*)**. This provision must be amended so that the declaration of assets is carried out within a specified period and by default made publicly available to the media and on request by any citizen at no cost.

Merit of Recommendation: This will make this provision fit for purpose and promote transparency as intended by the spirit of this oversight provision.

1.67 Section 226 – Alteration of the Constitution (Also see Miscellaneous Provision 2.12) (*)**. This provision must be amended so that no sitting government or Parliament will be able to amend or repeal any un-entrenched provision or introduce any new provisions without such a detailed amendment/ repeal / enactment intent being a part of the relevant political party's / parties' manifesto under which they were elected into office.

Merit of Recommendation: This will significantly minimise the tendencies for abuse or an ill-fated amendment / enactment and ensure that all future Constitutional amendments / repeals / enactments are done with the democratic consent of the Gambian people.

1.68 Section 227 Acting Appointments (*), (), (***)**. This provision must be amended so that there is a time limit on such acting appointments.

Merit of Recommendation: This will strike a balance so that such a provision cannot be piggy-backed upon to abuse this temporary appointment mechanism.

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2 Miscellaneous Recommendations for Constitutional Reform & Legislative Enactment(s)

- 2.1 Semi Entrenchment of Non-Entrenched Provisions of upcoming Constitution and the Introduction of Enhanced Entrenchment for all Entrenched Provisions.
- 2.2 Introduction of a Constitutional Provision to pave the way for a Bill to Criminalise Torture and Mistreatment of Detainees and / or Suspects.
- 2.3 Legislation for Diaspora Voting and representation in the National Assembly Cabinet.

- 2.4 Introduction of an Entrenched Constitutional Provision to Reform the Legislature (security of tenure for the Speakers; abolition of nominations into the National Assembly; introduction of an upper revising chamber).
- 2.5 Introduction of a Constitutional Provision to Enhance and Improve Standards in Public life; Public Accountability and Scrutiny of Political Parties; Strengthen Internal Party Democracy; Restrain Ruling Party's Legislative Control.
- 2.6 Introduction of a Constitutional Provision to Address the Subject of Gifts to Public Officials.
- 2.7 Introduction of a Constitutional Provision to mandate an Act to Reform the Criminal Justice & the Penal System (Review of the Criminal Procedure Code & the Criminal Code).
- 2.8 Introduction of a Constitutional Provision to Introduce a Fraud, Corruption & Serious Crime Police Force and mandate for a Statutory Reform of Policing & Law Enforcement Administration (Decentralization of Policing).
- 2.9 Introduction of a Constitutional Provision to mandate an Act to Reform The Armed Forces (Also see 1.39, 1.40 and 1.41).
- 2.10 Introduction of a Constitutional Provision to Mandate Publication of Public Service Pay [including the President and Cabinet]; Set appropriate Wage ratios; Mandate Periodic Independent Public Service Pay Reviews; Pave the way for a Fair Remuneration Act.
- 2.11 Introduction of a Constitutional Provision [and broaden the scope of Section 218] to pave way for an Act to Protect, Strengthen and Preserve Gambian Art and Culture including Music.
- 2.12 Introduction of an Entrenched Constitutional Provision to Completely Overhaul and Sever the Public and Civil Service from the Political Grips of the Political Executive; and improve its Political Independence, Conditions of service, Quality, Productivity and Output (Also see Recommendations 1.42, 1.45, 1.48, 1.49, 1.50, 1.53, 1.57 and 1.63).
- 2.13 Introduction of a Constitutional Provision to pave the way for an Affordable Housing & Land Allocation Act (Also see 1.58).
- 2.14 Fig 1 - Fair Remuneration Wage Ratio Table (Non-Scientific Sample for illustration purposes only).

2.1 Semi Entrenchment of Non-Entrenched Provisions of upcoming Constitution and the Introduction of Enhanced Entrenchment for all Entrenched Provisions

In a democracy it is of fundamental importance to adequately shield the Constitution from being tampered with and altered by politicians to their advantage. The aforementioned is a threat to any democracy and was prevalent in the not so distant past and must be guarded against. For purposes of the aforementioned we propose for the new Constitution to be entrenched in the following:

- i. Entrench the entire Provisions in the Constitution and set the minimum threshold for amendments / new enactments at 75% Parliamentary support or where the proposing party dominates the House by 75% or more, the minimum threshold is to be set at a possible minimum of 10% above their majority;
- ii. Enhanced entrenchment for fundamental Provisions (those Provisions which: (a) confer rights to citizens; (b) Protect fundamental rights; (c) Seek to restraint government power(s) etc; (d) Seeks to restrict executive power(s); (e) Promotes democracy, accountability and good governance; (f) govern elections and demarcation of constituency boundaries etc) – The bar / threshold for the amendment of / enactment of new Provisions which affect enhanced entrenched Provisions is to be set to the following:
 - Must be carried out through a referendum;
 - Such referendum must be effected through a referendum Act;
 - Such referendum Act must be supported by 90% of National Assembly members before it passes;
 - Where such a referendum takes place motion must be supported by 75% of voters and voter turnout must not be less than 80%;
 - Where such amendment / enactment fails at any stage, the sitting government must resign [and all its sitting Legislators be subjected to by-elections] or have their mandate automatically nullified by the Supreme Court; the main opposition party or a coalition of opposition parties shall form government and serve residue of term.

Merit of Recommendation:

This will serve as a useful fundamental safeguard against amendments to the Constitution which are influenced by anything other the promotion and enhancement of the rule of law, democracy and democratic principles.

2.2 Introduction of a Constitutional Provision to pave the way for an Act to Criminalise Torture and Mistreatment of Detainees and / or Suspects and wrongful Arrest / Detention

The issue of torture and mistreatment of people under law enforcement or state custody is one aspect which deserves urgent attention. Given reports of what transpired over the past 22 years with respect to the subject, it is our view that stringent legislation is needed to address this issue. That said, we propose for the introduction of an entrenched Constitutional provision to deal with this and for such to consider the following:

- i. Criminalise all forms of unlawful detention [including detention beyond the specified maximum period of 72 hours], torture and mistreatment of detainees and / or suspects and make such be punishable by a mandatory prison sentence and dismissal and bar from future public service and loss of all benefits accrued less a modest pension (reduced entitlement);

- ii. Cater for instruments which will ensure that cases involving tortured or violated suspects to be automatically dismissed as a statutory requirement regardless of at what point in the process such violation occurred;
- iii. Cater for a provision for victims of such to be compensated by the state without the need to acquire such redress from the courts; and for a fine to be levied against the relevant security / law enforcement entity / organisation;
- iv. Make it a criminal offence for failure to stop and / or appropriately report / take appropriate action following such taking place / being brought to one's notice.

Merit of Recommendation:

This will bring our laws in line with international standards and ensure that the fundamental rights of individuals [including those accused of an offence and those lawfully incarcerated] are not under any circumstances curtailed by the state or those acting on her behalf. It also ensures that where such abhorrent conduct / omission occur, the law appropriately bears down on culprits and accomplices in a manner which discourages a recurrence.

2.3 Legislation for Diaspora Voting; and Representation in the National Assembly and Cabinet

The Gambian Diaspora is a very important component of the citizenry and in 2016; it reportedly contributed over D8 Billion into the Gambian Economy. This contribution accounted for little over 20% of GDP (Gross Domestic Product). That said, the Gambian Diaspora contribution to the Economy as a percentage of GDP outweighs their number as a percentage of the entire Gambian population which makes it a key driver in the development of our great nation.

The maxim: “No taxation without representation” is one we firmly believe in and which past governments have consistently fallen foul of. This subject of giving effect to the Diaspora enfranchisement which the Current Constitution leaves open forms part of the GOFER (Group of Five for Electoral Reforms) reform agendas, the Coalition election manifesto pledges and one which leaders of all parties with representation in the National Assembly are in support of. There cannot be a better time for such reforms to happen than now. With the above in mind we propose that you advise the Government to open channels of communication with Gambians in the Diaspora and other relevant parties with a view to drafting and tabling a Bill before the national Assembly ahead of the Constitutional reforms in order to:

- i. Give legal effect to the pledge to effectively enfranchise the Gambians in the Diaspora in good time so that they are able to take part in future democratic exercises [without the need to travel to the Gambia] including the anticipated referendum expected to usher in the 3rd Republican Constitution;
- ii. Demarcate the Diaspora into legally recognizable constituencies with each represented in the legislature by a directly elected Member of Parliament who shall be elected from within that respective Diaspora community he/she is a resident for a set minimum specified duration e.g. 12 months; we propose for such demarcations to constitute: Constituency of the rest of Africa, United Kingdom constituency, Europe

- constituency, Constituency of the Americas (north, central and south America), Constituency of Asia and the Middle East as a minimum; and
- iii. Create a Diaspora Affairs Cabinet portfolio to represent the interest of the Diaspora at Cabinet level;
 - iv. Once such a Bill passes into an Act of the National Assembly in good time for the coming Referendum, its letter and spirit should be subsequently incorporated into the new Constitution and reinforced by being embodied in an entrenched provision;
 - v. In delivering the above, the Government of The Gambia should commission a working group tasked to look into ways and means of effectively delivering this aspect of citizenry enfranchisement for the purposes stated herein.

Merit of Recommendation:

This will ensure the spirit of the Constitution which leaves the issue of diaspora voting open is given legal effect. It will also improve political participation and the flow of ideas from a broad constituent of the Diaspora on how our nation is governed. Such will enrich our politics and democracy.

2.4 Introduction of an Entrenched Constitutional Provision to Reform the Legislature (security of tenure for the Speakers; abolition of nominations into the National Assembly; introduction of an upper revising chamber)

We propose for the abolition of the provision which enables the President to nominate 5 (five) Members of Parliament of whom the Speakers are one. We also propose for the Speaker(s) and Deputy Speaker(s) to be elected from persons nominated by the Independent Electoral Commission (IEC) and for such persons to, following election by sitting Members of the respective House to have security of tenure (serve until voluntary retirement from the Chamber, dismissal following gross misconduct or relieved due to ill health or incapacity).

We also propose for an upper legislative chamber to be constitutionally created. The creation of such a chamber will improve and enhance the quality of legal instruments being passed by the legislature.

Who should be qualified to sit in this chamber?

This upper chamber should be reserved for professional citizens and /or citizens with an expertise / substantial knowledge or experience in a particular area of public policy / work of life. Such citizens may include but not limited to:

- i. **Serving (non-civil / public servant) and retired:**
 - Medical experts;
 - Experienced / accomplished Legal Practitioners;
 - Qualified and experienced / accomplished Accountants;
 - Teachers / lecturers;

- Experienced heads and senior academic staff of respectable institutions of training and education;
- Qualified experiences / accomplished Engineers and other respectable professionals of other disciplines.

ii. Retired:

- Magistrates;
- Judges;
- Trade unionists;
- Police Officers;
- Military Officers;
- Fire Service Officers;
- Immigration Officers;
- GRA Officers;
- Prison Officers;
- Civil Aviation Officers;
- Accomplished Senior Politicians / citizens;
- Accomplished citizens;
- Senior civil / Public Servants etc;
- Sportsmen.

iii. Experts such as:

- Criminologists;
- Economists
- Psychologists;
- Medical doctors;
- Mental Health Experts etc.

How should this chamber be constituted?

This chamber could be constituted through open nomination [subject to qualification as per (i), (ii) and (iii)] via the IEC and secret ballot free vote by the National Assembly. We also propose for members in this chamber to have security of tenure.

How should members in this chamber be remunerated?

We propose for the services of members in this chamber to be pro bono but for pre-approved and on-the-job incurred expenses and a modest annually paid tax-free national service bonus.

Security of Tenure

We recommend for this chamber to be a sitting one whose members shall not be subject to re-election but shall have a lifetime security of tenure and shall only cease to be members of this chamber in the following circumstances / situations:

- Gross misconduct finding;
- Criminal conviction by a competent court / tribunal;
- Resignation;
- Incapacity;
- Death;
- Retirement (eg. 85 years).

Merit of Recommendation:

This will create an opportunity for the nation to tap into the knowledge, experience and expertise of others in a way which will enhance and improve the laws and policies being passed by the legislative arm of government. It also creates an avenue through which highly talented individuals in diverse fields and areas of public policy including ex Presidents can validly make useful contributions which will add value to Gambia 'PLC' and the welfare of people and country.

2.5 Introduction of a Constitution Provision to Enhance Public Accountability and Scrutiny of Political Parties; Strengthen Internal Party Democracy & Restrain Ruling Party's Legislative Control

At this fragile stage of our democracy, it is of fundamental importance that we have in place reasonable control mechanisms so that the level of reasonable public accountability and transparency expected of a political party in government is standardised across the board for all political parties as a basic requirement which must be mandatorily conformed to; and for some reasonable Constitutional restraint on ruling parties to prevent abuse of their democratic mandate. To achieve this we propose for the introduction of an entrenched Constitutional Provision which must consider the following:

- i. Mandatory requirement for a Political Party Constitution for all political parties which must conform to a specified democratic standard and explicitly detail the internal party democratic instruments and democratically acceptable mechanisms such as but not limited to:
 - Election of leaders and the constitution of party Executives and other internal party structures / bodies;
 - Internal party financial matters;
 - All relevant internal party administrative matters as may be required in a democratic organisation;
- ii. Availing specified purpose / activities public funds (democracy development fund) to parliamentary political parties through a Constitutionally mandated funding formula in order to support and enhance their political effectiveness of appropriately operating as functional opposition political parties;
- iii. Requirement for the publication of political party manifestoes during Presidential elections and for such manifestoes to be registered with and certified copies held with the IEC;

- iv. Constitutional restriction on political parties from passing legislation or initiating a policy introduction or changes in the law (introduction of legislation or amendment / repeal of existing ones) unless such was one contained in their election manifesto;
- v. Restriction in 2.5(v) above should introduce the same National Assembly support thresholds as those mentioned in Recommendation 2.1(i) above;
- vi. Restrict the ruling party from contesting all Legislative seats during Parliamentary elections by restricting the number of Constituencies it can field candidates in, to a percentage of total constituencies which is equivalent to percentage of votes won during the Presidential elections. For example, where 60% of votes are cast in ruling party's favour during Presidential election, it cannot contest any more than 60% of total seats during Parliamentary elections;
- vii. To mandate serving public officials to take a leave of absence or have a proportional reduction in pay in order to restrict the conduction by public officials of party political activity in government time.

Merit of Recommendation:

This will restrain the ruling party to an extent that they will be unable to control all arms of government in a way which could threaten our democracy, pass bad laws to suit them or rig the system to their advantage and to the detriment of the state. Such also injects the spirit of democracy and democratic virtues into the party structures in a way which familiarises them with such virtues so that in the event they transition from opposition to government they are better equipped to appropriately sail the ship; it also eliminates the prospects whereby a political party will operate at the pleasure of one person or few people and against democratic virtues. Party leaderships will acquaint themselves with being democratically challenged and replaced just like ruling parties which will be a good thing to promote the values of democracy.

2.6 Introduction of a Constitutional Provision to Address the Subject of Gifts to / from / by Public Officials

The subject of how gifts made to public officials including the President and Cabinet is something which both the 1970 and 1997 Constitution failed to address. Therefore it is of fundamental importance that such is addressed as part of the anticipated Constitutional reforms. There is wide range of available approaches as to how other democracies around the world address this issue; having studied the aforementioned to some degree, it is our view that the most practicable and effective way of dealing with such is through an entrenched Constitutional provision. Such Provision should consider the following:

- i. A mandatory requirement that any gift made to public officials is declared as soon as practicable to a Constitutionally established authority such as the Ombudsman and such declaration made publicly available;

- ii. That, public officials be allowed to keep only a set maximum amount (D100 at any given time) from cash gifts and for the amount to keep from cash gifts to be capped at D1, 000 per official annually; where such gift is in kind or means other than cash but valued over D100, such shall be surrendered to the state in return for a D100 recompense;
- iii. Establishment of a Constitutionally mandated Public Trust (Trustee) to administer the auction, sale or preservation of the above mentioned items of gift and the management of proceeds of sale and cash gifts on behalf of the state (settlor) for the interest and benefit of the public or a set public purpose (beneficiary) e.g. for disaster relief at home;
- iv. A mandatory requirement for all gifts whether in cash or kind by and from public officials to persons other than those with whom they have a personal tie to be declared as per 5(i) and for such to not exceed a specified amount / value e.g. D100;
- v. Such Provision must also make non-compliance a criminal offence.

Merit of Recommendation:

This will enhance accountability and transparency in public life and significantly minimise the use of gifts as a means to induce and bribe public officials by others for their benefit and to the detriment of the state. It will also create a mechanism and cost - neutral mechanism for generating additional funds for disaster relief. Such will also significantly reduce bribery by politicians and cash / inducements for votes.

2.7 Introduction of a Constitutional Provision to mandate an Act to Reform the Criminal Justice & the Penal System (Review of the Criminal Procedure Code & the Criminal Code)

We recommend for such Provision to take account of the following:

- i. The Criminal Justice system to be reformed so that the Police are no longer able to prosecute cases and for all prosecutions to be done by the Ministry of Justice employed State Counsels or their equivalent;
- ii. Legislation to be passed so that the Police conduct mandatory tape recorded interviews of suspects upon arrest or when appropriate and in the presence of a non-state employed legal rep paid for through legal aid instead of the recording of a cautionary statement which is the status quo. Transcripts and tapes of such interviews will assist and enhance prosecutors' understanding of the material facts needed in order to decide whether or not to charge. Where a decision not to charge is made for reasons other than the availability of sufficient evidence [for minor offences], such legislation should cater for an offer of a caution plus a reasonable fine [to the state] and / or restitution [to the victim] as a substitute to prosecution. Availability of transcripts and tapes will also save court time and minimise the cost of prosecution on the part of the state as the premise and material facts of the case would have been established during such tape recorded interview and thereby reducing the length of any trial(s);

- iii. A provision be incorporated into such legislation to abolish the automatic remand of suspects at police stations and for such suspects to be immediately released after the above recommended interview after caution [subject to reasonable requirement for them to be reporting to the police station in person or by telephone] pending further investigation;
- iv. A provision be incorporated into such legislation for the burden of proof against bail to be on the prosecution instead of the defendant so that bail [both police and court] becomes an automatic presumption unless the suspect is deemed a danger to the public / public safety; where there are other factors such as flight risk which inhibit bail, reasonable restrictions should be introduced as bail conditions eg. Exclusion orders, Curfew orders etc to mitigate such rather than remand. Remand should be a last resort for suspects not deemed a danger to the public;
- v. The sentencing guidelines for Magistrates and judges should be reformed so that they cater for non-custodial sentences [for minor offences] which fit the crime (for offences with no public safety element(s) to them and minor offences including road traffic offences). Such non-custodial sentences must be voluntarily consented to by the subject and could include:
 - Exclusion orders – excluding subject from a particular area or premises 24 (twenty-four) hours a day, 7 (seven) days a week or between specified hours of the day for the duration of the sentence;
 - Prohibited activity orders – prohibiting a particular activity which is deemed to have been a contributory factor to / aggravated the offence;
 - Reparation orders – Order for payment of a court fine and / or compensation / restitution to victim(s) or reasonable unpaid community work of a specified nature which is of benefit to the community and the reformation of the offender's deviance;
 - Probation orders – for subject to attend a probation (education, awareness training and / or rehabilitation) centre to receive useful enlightenment with a view to constructively correcting their offending behaviour and preventing reoffending;
 - Combination orders – a combination of any of the above;
- vi. Abolition of the death penalty and incorporation of an entrenched Constitutional provision to outlaw any death penalty legislation under the Constitution;
- vii. Emergency compassionate legislation should be passed in order to facilitate the immediate release of all prisoners not deemed to pose a danger to public safety and for the residue of their convictions to be commuted to a suitable and appropriate non-custodial sentence as per the above recommendations in paragraph (v) above as a measure to ease prison overcrowding and improve prisoner welfare in the absence of

appropriate prisons overhaul and improvements without putting public safety at risk and / or increasing reoffending or crime.

Merit of Recommendation:

This will introduce common sense and proportionality into the penal system and bring about a system of punishing offenders in which the state gains money's worth rather than spends money. It also offers offenders a chance to be rehabilitated, contribute to society and be net contributors to society rather than a cost and liability. Such an alternative penal model will also reduce the prison population, reduce government expenditure and innovatively improve prisoner welfare and rehabilitation.

2.8 Introduction of a Constitutional Provision to mandate the Reform of Policing & Law Enforcement Administration (Decentralization of Policing)

As part of the reforms we propose for a provision to mandate a reform of the Police Act so that Policing will be decentralized to the respective regions and under directly elected regional Commissioners (Governors) or Local authorities (Municipalities and Area Councils) but under the auspices of the Ministry of Interior. A regional police force will be more effective in deterring, preventing, detecting and investigating crime due to the following:

- i. Majority of if not all serving personnel will be locally recruited which means they will have sufficient and useful local knowledge; there will be less tendency for friction and such enhances cooperation of the public and the long standing common law notion of Policing by Consent rather than by coercion.
- ii. Prospective recruits and personnel will not be dis-incentivised by postings as they will serve within their region of abode; this will improve and enhance recruitment, retention and the welfare of personnel.
- iii. This will save the cost of relocating personnel following posting.
- iv. It will be much easier for a regional force to set and achieve its crime fighting priorities compared to a national force; offending behaviours, crime patterns and the sort of crimes committed in urban centres can be quite different from those in the rural areas and such also vary from region to region, in short different regions have different criminal justice challenges and priorities..
- v. Having numerous regional forces will create circumstances to enable the Ministry to gauge and measure [by way of comparison of the different regional forces' approaches] which policing tactics and strategies are more effective. This can be done through annual crime stat audits.

Merit of Recommendation:

This will minimize the chances of officers having to serve so far away from home and improve welfare and retention; crime prevention and detection also becomes easier as locally recruited

officers will have excellent relevant local knowledge. This will also ensure fair budget allocation to particular aspects of policing and help the Regional Police authorities appropriately set their crime strategies, targets and priorities according to local crime needs rather than a national one which may be out of touch with local needs e.g. a greater Banjul force may wish to prioritize street mugging, theft from motor vehicles whilst a rural one may wish to prioritize cattle rustling or armed robbery in frontier communities.

2.9 Introduction of a Constitutional Provision to mandate an Act to Reform The Armed Forces (Also see 1.39, 1.40 and 1.41)

Every nation in this day and age requires a fit for purpose Armed Forces and for the aforementioned to prevail the Military has to attract the right people into its circles and have embodied within it a fair, meritocratic and transparent promotion regime free from political control. With the aforementioned in mind, we propose for legislation to effect the following:

- i. The Military to compete with other employers to recruit from the very best and brightest by organising regular recruitment fairs [away from the barracks and in the heart of civil society] to attract the best possible applicants to both officer and other ranks; and offer enhanced alternative academic and or skills training packages.
- ii. A Military recruitment cell to be established for the above purposes.
- iii. A promotion board established to make promotion recommendations to the Army Chief as per officers' (Captain upwards) and soldiers' (Warrant Officers) reports and to unit Commanding Officers (Officers below rank of Captain and Private soldiers – Staff Sergeant) performance reports.
- iv. An independent advisory board to be established in order for them to look into and make recommendations on retention incentive [including pay enhancement packages] and proper resettlement of personnel leaving the service with a view to helping them resourcefully re-trade to an appropriate civilian craft.

Merit of Recommendation:

This will ensure that the Armed Forces recruits from among the best and top academic achievers; eliminate nepotism within the ranks and ensure the Military does not unhealthily cosy up to politicians. This also improves military recruitment, remuneration, retention and the value veterans will add to civil society including in public life on leaving the Service to such an extent that it dissipates the urge and incentive for a coup or mutiny.

2.10 Introduction of a Constitutional Provision to pave the way for a Fair Remuneration Act

The issue of unfair low pay is one which successive governments have consistently been reluctant to bear down on; a poorly paid workforce will more likely than not be one which

is unmotivated and less productive than would otherwise be. Growth and productivity albeit not directly correlated with or solely dependent on payment of high wages, however a workforce who is invested will register a positive impact to the aforementioned progress indicators.

It is our view that legislation has to be ushered in to address this issue. We propose that a Constitutional Provision is introduced to mandate the passing of a Bill within a specified timeframe in order to address this issue. Such legislation should consider:

- i. Establishing a Constitutionally mandated body independent of political control charged with the sole responsibility of periodically reviewing public sector pay and advising and making recommendations to the government with respect to periodic wage increments [which must not increase above inflation];
- ii. Introduction of 'equitable wage ratio' (fixed ratio e.g. 65:1 of the highest public sector salary to the bottom salary e.g. grade 1) in the public sector [including local govt authorities and public enterprises] and offer reasonable incentives to persuade the private sector to follow suit within a reasonable time from such introduction coming into force (see 2.14 - Fig 1 Fair Remuneration Wage Ratio Table (sample));
- iii. Cater for income tax exemptions for low income earners and tax exemption for maternity pay;
- iv. Introduce income tax incentives for Trade Union membership for both public and private sector workers;
- v. Introduce [through Legislation] a mandatory pension contribution [to grow the state pension pot] independent of income tax to be paid by all employers for the benefit of each of their employees and also a discretionary additional extra by employees (to boost pension benefit); and for such employers' contributions to be off-set by way of a reasonable tax relieve regime.

Merit of Recommendation:

This will ensure workers across the board both in the public and private sector are fairly remunerated for their labour thereby improving living standards and consumer spending which the economy will benefit from. It will also improve and enhance employer – employee relationship and promote a more amicable and happy work environment for the benefit of employers, employees, customers and service users in general.

2.11 Introduction of a Constitutional Provision to pave way for an Act of the National Assembly to Protect, Strengthen and Preserve Gambian Art and Culture including Music

The development of Gambian art and culture needs an urgent attention if we are to grow this aspect of our national identity as a nation in line with others in the region and around the world. Our inability to progressively develop in this area has relegated us to such an extent that our local artists of all strands struggle to attract a meaningful and sustainable local market and they can hardly compete regionally or on the international stage. Not

much had been done by successive governments in terms of public policy to improve this area of national importance and moving forward, this need to be addressed. That said we propose for a Constitutional provision which mandates for a legislation to be ushered in within a set timeframe and for such to consider the following:

- i. Consultation with the National Council for Art and Culture (NCAC) with a view to re-structuring it so that all strands of Gambian art and culture are appropriately represented within it and for such body to serve as a statutorily recognized Trade Union body for Gambian artists; and to craft out a mechanism to combat some of the vices which are keeping the industry on its knees e.g. piracy and copyright infringements, lack of publicly available funding etc;
- ii. To, in consultation with a reformed NCAC and other relevant parties in the Gambia agree on a special tax to be levied on all / any such activity which is deemed to be an undermining factor to the development of Gambian art and culture e.g. tax on all imports of items of art and culture and on organisers of events in which foreign art / culture including music and musicians are featured /promoted/performing [where such has a detrimental effect on the development of Gambian art]; and for such proceeds to go towards the budget of a reformed NCAC for the development of Gambian art.
- iii. Map out a development strategy aimed at holistically looking at ways of innovatively reviving the industry to make it a more worthwhile avenue of alternative employment and income generation for the state (tax receipts) and the citizens (jobs).

Merit of Recommendation:

This will improve that standard and prestige of Gambian art and culture across the board, create an alternative self-employment avenue and enhance talent growth, development and innovation. It will also generate revenue for central government through tax receipts; encourage greater competition in the sector; cut unemployment, poverty and crime.

2.12 Introduction of an Entrenched Constitutional Provision to Completely Overhaul and Sever the Public and Civil Service from the Political Grips of the Political Executive; improve its Political Independence, Conditions of service, Quality, Productivity and Output.

The public and civil service should be completely severed from all political control and in line with this we propose for the enactment of a Constitutional provision which shall mandate legislation (Act of the National Assembly) to conduct an in-depth study into ways through which the above mentioned bodies can be reformed to achieve the following objectives:

- i. Ensure it is totally free from political control;
- ii. Enhance and increase its productivity, pay, benefits and working conditions;
- iii. Reform the recruitment process (establish relevant standard entry assessments regime (eg numerical reasoning tests, verbal reasoning tests, judgement tests,

- quantitative reasoning tests etc) in order to fairly assess the productivity and suitability of applicants) for all jobs in the Public and Civil Service;
- iv. Set standards of quality assurance; establish an independent periodic audit of such standards to ensure they are achieved and maintained; and establish a mechanism for continuous enhancement of service delivery;
 - v. Establishment of a graduate scheme to attract University graduates for senior posts subject to assessments proposed in 2.12(iii) at the relevant level and through fair, open merit-based recruitment.

Merit of Recommendation:

This will increase and enhance the quality of workforce the civil service recruits and significantly enhance productivity which in turn will confer a net benefit to the state and the taxpayers. Such will also ensure a public and civil service free of political vested interest and free to discharge their duties in the best interest of the taxpayers and the state; it also eliminates nepotism, favouritism and back-door recruitment which hurts productivity and the public purse and ensure all recruitments into the workforces of the aforementioned are recruited on a fair basis and on proven merit.

2.13 Introduction of a Constitutional Provision to pave the way for an Affordable Housing & Land Allocation Act (Also see 1.58)

Non-availability of affordable housing up and down the country is an issue which successive governments have failed to address. The average cost of renting stands above the average earning of most Gambians especially low and middle-income earners some of whom are employed in the civil and public service.

The gap between average earnings and the cost of buying / building a property is even greater and this gap is increasingly widening up.

With the above said, we propose for state intervention in the form of a Constitutional Provision which will mandate the passing of a Bill within a specified timeframe in order to address this issue. Such legislation should consider:

- i. Restrict the sale / allocation of all non-privately-owned land and establish a Land Reform Commission to holistically look into the subject of land allocation and how such can be appropriately reformed;
- ii. Restricting the sale of land to estate agencies for purposes other than affordable dwelling building schemes such as that which created Bakoteh Housing Estate pending the above-mentioned land reform;
- iii. Establishing a national affordable housing scheme / programme under the auspices of Social Security and Housing Finance Corporation (SSHFC) for which adequate funds will be made available to solely fund the creation of housing estates up and down the country akin to Bakoteh housing estate affordable to and for the benefit of the average Gambian;
- iv. Abolish Value Added Tax (VAT) on dwelling rents;
- v. Introduce a reasonable statutory cap on residential rents.

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Merit of Recommendation:

Such will ensure that the state appropriately controls the sale, allocation, distribution and rent of non- privately-owned land in a way which is fair, affordable and resourceful whilst increasing home ownership and rent affordability among middle and low income earners likewise the stock of fit for purpose affordable dwellings. It also eliminates the potential for fraudulent sales / transfer of land and exploitation in the market.

2.14 Fig 1 - Fair Remuneration Wage Ratio Table (Non-Scientific Sample for illustration purposes only)

Subject / Grade	Ratio Band	Fair Remuneration Sum
Top Executive eg President	65:65	To be determined by Statutory Pay Review Body
Deputy top Executive eg Vice President	65:50	To be determined by Statutory Pay Review Body
Cabinet Ministers & Legislators	65:40	To be determined by Statutory Pay Review Body
Professionals eg senior Judges	65:35	To be determined by Statutory Pay Review Body
Junior Professionals	65:30	To be determined by Statutory Pay Review Body
Grade 15	65:15	To be determined by Statutory Pay Review Body
Grade 14	65:14	To be determined by Statutory Pay Review Body
Grade 13	65:13	To be determined by Statutory Pay Review Body
Grade 12	65:12	To be determined by Statutory Pay Review Body
Grade 11	65:11	To be determined by Statutory Pay Review Body
Grade 10	65:10	To be determined by Statutory Pay Review Body
Grade 9	65:9	To be determined by Statutory Pay Review Body
Grade 8	65:8	To be determined by Statutory Pay Review Body
Grade 7	65:7	To be determined by Statutory Pay Review Body
Grade 6	65:6	To be determined by Statutory Pay Review Body
Grade 5	65:5	To be determined by Statutory Pay Review Body
Grade 4	65:4	To be determined by Statutory Pay Review Body
Grade 3	65:3	To be determined by Statutory Pay Review Body
Grade 2	65:2	To be determined by Statutory Pay Review Body
Grade 1	65:1	To be determined by Statutory Pay Review Body