

## 14. Restoration Of Citizenship

A citizen of The Gambia who loses his or her citizenship of The Gambia as a result of the acquisition or profession of the citizenship of some other country shall, on the renunciation of the citizenship of that other country, be entitled to be registered, or if he or she was formerly a citizen by birth or descent, to be officially recognised, as a citizen of The Gambia.

## 15. Acts of the National Assembly

An act of the National Assembly may make Provision for

- a. the acquisition of the citizenship of The Gambia by persons who are not eligible to become citizens under the provisions of this Chapter;
- b. the renunciation by any person of his or her citizenship of The Gambia; and
- c. generally to give effect to the provisions of this Chapter.

## 16. Interpretation of chapter III

1. In this Chapter, "Secretary of State" means the Secretary of State for the time being responsible for citizenship matters.
2. For the purposes of this Chapter, a person, born aboard a registered ship or aircraft, aboard an unregistered ship or aircraft of the government of any country, shall be deemed to have been born in the place in which the ship or aircraft is registered or, as the case may be, in that country.
3. Any reference in this Chapter to the citizenship of a parent of a person at the time of that person's birth, shall, in relation to a person born after the death of that parent, be construed as reference to that parent's citizenship at the time of death.

# CHAPTER IV: PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOM

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## 17. Fundamental Rights and Freedoms

1. The fundamental human rights and freedoms enshrined in this Chapter shall be respected and upheld by all organs of the Executive and its agencies, the Legislature and, where applicable to them, by all natural and legal persons in The Gambia, and shall be enforceable by the Courts in accordance with this Constitution.
2. Every person in the Gambia, whatever his or her race, colour, gender, Language, religion, political or other opinion, National or social origin, property, birth or other status, shall be entitled to the fundamental human rights and freedoms of the individual contained in this chapter, but subject to respect for the rights and freedoms of others and for the public interest.

## 18. Protection of right to life

• Right to life

1. No person shall be deprived of his or her life intentionally except in the execution of a sentence of death imposed by a court of competent jurisdiction in respect of a criminal offence for which the penalty is death under the Laws of The Gambia as they have effect in accordance with subsection (2) and of which he or she has been lawfully convicted.
2. As from the coming into force of this Constitution, no court in The Gambia shall be competent to impose a sentence of death for any offence unless the sentence is prescribed by law and the offence involves violence, or the administration of any toxic substance, resulting in the death of another person.
3. 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
4. Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived of his or her life in contravention of this section if he or she dies as a result of the use of force to such extent as is reasonably justifiable in the circumstances of the case, that is to say-
  - a. for the defence of any person from unlawful violence or for the defence property;
  - b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
  - c. for the purpose of suppressing a riot, insurrection of mutiny;
  - d. in order to prevent the commission by that person of a criminal offence, or
  - e. if he or she dies as a result of a lawful act of war.

• Emergency provisions

• Principle of no punishment without law

• Right to counsel

## 19. Protection right to Personal liberty

• Right to speedy trial

1. Every person shall have the right to liberty and security of person. No one shall be subjected to arbitrary, arrest or detention. No one shall be deprived of his or her liberty except on such grounds and in accordance with such procedures as are established by law.
2. Any person who is arrested or detained shall be informed as soon as is reasonably practicable and in any case within three hours, in a language that he or she can understand, of the reasons for his or her arrest or detention and of his or her right to consult a legal practitioner.
3. Any person who is arrested or detained-
  - a. for the purpose of bringing him or her before a court in execution of the order of a court, or
  - b. upon reasonable suspicion of his or her having committed, or being about to commit, a criminal offence under the Laws of The Gambia, and who is not released,
 shall be brought without undue delay before a court and, in any event, within seventy-two hours

4. Where any person is brought before a court in execution of the order of a court in any proceedings or upon suspicions of his or her having committed or being about to commit an offence, he or she shall not thereafter be further held in custody in connection with those proceedings or that offence save upon the order of a court.
5. If any person arrested or detained as mentioned in subsection (3)(b) is not tried within a reasonable time, then without prejudice to any further proceedings which may be brought against him or her, he or she shall be released either unconditionally or upon reasonable conditions, including, in particular, such conditions as are reasonably necessary to ensure that he or she appears at a later date for trial or proceedings preliminary to trial.
6. Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation from that other person or from any other person or authority on whose behalf that other person was acting.

## 20. Protection From slavery And forced labour

1. No person shall be held in slavery or servitude
2. No person shall be required to perform forced labour.
3. For the purposes of this section, the expression "forced labour" does not include-
  - a. any labour required in consequence of a sentence or order of court;
  - b. labour required of any person while he or she is lawfully detained that, though not required in consequence of the sentence or order of the court, is reasonable necessary in the interests of hygiene or for the maintenance of the place in which he or she is detained;
  - c. any labour required of a member of a defence force in pursuance of his or her duties as such or, in the case of a person who has conscientious objections to service as a member of any naval, military or air force, any labour which that person is required by law to perform in place of such service;
  - d. any labour required during a period of public emergency or in the event of any other emergency or calamity which threatens the life or well-being of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity for the purposes of dealing with that situation; or
  - e. any labour reasonably required as part of reasonable and normal communal or other civic obligations.

## 21. Protection from inhuman treatment

No person shall be subject to torture or inhuman degrading punishment or other treatment

• Prohibition of slavery

• Prohibition of slavery

• Prohibition of cruel treatment

• Prohibition of torture

## 22. Protection from deprivation of property

1. No property of any description shall be taken possession of compulsorily, and no right over or interest in any such property shall be acquired compulsorily in any part of The Gambia, except where the following conditions are satisfied:
  - a. the taking of possession or acquisition is necessary in the interest of defense, public safety, public order, public morality, public health, town and country planning, or the development or utilisation of any property in such manner as to promote the public benefit; and
  - b. the necessity therefore is such as to afford reasonable justification of the causing of any hardship that may result to any person having any interest in or right over the property, and
  - c. provision is made by law applicable to that taking of possession or acquisition-
    - i. for the prompt payment of adequate compensation; and
    - ii. securing to any person having an interest in or right over the property, a right of access to a court or other impartial and independent authority for the determination of his or her interest or right, the legality of the taking of possession or acquisition of the property, interest or right, and the amount of any to which he or she is entitled, and for the purpose of obtaining prompt payment of that compensation.
2. Nothing in this section shall be construed as affecting the making of any law in so far as it provides for the taking or acquisition of property
  - a. in satisfaction of any tax, rate or due;
  - b. by way of penalty for breach of law, whether under civil process or after conviction for a criminal offence;
  - c. as an incident of a lease, tenancy mortgage, charge, bill of sale, pledge or contract;
  - d. by way of the vesting or administration of trust property enemy property, bona vacantia, or the property of persons adjudged or otherwise declared bankrupt or insolvent persons of unsound mind,
  - e. in the execution of judgements or order of courts;
  - f. by reason of such property being in a dangerous state or liable to cause injuries to the health of human beings, animals or plants;
  - g. in consequence of any law with respect to the limitation of actions; or

- h. for so long as such taking of possession may be necessary for the purpose of any examination, investigation, trial or inquiry, or, in the cases of land, the carrying out thereon-
  - i. Of work of soil conservation or the conservation of other resources; or
  - ii. Of agricultural development or improvement which the owner occupier of the land has been required and has without reasonable or lawful excuse refused or failed, to carryout, except so far as that provision, or as the case may be the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.
- 3. Nothing in this section shall be construed as affecting the making or operation of any law for the compulsory taking in the public interest of any property, or the compulsory acquisition in the public interest of any interest in or right over property, where that property interest is held by a body corporate which is established directly by any law and in which no monies are provided by an Act of the National Assembly.
- 4. where a compulsory acquisition of land by or on behalf of the Government involves the displacement of any inhabitant who occupy the land under customary law, the Government shall resettle the displaced inhabitants on suitable alternative land with due regard to their economic well being and social and cultural values.
- 5. Any such property of whatever description compulsorily taken possession of, and any interest in or right over property of any description compulsorily acquired in the public interest for a public purpose for which it is taken or acquired.
- 6. Where any such property as is referred to in subsection (5) is not used in the public interest or for the public purpose for which it was taken or acquired, the person who was the owner immediately before the compulsory taking or acquisition, as the case may be, shall be given the first option of acquiring that property, in which event he or she shall be required to refund the whole or such part of the compensation as may be agreed upon between the parties thereto; and in the absence of any such agreement such amount as shall be determined by the high Court.

## 23. Privacy

- 1. no person shall be subject to interference with the privacy of his or her home, correspondence or communications save as is in accordance with law and is necessary in a democratic society in the interest of national security, public safety or the economic well-being of the country, for the protection of health or morals, for the prevention of disorder or crime or for the protection of the rights and freedoms of others.
- 2. Searches of the person or the home of individuals shall only be justified-
  - a. where these are authorised by a competent judicial authority ;
  - b. in cases where delay in obtaining such judicial authority carries with it the danger of prejudicing the objects of the search or the public interest and such procedures as are prescribed by an Act of the national Assembly to preclude abuse are properly satisfied. Provision to secure protection

## 24. Provision to secure protection of the law and fair play

1. Any court or other adjudicating authority established by law for the determination of any criminal trial or matter, or for the determination of the existence or extent of any civil right or obligation, shall be independent and impartial; and

- a. if any person is charged with a criminal offence, then, unless the charge is withdrawn; or
- b. where proceedings are commenced for the determination or the existence of any civil right or obligation,  
the case shall be afforded a fair hearing within a reasonable time.

2. All proceedings of every court and proceedings relating to the determination of the existence or extent of civil rights or obligations before any other authority including the announcement of the decision of the court or other authority, shall be held in public.

Provided that the court or other authority may, to such extent as it may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or interlocutory civil proceedings, or to such extent as it may be empowered or required by law to do so in the interest of defense, public safety, public order, public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings, exclude from its proceedings persons other than the parties thereto and their legal representatives.

3. Every person who is charged with a criminal offence-

- a. shall be presumed innocent until he or she is proved or has pleaded guilty;
- b. shall be informed at the time he or she is charged, in a language which he or she understands and in detail, of the nature of the offence charged;
- c. shall be given adequate time and facilities for the preparation of his or her defense;
- d. 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;

Provided that where a person is charged with an offence which carries a punishment of death or imprisonment for life, that person shall be entitled to legal aid at the expense of the State.

- e. shall be afforded facilities to examine in person or by his or her legal representative the witnesses called by the prosecution before the court and to obtain the attendance and carry out the examination of witnesses to testify on his or her behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and

- Right to fair trial
- Judicial independence
- Right to speedy trial

- Presumption of innocence in trials

- Trial in native language of accused

- Right to counsel

- Right to examine evidence/witnesses

- Trial in native language of accused
  - Protection from ex post facto laws
  - Prohibition of double jeopardy
  - Protection from self-incrimination
  - Jury trials required
- f. shall be permitted to have without payment the assistance of an interpreter if he or she cannot understand the language used at the trial of the charge; and, except with his or her own consent, the trial shall not take place in his or her absence unless he or she so conducts himself or herself as to render the continuance of the proceedings in his or her presence impractical and the court has ordered him or her to be removed and the trial to proceed in his or her absence.
  4. When a person is tried for any criminal offence, the accused person or any person authorised by him or her in that behalf shall, if he or she requires and subject to the payment of such reasonable fee as may be prescribed by law, be given within a reasonable time, and in any event within thirty days after the end of the trial, a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.
  5. No person shall be charged with or held to be guilty of a criminal offence on account of any act or omission which did not at the time it took place constitute such an offence, and no penalty shall be imposed for any criminal offence which is more severe in degree or description than the maximum penalty which might have been imposed for that offence at the time when it was committed.
  6. No person who shows he or she has been tried by any competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other offence of which he or she could have been convicted at the trial for that offence save upon the order of a superior court made in the course of appeal or revision proceedings relating to the conviction or acquittal:  
Provided that nothing in any law shall be held to be inconsistent with or in contravention of this subsection by reason only that it authorises any court to try a member of a defense force for a criminal offence notwithstanding any trial or conviction of the member under service law; but any court so trying such a member and convicting him or her shall, in sentencing him or her to any punishment, take into account any punishment awarded him or her under service law.
  7. No person shall be tried for a criminal offence if he or she shows he or she has been pardoned for that offence.
  8. No person charged with a criminal offence shall be compelled to give evidence at the trial.
  9. A person charged with criminal offence in the High court shall have the right to elect to be tried by a jury.
  10. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of-
    - a. subsection (3)(a) to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;
    - b. subsection (3)(e), to the extent that the law in question imposes reasonable conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds.

## 25. Freedom Of speech, conscience, assembly, association and movement

1. Every person shall have the right to-

- a. freedom of speech and expression, which shall include freedom of the press and other media;
- b. freedom of thought, conscience and belief, which shall include academic freedom;
- c. freedom to practise any religion and to manifest such practice;
- d. freedom to assemble and demonstrate peaceably and without arms;
- e. freedom of association, which shall include freedom to form and join associations and unions, including political parties and trade unions;
- f. freedom to petition the Executive for redress of grievances and to resort to the Courts for the protection of his or her rights.

2. Every person lawfully within The Gambia shall have right to move freely throughout The Gambia, to choose his or her own place of residence within The Gambia, and to leave The Gambia.

3. Every citizen of The Gambia shall have the right to return to The Gambia.

4. The freedoms referred to in subsections (1) and (2) shall be exercised subject to the law of The Gambia in so far as that law imposes reasonable restriction on the exercise of the rights and freedoms thereby conferred, which are necessary in a democratic society and are required in the interests of the sovereignty and integrity of The Gambia, national security, public order, decency or morality, or in relation to contempt of court.

## 26. Political rights

Every citizen of The Gambia of full age and capacity shall have the right, without unreasonable restrictions-

- a. to take part in the conduct of public affairs, directly or through freely chosen representatives;
- b. to vote and stand for elections at genuine periodic elections for public office, which election shall be by universal and equal suffrage and be held by secret ballot;
- c. to have access, on general terms of equality, to public service in The Gambia.

## 27. Right to marry

1. Men and women of full age and capacity shall have the right to marry and found a family
2. Marriage shall be based on the free and full consent of the intended parties.



## 28. Rights of women

1. Women shall be accorded full and equal dignity of the person with men.
2. Women shall have the right to equal treatment with men, including equal opportunities in political, economic and social activities.

## 29. Rights of children

1. Children shall have the right from the birth to a name, the right to acquire a nationality and subject to legislation enacted in the best interest of children, to know and be cared for by their parents.
2. Children under the age of sixteen years are entitled to be protected from economic exploitation and shall not be employed in or required to perform work that is likely to be hazardous or to interfere with their education or be harmful to their health of physical, mental, spiritual, moral or social development.
3. A juvenile offender who is kept in lawful custody shall be kept separated from adult offenders.

## 30. Rights to education

All persons shall have the right to equal educational opportunities and facilities and with a view to achieving the full realisation of that right-

- a. basic education shall be free, compulsory and available to all;
- b. secondary education, including technical and vocational education, shall be made generally available and accessible to all by every appropriate means, and in particular, by the progressive introduction of free education;
- c. higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular, by progressive introduction of free education;
- d. functional literacy shall be encouraged or intensified as far as possible;
- e. the development of a system of schools with adequate facilities at all levels shall be actively pursued.

## 31. Rights of the Disabled

1. the right of the disabled and handicapped to respect and human dignity shall be recognised by the State and society.
2. Disabled persons shall be entitled to protection against exploitation and to protection against discrimination, in particular as regards access to health services, education and employment.
3. In any judicial proceedings in which a disabled person is a party, the procedure shall take his or her condition into account.

## 32. Culture

Every person shall be entitled to enjoy, practice, profess, maintain and promote any culture, language, tradition or religion subject to the terms of this Constitution and to the condition that the right protected by this section do not impinge on the rights and freedoms of others or the national interest, especially unity.

## 33. Protection from Discrimination

1. All persons shall be equal before the law.
2. Subject to the provisions of subsection (5), no law shall make any provision which is discriminatory either of itself or in its effect.
3. Subject to the provisions of subsection (5), no person shall be treated in a discriminatory manner by any person acting by virtue of any law or in the performance of the functions of any public office or any public authority.
4. In this section, the expression "discrimination" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, colour, gender, language, religion, political or other opinion, national or social origin, property, birth or other status whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject, or are accorded privilege or advantages which are not accorded to persons of another such description.
5. Subsection (2) shall not apply to any law in so far as that law makes provision-
  - a. with respect to persons who are not citizens of The Gambia or to qualifications for citizenship;
  - b. with respect to the qualifications prescribed by this Constitution for any office;
  - c. with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law;
  - d. for the application in the case of members of a particular race or tribe of customary law with respect to any matter in the case of persons who, under that law, are subject to that law.
6. Subsection (3) shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (5).
7. The exercise of any discretion to the relating to the institution, conduct or discontinuance of civic or criminal proceedings in any court that is vested in any person by the Constitution or any other law shall not be enquired into by any court on the grounds that it contravenes the provisions of subsections (3).

## 34. Declaration of Of state of public emergency

1. 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.

2. A declaration made under this section shall lapse at the expiration of a period of seven days, or if the National Assembly is not then in session twenty-one days, beginning on the day on which the Proclamation is published in the Gazette unless, before the expiration of that period, it has been approved by a resolution of the National Assembly supported by the votes of not less than two-thirds of all the members thereof.
3. A declaration made under subsection (1) may at any time be revoked by the President by Proclamation which shall be published in the Gazette.
4. A declaration made under subsection (1) that has been approved by a resolution of the National Assembly shall, subject to subsection (3), remain in force so long as that resolution remains in force and no longer.
5. A resolution of the National Assembly passed for the purpose of this section shall remain in force for ninety days or such shorter period as may be specified therein;

Provided that-

- a. any such resolution may be extended from time to time by a further resolution supported-

- i. in the case of a first extension, by the votes,

- ii. in the case of a subsequent extension, by the votes of not less than three quarters of all the members of the National Assembly,

but no extension shall exceed ninety days from the date of the resolution effecting the extension; and

- b. any such resolution may be revoked at any time by a resolution supported by the votes of the majority of all the members of the National Assembly.

- c. any provision of this section that a declaration shall lapse or cease to be in force at any particular time shall be without prejudice to the making of a further declaration under this section whether before or after that time.

### **35. Derogation from fundamental Emergency powers**

1. An Act of the National assembly may authorise the taking, during any period of emergency, measures that are reasonably justifiable for dealing with the situation that exists in The Gambia.
2. Nothing contained in or done under the authority of such an Act shall be held to be inconsistent with or in contravention of sections 19, 23, 24 (other than subsections (5) to (8) thereof) or 25 of this Constitution to the extent that it is reasonably justifiable in the circumstances arising or existing during a period of public emergency for the purpose for dealing with the situation.

• Emergency provisions

### 36. Persons detained under emergency power

1. Where a person is detained by virtue of or under any Act of the National assemble referred to in section 35, the following provisions shall apply-
  - a. he or she shall, as soon as reasonably practicable, and in any case not later than twenty four hours after the commencement of the detention, be furnished with a statement in writing specifying in detail the grounds upon which he or she is detained; and the statement shall be read, and, if necessary, interpreted, to the person who is detained in a language which he or she understand
  - b. the spouse, parent, child or other available next-of-kin of the person detained shall be informed by the authority effecting the detention and shall be permitted access to the person concerned at the earliest practicable opportunity, and in any case not later than twenty-four hours after the commencement of the detention;
  - c. where none of the persons mentioned in paragraph (b) can be traced or none of them is wiling and able to see the person detained, the person who is detained shall be informed of this fact within twenty-four hours of the commencement of the detention and he or she shall be informed of his or her right to name and give particulars of some other person who shall have the same right of access to the person who is detained as any of the persons mentioned in paragraph (b);
  - d. not more than fourteen days after the commencement of his or her detention, the authority which effected the same shall give notice in the Gazette stating that he or she has been detained and giving particulars of the provision of law under which the detention is authorised;
  - e. not more than thirty days after the commencement of his or her detention, and after that at intervals of not more than ninety days during the continuance of his or her detention, the case of the person concerned shall be reviewed by a tribunal as provided in subsection (2);
  - f. the person who is detained shall be afforded every possible facility to consult a legal practitioner of his or her choice who shall be permitted to make representation to the tribunal appointed to review the case;
  - g. at the hearing before the tribunal appointed for review of his or her case, the person detained shall be entitled to appear in person or by a legal practitioner of his or her choice and at his or her own expense.
2. A tribunal appointed to review the cases of persons who have been detained shall be composed of three persons being, or qualified to be appointed as, judges of the High Court
3. A tribunal composed of the same members shall not review more than once the case of a particular person who has been detained
4. On a review by a tribunal of the case of a person who has been detained, the tribunal may order the release of the person or it may uphold the detention; and the authority by which the detention was ordered shall act in accordance with the decision of the tribunal for the release of any person.

5. No person may be detained under or by virtue of an Act of the National Assembly referred to in section 35 during any state of emergency in excess of a total of one hundred and eighty-two days (whether such days are consecutive or not) and, on the expiry of that period, any person who has been so detained shall be entitled to invoke the provisions of section 19 (right to person liberty).
6. In every month during the period in which a state of public emergency is in force and in which there is a sitting of the National Assembly, a Secretary of state authorised by the president shall make a report to the National Assembly of the number of persons detained by virtue of or under an Act of the National Assembly to which section 35 refers and the number of cases in which the authority which ordered the detention has acted in accordance with the decisions of the tribunal as provided in subsection (4).
7. For the avoidance of doubt it is hereby declared that where the declaration of a state of public emergency is revoked or otherwise ceases to be in force, any person who is in detention or in custody by virtue of or under an Act of the National Assembly to which section 35 refers, other than a person sentenced to imprisonment by a court for an offence against such a law for a term which has not then expired, shall be released immediately without further order.

### **37. Enforcement of protective provisions**

1. If any person alleges that any of the provisions of section 18 to 33 or section 36 (5) of this Chapter has been, is being or is likely to be contravened in relation to himself or herself by any person he or she may apply to the High Court for redress.
2. An application may be made under this section in the case of a person who is detained by some other person acting on the detained person's behalf.
3. An application under this section shall be without prejudice to any other action with respect to the same matter which is lawfully available.
4. If in any proceedings in any court subordinate to the High court any question arises as to the contravention of any of the provisions of the said sections 18 to 33 or section 36(5), that court may, and shall if any party so requests, refer the question to the High Court, unless, in the opinion of the subordinate court, the raising of the question is merely frivolous or vexatious.
5. The High court shall-
  - a. hear and determine any application made by any person pursuant to subsection (1) or (2);
  - b. determine any question arising in the case of any person which is referred to it in pursuance of subsection (4); and may, in addition to the powers conferred on it by section 5 (which relates to defense of the Constitution) make such order, issue such writ, and give such directions as it may consider appropriate for the purposes of enforcing or securing the enforcement of any of the provisions of the sections 18 to 33 or section 36(5) to the protection of which the person concerned is entitled.

Provided that the High court may decline to exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

6. The High Court shall consider every application and reference referred to it in pursuance of this section and, having heard arguments by or on behalf of the parties, shall pronounce its decision on the question in open court as soon as may, and in the case of a reference under subsection (4), not later than thirty days after the conclusion of the final addresses of the parties.

7. An Act of the National Assembly may confer on the high court such powers in addition to those conferred by this section as may appear to be necessary or desirable for the purpose of enabling the Court more effectively to exercise the jurisdiction conferred upon it by this section.
8. The rights, duties, declarations and guarantees relating to the fundamental human rights and freedoms specifically mentioned in this chapter shall not be regarded as excluding other rights which may be prescribed by an Act of the National Assembly as inherent in a democracy and intended to secure the freedom and dignity of man.

## 38. Interpretation Of Chapter IV

1. In this Chapter, save where the context otherwise requires-
  - "a period of public emergency" means any period during which The Gambia is at war or a declaration is in force under section 34;
  - "contravention" in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;
  - "court" means any court of law in The Gambia other than a district tribunal or, save as provided in subsection (2), a court constituted under service law;
  - "defence force" means any naval, military or air force of The Gambia;
  - "member" in relation to a defence force, includes persons who, under the law regulating the discipline of that force, are subject to that discipline;
  - "owner" includes any person deprived of any right or interest pursuant to section 22;
  - "service law" means the law regarding the discipline of a defence force or of the Police Force or the Prison Service or any disciplined volunteer force.
2. In relation to an offence against service law, a reference to "court"-
  - a. in sections 18 to 20, subsections (2), (3), (4), (6) (but not the proviso thereto) of section 24, subsection (3) of section 25 subsection (8) of section 33 and subsection (2) of section 37 includes reference to a court constituted by or under service law;
  - b. in sections 19 and 20 and subsection (8) of section 33, includes an officer of a defence force and of the Police Force.
3. References in sections 18, 19 and 22 to a "criminal offence" shall be construed as including references to an offence against service law and such references in subsections (4) to (9) of section 24 shall, in relation to proceedings before a court constituted by or under service law, be similarly construed.
4. In relation to any person who is a member of an armed force raised otherwise than under the law of The Gambia and lawfully present in The Gambia, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this chapter.

# CHAPTER XII: THE POLICE FORCE AND PRISON SERVICE

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## PART 1: THE POLICE FORCE

### 178. The Gambia Police Force

1. There shall be a Police Force of The Gambia of which the Inspector General of Police shall be the head.
2. The Police Force shall be equipped and maintained to perform its traditional role of maintaining law and order, and such other functions as may be prescribed by an Act of the National Assembly.
3. No person or authority shall raise any other police force or service except by or under the authority of an Act of the National Assembly.

### 180. Police Council

There shall be a Police Council whose composition, functions and powers shall be prescribed by an Act of the National Assembly.

## PART 2: THE PRISON SERVICE

### 182. Prison Service

1. There shall be a Prison Service which shall be headed by the Commissioner of Prisons.
2. An Act of the National Assembly shall prescribe the functions and powers of the Prison Service.

### 183. Control of Prison Service

Subject to the general authority and direction of the President and the Prison Service Council, the Commissioner of Prisons shall be responsible for the operational control and administration of the Prison Service and Prisons in The Gambia.

### 184. Prison Service

There shall be a Prison Service Council whose composition, functions and powers shall be prescribed by an Act of the National Assembly.

### 185. Appointments in Prisons Service

1. The Commissioner of Prisons shall be appointed by the President after consultation with the National Security council.
2. Subject to this section, the power to appoint persons in the rank of Assistant Commissioner and above in the Prison Service shall be vested in the President on the advice of the Commissioner of Prisons through the Secretary of State.

3. Subject to any regulations made by the Prison Service Council, the power to appoint persons to a rank in the Prison Service below that of Assistant Commissioner shall vest in the Commissioner.

## CHAPTER XIII: THE ARMED FORCES AND THE NATIONAL INTELLIGENCE AGENCY

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### PART 1: THE ARMED FORCES

#### 186. Armed Forces

1. There shall be the Armed Forces of The Gambia which shall consist of the Army, the Navy and the Air Force and such other services for which provision is made by an Act of the National assembly.
2. No person shall raise an armed force except by or under the authority of an Act of the National assembly.
3. The Armed Forces shall be equipped and maintained to perform their role of defence or The Gambia as well as such other functions for the development of The Gambia as provided in this Constitution.

#### 187. Functions

1. The principal functions of the Armed Forces are-
  - a. to preserve and defend the sovereignty and territorial integrity of The Gambia;
  - b. to aid the civil authorities, at their request, in emergencies and in cases of natural disasters; and
  - c. 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.
2. It shall be the aim of the Government and the Armed Forces to maintain harmony and to foster understanding between the Armed Forces and the civilian population, and to that end-
  - a. the National Youth Service shall be organised with co-operation and assistance of the Armed Forces;
  - b. the Armed Forces shall establish training programmes for their members at all levels to equip them with skills and trades, and a programme of secondment to civilian occupations, so as to enable members of the Forces to return, after their service, to a full and productive civilian life; and
  - c. there shall be established an army reserve.
3. It shall be the duty of the members of the Gambia Armed Forces to respect the fundamental rights and freedoms of other persons.