



REPUBLIC OF THE GAMBIA

**GOVERNMENT WHITE PAPER ON THE
REPORT OF THE TRUTH RECONCILIATION
AND REPARATIONS COMMISSION**

25 MAY 2022

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Part 1. Introduction

The 22nd July Coup and Return to Civilian Rule

1. On 22 July 1994, then 29-year-old army lieutenant Yahya Abdul-Aziz Jemus Junkung Jammeh came to power through a military coup d'état – having ousted the democratically elected President Sir Dawda Kairaba Jawara. For 22 years, Yahya Jammeh ruled The Gambia with an iron fist. During his regime, extrajudicial killings, rape, torture, enforced disappearances, and numerous grievous human rights violations became part and parcel of his military Junta.
2. Aided by his enablers including the Junglers (his professional killers) and the National Intelligence Agency (NIA), Yahya Jammeh used these instruments to entrench himself in power by instilling fear in the hearts of ordinary Gambian and/or anyone perceived to be in opposition to his regime. Fundamental human rights granted to all individuals in The Gambia and enshrined in domestic and international law were grossly violated by Yahya Jammeh, his agents, and enablers. Democratic rule was seemingly restored to the country with the introduction of the 1997 Constitution of the Republic of The Gambia, and the return to civilian rule through elections which saw the election of Jammeh as President under the Alliance for Patriotic Re-orientation and Construction Party (APRC). However, Jammeh's entire rule continued to be marred by gross human rights violations including arbitrary arrests and detentions; enforced disappearances; extrajudicial killings, torture; sexual and gender-based violations; and a general atmosphere of fear and intimidation along with disregard for rule of law.

December 2016 Elections

3. At the December 2016 Presidential election, Gambians in large numbers turned out to oust the dictator who for 22 years had instilled fear, death, and misery in their lives and that of their loved ones. Adama Barrow, running under a coalition ticket was duly elected as the country's new President, becoming the country's third

President. This ground-breaking move marked the beginning of an end to 22 years of dictatorship under the rule of former President Yahya Jammeh.

4. Upon assuming office in January 2017, the Coalition Government decided as a matter of priority to reflect on the autocratic regime, establish an accurate historical record of events over the past 22 years to prevent a recurrence, introduce legislative and policy reform, and promote national reconciliation through accountability. In furtherance of this objective, the country embarked on a national Transitional Justice process. The transitional justice process included the establishment of a Truth, Reconciliation and Reparations Commission, a Constitutional Review Commission, a National Human Rights Commission, a Commission of Inquiry into the Financial Dealings of Former President Yahya Jammeh his Family members and Close Associates as well as security sector and civil service reform.

The Truth, Reconciliation and Reparations Commission

5. Through an Act of the National Assembly, the Truth, Reconciliation and Reparations Commission (TRRC) was established in December 2017. The main objectives of the TRRC, according to section 13 of the Act, were to:
 - a) create an impartial historical record of violations and abuses of human rights from July 1994 to January 2017, in order to –
 - (i) promote healing and reconciliation;
 - (ii) respond to the needs of the victims;
 - (iii) address impunity; and
 - (iv) prevent a repetition of the violations and abuses suffered by making recommendations for the establishment of appropriate preventive mechanisms including institutional and legal reforms;

- b) establish and make known the fate or whereabouts of disappeared victims;
 - c) provide victims an opportunity to relate their own accounts of the violations and abuses suffered; and
 - d) grant reparations to victims in appropriate cases.
6. The Commission was headed by eleven Commissioners who were selected through a participatory and inclusive process that took into account The Gambia's ethnic, regional, gender, and religious diversity. A Secretariat headed by an Executive Secretary supported the work of the Commission. The Secretariat was comprised of specialised units, tasked with the responsibility of providing legal advice, conducting research and investigations, providing support to victims and witnesses, and engaging in communication and community outreach activities. Furthermore, the Commission established five sub-committees, on Human Rights, Reconciliation, Amnesty, Reparations, Child and Gender Violations as well as a special task force on Sexual and Gender-Based Violence.
7. Launched in October 2018, the TRRC started its hearings on 7 January 2019 examining the alleged human rights violations that occurred during the rule of former President Yahya Jammeh. During its operations, the TRRC recorded two thousand six hundred statements. From January 2019 to May 2021, a total of three hundred and ninety-two (392) witnesses testified before the Commission over eight hundred and seventy-one (871) days. Although most witnesses who testified were victims, there were also adversely mentioned persons and confessed perpetrators. The hearings covered 17 thematic areas which included:
- i. Soldiers with a difference
 - ii. November 11, 1994 attempted coup
 - iii. The June 1995 murder of former Finance Minister Ousman Koro Ceesay
 - iv. Killings and physical harm by the convoy of the President

- v. The 1996 Denton Bridge incident involving security forces and members of the opposition United Democratic Party.
- vi. Violations of press freedom, and the rights of journalists.
- vii. Attacks on religious freedoms
- viii. Gross human rights abuses committed by the former President's death squad known as the "Junglers".
- ix. 10 and 11 April 2000 student demonstrations during which security forces shot and killed over 14 school children and one Red Cross volunteer and wounded several others.
- x. Sexual and gender-based violence.
- xi. The 2009 witch-hunting exercises.
- xii. The Presidential Alternative HIV/AIDS Treatment Programme.
- xiii. The Killing of the West African Migrants.
- xiv. Enforced disappearance.
- xv. Institutional Hearings on National Intelligence Agency, Prisons and the Justice Sector Entities.

8. The Commission conducted hearings in public but also held closed door sessions for protected witnesses. In November 2019, the Commission decentralised hearings from its Headquarters in the Greater Banjul Area and held 4 regional hearings in Jambur, Sibanor, Sintet – in the West Coast Region, and Essau – in the North Bank Region whereas series of rights violations took place. To engage individuals across the country, the Commission extensively engaged in communications through various mediums including television, radio, print media, and social media platforms. Public hearings were broadcasted live on national television, online media platforms, radio stations and were widely reported in the press. The TRRC believed that the voices of all citizens were crucial in its processes. The Secretariat engaged in outreach activities even as hearings were being held, sensitising the public on the mandate and work of the Commission, conducting statement-taking exercises both within and outside the country, promoting national reconciliation, and granting interim reparations to victims.

9. The TRRC in line with Section 14 of the TRRC Act 2017 on the 29th April 2020 submitted its interim report to the President detailing its activities. Accordingly, in compliance with section 29 of the TRRC Act, the TRRC on 25 November 2021 submitted its final report comprising seventeen (17) volumes to the President. On 24 December 2021, The Gambian Government through the Ministry of Justice distributed copies of the report to stakeholders as stipulated under section 30 (2) of the Act and published the report simultaneously online.
10. In preparing this white paper the Government opted for a broad based consultative and inclusive process so as to get the widest views possible, including the views of persons with disabilities and traditionally marginalised groups. The Government through the Ministry of Justice made a call for position papers from the general public on the report of the TRRC on the 6th of April 2021. Furthermore, the Ministry of Justice in a bid to enhance the consultative process created two standing consultative bodies:
- The MOJ-CSO Platform which is a standing consultative forum for the Government and Civil Society organisations to constantly interface on matters relevant to the preparation of the White Paper. It is intended that this body will continue to meet periodically throughout the process of implementation of the TRRC Report; and
 - The MOJ-VICTIMS Townhall, which is a consultative forum for the Government, victims and victim led organisations to discuss issues relevant to the implementation of the TRRC Report in a victim centred approach.
11. On the 9th of May 2022, the Ministry of Justice in collaboration with key partners organised a 3-day National Discussion on the TRRC Report with the aim of popularising the findings and recommendations, dispelling misconceptions on the TRRC Process and the implementation process as well as receiving stakeholder views on the findings and recommendations guided by the thematic areas. The participants were split into 5 thematic working groups and at the end of the 3-day conference each produced a report containing reactions to the recommendations

and proposals for implementation.

12. The Ministry of Justice also implemented other innovative forms of consultation such as reaching out directly to certain traditionally marginalised groups through its outreach team as well as one on one informal consultations with key victim-led organisations. These informal consultations paved the way for genuine and unfiltered consultation which not only provided deep insights into the public expectation but also helped provide context for the implementation.
13. These reports, feedback as well as the position papers received from members of the public, civil society organisations, victims, educational institutions and international partners were an important resource in preparation of this White Paper. The White Paper therefore reflects very wide and diverse views of all stakeholders in this important process.

Part 2. Government's Position on the TRRC Report

14. The Government has carefully considered the Report of the TRRC, and in this White Paper, sets out its decisions and accepts (except as otherwise stated in this White Paper) the findings and recommendations as they relate to the issues contained in the Commission's Report.
15. This document outlines the key findings contained in the Commission's Report. The Government has had an opportunity to review the Report and gave its position on the findings and recommendations contained therein. In this White Paper, the Government's decision to accept (except as otherwise stated) the findings and recommendations relevant to the issues raised in the Report will be addressed.
16. In setting out its roadmap for implementation, the Government is committed to transparency throughout the implementation process so as to enable wider stakeholder involvement in the implementation as well as in monitoring.
17. The Government believes in the need to adopt a victim centred approach to the implementation of the TRRC Report. As such victim participation will be prioritised in the design of the various institutions, structures and frameworks that may be established during the implementation process.
18. The Government is further of the view that the implementation of a number of The TRRC's recommendations will require broad legislative reforms and enactments. The Government is therefore committed to strengthening the capacity of existing bodies such as the Law Reform Commission as well as working with stakeholders in the realisation of these legislative reforms.
19. Furthermore, the Government believes that for the realisation of the overarching objectives of the TRRC, there is a need for justice and accountability. To this end, the Government is in the process of setting up a Special Prosecutor's Office under the Attorney General's Chambers and Ministry of Justice with a mandate to carry out investigations and prosecutions as laid out in this White Paper. The Special Prosecutor's Office shall be aided by a special investigative unit under the Ministry

of Justice which will consist of local and international experts mandated to carry out criminal investigations geared towards the prosecution of those who bear the greatest responsibility for the human rights abuses and violations are more specifically laid out in the White Paper.

20. Finally, the Government intends to create a special judicial framework within our domestic Court system for the prosecution of perpetrators of Human Rights abuses and violations. Legislative changes will be effected to give it jurisdiction over the offence of torture as well as over international crimes. The Court shall be located within The Gambia with the option of holding sittings in other countries based on the exigencies of each case. This option will balance the need to prioritise local ownership and victim participation with security concerns and witness protection requirements.

Theme 1: Soldiers with a Difference

Background

21. The 1994 Coup d'état brought an end to one of the longest-serving democracies in Africa. Although the military coup was bloodless, to legitimise the coup and win public support the junta declared to The Gambian people that its style of governance would be guided by the principles of "transparency, accountability and probity", in practice, they ruled through fear and oppression. The Commission found that to consolidate its power the junta ruled by Decrees with the suspension of the 1970 Constitution through Decree No 30, the perpetration of egregious violations of fundamental human rights ranging from torture, inhumane and degrading treatment, and extra-judicial killings.
22. The Commission found that through the Political Activities (Suspension) Decree, 1994, Decree No. 4 the junta cracked down on civil and political rights with the suspension of all political parties and activities and attack on freedom of expression and the detention of public officers.
23. The Commission found that numerous acts of torture were meted out by state agents against detainees at the NIA including former PPP Ministers and UDP supporters. **Batch Samba Jallow** and Sainey Fye gave detailed accounts of acts of torture perpetrated against them by state agents. The allegations of torture meted out on political detainees by State agents were corroborated by the testimonies of **Koso Taylor, OJ Jallow, Alhagie M C. Cham** and **Ousainou Darboe**.
24. The Commission found that Yahya Jammeh and members of the junta are jointly and severally liable for the acts of torture, cruel, inhumane and degrading treatment of the PPP detainees as shown by the testimony of Edward Singhatey that Yahya Jammeh had either ordered or had knowledge of the rights violations in the aftermath of the Coup d'état.

25. The junta, consolidating their power, embarked on mass arbitrary arrest and detention of senior officers of the Gambia National Army and the Police Force at Mile II Central Prison without trial. The evidence revealed that **Ebrima Ismaila Chogan, Sheriff Gomez, Captain Mamat Cham, Captain Benjamin Wilson, Major Pa Modou Ann, Captain Ebrima Baba Kambi, Lieutenant Alagie Kanteh, ASP Sulayman Abubacarr Jeng and RSM Babucarr Malick Jeng** were detained at Mile II State Central Prison without trial.
26. On the 6th September, **Sanna Sabally, Edward Singhatey, Sadibou Hydera and Yankuba Touray**, together with their orderlies/guards and **Peter Singhatey** visited Captain **Mamat Cham, RSM Baboucarr Malick Jeng** and **AIG Ebrima Chongan** all senior officers at the time with the common intention to intimidate them and inflict torture. During their visit, the junta with their orderlies subjected the three detainees to severe beatings and mock executions. This is corroborated by the evidence of Sheriff Gomez who was able to see these acts due to the proximity of his cell.
27. On 11th November 1994, the junta under the command of Capt. **Sanna Sabally** ordered the summary execution of eleven soldiers of The Gambia National Army allegedly involved in a counter Coup d'état. Consequently, Lieutenants **Abdoulie Dot Faal** and **Basiru Barrow** were killed, however Sergeant **Alhagie Cham (Sir Jackal)** and Lieutenant **Momodou Lamin Jarju** escaped.
28. On 25th June 1995, the country woke up to the devastating news of the death of Ousman Koro Ceesay, then Finance Minister whose charred remains were found in his burnt official vehicle in Jambur village. The TRRC detailed the killing of Finance Minister **Ousman Koro Ceesay** with **Alhagie Kanyi** detailing how the former Minister was killed by **Peter Singhatey, Edward Singhatey, Yankuba Touray, Pa Alieu Gomez, Tumbul Tamba, BK Jatta** and himself.

29. In addition to the arbitrary arrest, detention and torture, the Commission found that the junta targeted freedom of expression, a cornerstone of any democracy. The TRRC noted draconian laws such as Decrees 70 and 71 were passed to restrain freedom of expression and stifle dissent. The junta also targeted newspaper owners which saw the arrest of Halifa Sallah and Sidia Jatta who ran the popular "Foroyaa Newspaper" for distributing the newspaper.
30. The Commission found that the Decrees passed by the junta were meant to keep political and security detainees in prison and other detention facilities thereby creating a system of defying court orders granting accused persons bail with their continued detention by the NIA and Police. The Commission found that **Sanna Sabally, Edward Singhateh, Sadibou Hydara and Yankuba Touray** subjected former PPP Ministers to mock execution at the Mile II Prison.
31. Furthermore, the Commission found that the NIA as a Public Institution was used as a weapon of oppression with the brutality it perpetrated condoned by the State. It found that former agents of the NIA **Daba Marenah, Musa Kinteh, Baba Saho, Foday Barry, Musa Saidykhon, Lamin Babadinding Jobarteh** acted with impunity in committing acts of torture.
32. The Commission found evidence of sexualized torture on Kosso Taylor, which is corroborated by Sainey Faye and the forced nudity of Malang Fatty which acts were intended to inflict physical and psychological pain and trauma on the detainees. These acts were carried out in the name of Yaya Jammeh and the other members of the Junta.
33. In addition, the Commission found that following the arrest of **Sanna B Sabally** and **Sadibou Hydara** on January 27, 1995, the duo was subjected to acts of torture, inhumane and degrading treatment at Security Wing No 1 of the Mile II Central

prison. The Commission further found that two unidentified women close to **Sana B Sabally** were detained and sexually abused at the NIA and Mile II Prison.

Recommendations from the TRRC and the Position of the Government

34. The Commission, having considered the totality of the evidence, made the following recommendations:

(1) In terms of the mass arrests of ex-Ministers and political opponents, the Commission recommends the prosecution of the AFPRC junta members, namely **Yahya Jammeh, Sanna B. Sabally, Edward Singhatey** and **Yankuba Touray** for ordering the unlawful arrests, detention and torture of **Omar A. Jallow, M. C. Cham** and the others held at Fajara Barracks.

35. **The Government accepts the recommendation of the Commission. Although there is currently no statutory provision to charge any individual for the crime of torture, international law can be used as a basis to bring charges for torture. Following the decision of the Supreme Court in the Yankuba Touray case on immunity protection for acts performed as part of the AFPRC junta the Government intends to amend domestic legislation to allow for persons to be charged with torture. Additionally, the Prevention of Torture Bill is before the National Assembly for adoption and when enacted will provide a legal framework that specifically punish acts of torture.**

(2) Persons subjected to detention have rights that must be respected. Any place designated as a detention facility should meet standards required by relevant laws and international instruments to which The Gambia is a party. The government should put in place procedures for designating a place as a detention centre.

36. The Government accepts the recommendation of the Commission. The reform of places of detention forms part of the legislative and institutional reforms that the government is undertaking to ensure detention does not equate to a violation of human rights. Following a review of the Prisons Act 1953, the government intends to amend this law relating to the custody of prisoners and regulating prisons to bring the law in line with international standards. Furthermore, following the Rapid Assessment on the Prisons, a strategy will be developed for a comprehensive reform of the prison system to ensure conditions in such places are in line with minimum international standards.

(3) Almamo Manneh, Baboucarr Bah, Musa Jammeh aka Maliamungu, **Sergeant Gomez** aka Hitler and **Kawsu Camara** aka Bombardier were all complicit in torturing and subjecting detainees to inhuman and degrading punishment. The Commission is of the view that the Amnesty Committee should consider recommending **Baboucarr Bah** for amnesty in view of his testimony and the fact that he showed remorse and participated in reconciliation with his victims.

37. The Government accepts the recommendation of the Commission. The recommendation will be reviewed in line with the prosecution strategy adopted by the Ministry of Justice with plea bargains provided instead of outright amnesty.

(4) Almamo Manneh and **Musa Jammeh** are deceased. For Sergeant Gomez (Hitler) and **Kawsu Camara** (Bombardier), the Commission recommends that they should not hold any office with the government of The Gambia for ten years.

38. The Government accepts the recommendation of the Commission. The government will work with relevant national authorities for the individuals to be banned from holding public office in line with national laws.

(5) Repeal of the Decrees susceptible to rights violations and abuses.

39. The Government accepts the recommendation of the Commission. As part of the ongoing legislative reform, the Government has repealed or amended several laws that are contrary to The Gambia's human rights obligations. The government will continue to conduct a targeted review of its laws to ensure all individuals in The Gambia enjoy their human rights.

(6) Review of all laws that are relevant to the grant of bail with a view to establishing a regime that takes into cognisance the value of individual liberty and to balance same with the need to curb flight from justice taking into account the demands of a modern democratic state.

40. The Government accepts the recommendation of the Commission. Legal provisions relating to bail forms part of the review of the Criminal Procedure Code and the Bill amending this law is before the National Assembly for adoption. The Law Reform Commission will be strengthened to ensure that the government continues to routinely review and revise all laws not in compliance with democratic society, good governance and the rule of law.

Theme 2: November 11, 1994 Attempted Coup

Background

41. The events of November 11 and 12, consisted of an attempted coup by disgruntled soldiers of The Gambia National Army and a counter-coup marred by gross human rights violations led by the AFPRC Junta members and their loyalist soldiers at Yundum and Fajara Barracks.
42. The Coup was staged to overthrow the Junta members due to failed promises to improve the conditions of the soldiers following their support to secure the coup of 22 July 1994. Other motivating factors included the ongoing human rights violations committed by members of the Junta against members of the previous regime, poor welfare conditions of the soldiers at the military barracks, the need to restore democracy and for soldiers to return to the Barracks.
43. In a quest to counter the coup, the Junta members planned to apprehend the coup members with specific orders from the former President Yahya Jammeh to take no prisoners and to dispose of the ring leaders.
44. The Junta members including **Sanna Sabally, Edward Singhatey, Sadibou Hydara, Yankuba Touray and Peter Singhatey**, their orderlies and some officers from the State Guards attacked Yundum Barracks and Fajara Barracks on the night of November 10 and the morning of November 11, 1994, to counter the coup.
45. Members of the planned coup including the leaders **Basiru Barrow** and **Dot Faal** were apprehended at Yundum Barracks and transferred to Mile II pending the takeover of Fajara Barracks.
46. The takeover of Fajara Barracks was led by **Sanna Sabally, Edward Singhatey** and former army commander **Baboucarr Jatta**. Unlike Yundum Barracks where no exchange of fire took place, the takeover of Fajara Barracks was considered to have lasted several hours and included a substantial exchange of fire.

47. The events following the capture of the soldiers by the Junta were marred by serious human rights violations and abuses, including extrajudicial killings, torture, arbitrary arrests, unlawful detention, and inhumane and degrading treatment in various locations at Fajara Barracks, Mile II Central Prisons, Yundum Barracks and at or around the Brikama forest.
48. The Commission found that 11 men including **Lt. Basiru Barrow, Abdoulie Dot Faal, Sergeant Fafa Nyang, Sergeant E. M. Ceesay** amongst others were tortured and extra-judicially executed on or about November 11, 1994. GNA soldiers including Lance Corporal Alagie Kebbeh, Private Abdoulie J. Darboe and **Private Mafugi Sonko**, amongst others were also arrested, unlawfully detained and tortured. The men who were arrested but not executed were subsequently tried in Court Martials at Fajara Barracks and sentenced to terms of imprisonment.
49. The Commission found that the November 11 soldiers who lost their lives were denied a decent burial. Following their executions, the bodies of the deceased soldiers were hurriedly buried by the Junta in mass graves at various locations in Yundum Barracks.
50. From the testimonies received the hurried burial of the soldiers suggest that this was part of the Junta's efforts to conceal the illegality of their actions and tamper with evidence and any subsequent administration of justice. The Commission also found that attempts were made by the junta to conceal the events surrounding November 11, 1994. This included a false and misleading announcement made by Sanna Sabally.
51. Following the November 11 events, several human rights violations and abuses took place. This included the unlawful arrest, detention and beating of the arrested soldiers. The said events negatively impacted The Gambia National Army soldiers' morale.
52. The events also caused a devastating impact on the families of the victims who lost loved ones. Some of the families were not informed of the death of family members and heard the news of the deaths publicly. While some received

information early, others did not for years and the uncertainty and lack of closure caused immense psychological distress to the families involved.

53. Moreover, the bodies of loved ones were not returned to families for proper burial. In addition to the soldiers killed portrayed as coupists, the wives living in the different military barracks were forcefully evicted from their living quarters and became ostracised by the people they knew, loved, and trusted. At the same time, they lost their main source of financial support, their livelihoods and suffered great emotional and mental distress.
54. In addition to retrieving personal effects from the families of soldiers who had lost their lives, the widows of Basiru Barrow were questioned by the NIA on the whereabouts of their husband, whether he received visitors in their homes, on the number of properties owned by their husband and the movements of their husband during the days leading to November 11.
55. The TRRC uncovered seven human remains of the November 11, 1994 victims. The media and families of victims attended the exhumations however they are yet to be identified and returned to their loved ones for proper burial.
56. The Commission found several individuals including **Sana B. Sabally, Edward Singhatey, Yankuba Touray, Sadibou Hydara, Peter Singhatey, Baboucarr Jatta, Alhagie Kanyi** amongst others responsible for the attempted murder of **Lt. Momodou Lamin Jarju** and **Sgt. Joof Sir Jackal** and others including the murder of **Lt. Basiru Barrow** and **Lt. Abdoulie Dot Faal**.
57. The Commission found that the following Junta members, **Former President Yahya Jammeh, Sanna B. Sabally, Edward Singhatey, Sadibou Hydara** and **Yankuba Touray** bear the greatest responsibility and are individually and collectively responsible for the events of November 11, 1994. This includes the torture, assault, beating and extra-judicial killing of the 11 GNA officers and the torture, beating arbitrary and unlawful detention of five private soldiers.
58. The Commission found that **Peter Singhatey**, having been present at all the executions and alleged to have taken part, is jointly and individually responsible

for the extrajudicial killings. It was also reported that he played an active and commanding role. The Commission also found **Baboucarr Jatta** criminally culpable based on command responsibility for failure to prevent or hold accountable individuals for their actions.

59. The Commission also found orderlies and bodyguards including **Cpl. Alhagie Kanyi, Pte. Ensa Mendy, Baboucarr Njie (De Chebb or Njie Ponkal)** and others are individually and criminally responsible for their direct participation in carrying out unlawful orders to commit one or more crimes of killing, torture, arbitrary arrests, and unlawful detention.

Recommendations from the TRRC and the position of the Government

60. The Commission, having considered the totality of the evidence, made the following recommendations:

(1) The Commission recommends that all the military members of the Junta Yahya Jammeh, Sanna Sabally, Edward Singhatey and Yankuba Touray, and senior military officers who participated in the November 11, 1994, tortures and killings-Baboucarr Jatta, Peter Singhatey and Papu Gomez, - be prosecuted as appropriate for the crimes they committed including the murders/unlawful killings, torture and inhumane and degrading treatment of the captured counter coupists. In this context, the Commission notes that some of the perpetrators who testified may be eligible for amnesty. This recommendation should therefore, be read together with the relevant recommendations for amnesty or negotiated immunity given in order to assist eventual prosecution.

61. **The Government accepts the recommendation of the Commission. The Ministry of Justice is developing a Prosecution Strategy to guide the prosecution of alleged perpetrators including the above-named persons.**

- (2) Where any of the above-mentioned person is granted an amnesty or immunity from prosecution, the person shall be banned from taking up a position in or employment with The Gambia Government.

62. The Government accepts the recommendation of the Commission in so far as it is in line with the Government's Prosecution Strategy for the cases emanating from the TRRC. The Commission revealed a series of gross human rights violations against individuals which had serious and long-lasting impact on victims, their families and the Gambia as a whole. The Government is committed to implementing the recommendations of the Commission and ensuring that these violations are never repeated in The Gambia. The Government will therefore take all necessary steps to ensure that perpetrators are held accountable and victims provided with the appropriate support to heal. The Prosecution Strategy is expected to guide the Government in holding perpetrators accountable and it is expected that this may include using plea deals to ensure that those who bear the greatest responsibility are successfully prosecuted.

- (3) All the perpetrators listed below be banned from taking up a position in or employment with The Gambia Government for ten years. These include: Cpl. Alhagie Kanyi, Pte. Baboucarr Njie ("De Chebb," or" Njie Ponkal"), Pte. John Charles B. Mendy (JCB Mendy), Pte. Baboucarr Ahmad Njie (B.A. Njie), Pte. Albert Gomez , Pte. Lamarana Barry xii. Pte. Ensa Mendy, Pte. Jali Musa Suso, Pte. Lamin Marong , Pte. Mustapha Touray ("Churro"), Pte. Lamin Colley, Pte. Lamin (Pa) Senghore (Assasin), Pte. Baboucarr Mboob.

63. The Government accepts the recommendation of the Commission.

- (4) As for Pte. Lamin Fatty, the Commission notes that he participated in the inhumane treatment of Pte. Alhagie Kebbeh by putting him in the

boot of a vehicle. However, on the basis of his confession, apology and participation in a public reconciliation with the victim, the Commission makes no further recommendation against him.

64. The Government accepts the position of the TRRC in this regard

(5) All the perpetrators listed for persecution under this theme who have not succeeded in getting amnesty may be prosecuted subject to the discretion of the Attorney General in view of the need to have witnesses for the effective prosecution of those who bear the greatest responsibility for the crimes committed. The persons listed above may now be holding different ranks or positions within the Army or other institutions.

65. The Government accepts the recommendation of the Commission provided that those who bear the greatest responsibility are held accountable and not shielded from prosecution.

(6) Provide adequate training of all soldiers in areas of relevant international law, such as international humanitarian law, which includes the Geneva Conventions. Provide adequate training of all soldiers in the relevant areas of the Geneva Conventions to understand the duty to respect fundamental rights and freedoms, including principles of hors combat and civilian status.

66. The Government accepts the recommendations of the Commission. The Government, however, notes that reform of the security sector goes beyond training, and includes other efforts to restructure the sector with a focus on evaluating personnel composition and competence. In this light, the recommendation forms part of the wider ongoing Security Sector Reform process where the Government seeks to ensure respect for and protection of human rights of all by the security sector with plans to restructure the army, set up a National Security Office and a Vetting Agency following the

enactment of the Vetting Act to remove individuals responsible for abuses from public office.

(7) Provide adequate training for all soldiers on courses in areas of international criminal law, such as the Rome Statute; in particular crimes against humanity and the responsibility of commanders and other superiors.

67. The Government accepts the recommendation of the Commission to the extent possible and also highlights that this forms part of the ongoing Security Sector Reform Process. The Government also notes that training will be targeted to ensure that the army, particularly senior officials are trained while maintaining the responsibility attached to command to ensure order within the army is not difficult to manage.

(8) Provide adequate training of all soldiers on courses in relevant international human rights law in general.

68. The Government accepts the recommendation of the Commission to the extent possible and will work closely with the National Human Rights Commission (NHRC) to ensure regular training on human rights for officials of the Gambia Armed Forces (GAF). The Government will also take necessary steps to review and integrate or review and update where available human rights into the training curricula of the GAF.

(9) Ensure continuous appraisal of these trainings or courses to achieve understanding, compliance and implementation in simulated 'wars' and bush exercises.

69. The Government accepts the recommendation of the Commission. The Government will take the necessary steps to ensure training programs and security officials are evaluated regularly to assess understanding, application, usefulness and conformity while addressing areas for improvement.

- (10) Provide adequate training of all soldiers on the importance of respect for the Constitution and the rule of law to ensure soldiers respect the principles of constitutionality in a democracy.

70. The Government accepts the recommendation of the Commission.

- (11) Ensure accreditation of these training programmes and courses.

71. The Government accepts the recommendation of the Commission. The Government will work through the GAF and the Ministry of Defence to ensure training programmes and courses of the GAF regarding human rights and the rule of law are accredited by reputable accreditation institutions.

- (12) Making satisfactory completion of at least a minimum mandatory basic training in the areas mentioned above as a requirement and issue for consideration in determining promotions.

72. The Government accepts the recommendation of the Commission. The Government will take necessary steps to integrate or review and update where available human rights and respect for the rule of law in the curricula of the GAF. Additionally, the Government will take necessary steps to ensure GAF officials are appraised on understanding and compliance with human rights and respect for the rule of law as a basis for promotions.

- (13) Implement targeted sensitisation programmes to help change the mind-set of the Army for the better and towards respect for established rules and conventions.

73. The Government accepts the recommendation of the Commission and will ensure training programs developed and introduced will work towards educating the GAF on human rights and the rule of law and changing the mindset of the Army for respect for established rules.

- (14) Establishment of community support system for the elimination of discrimination and stigma.

74. The Government accepts the recommendation of the Commission. The Government will seek to work with or support the work of the NHRC, CSOs, community structures and other stakeholders in addressing discrimination and stigma.

(15) Target government institutions and agencies and strategic local partners to integrate victim support processes into their ways of working in The Gambia.

75. The Government accepts the recommendation of the Commission to the extent possible. It will take concerted efforts to mainstream victim-centric strategies and approaches where relevant in the new National Development Plan and government policies, programming, and procedures while ensuring relevant victim support processes are considered.

Theme 3: The Unlawful killing of Koro Ceesay

Background

76. Ousman Koro Ceesay (Koro) was an economist viewed by many Gambians as a man of vast intelligence and integrity. He was appointed Permanent Secretary Office of the Chairman of the AFPRC government in March 1995 and within a short period became the Minister of Finance and Economic Affairs and member of Council. Mr. Ceesay was found dead on June 24, 1995, barely three months after joining the AFPRC government.
77. From the evidence of the witnesses, Mr. Ceesay was last seen at a departure ceremony for former Chairman Yahya Jammeh at the Airport where he was seen off with a delegation travelling to Addis Ababa, Ethiopia. Prior to going for the departure ceremony, Mr. Ceesay had called his mother promising to visit her as he often does after the ceremony. However, he never made it home as promised.
78. On the morning of June 25, 1995, the charred remains of Mr. Ceesay were found inside his burnt official vehicle, under suspicious circumstances in an isolated location near Jambur Village, in the West Coast Region.
79. The death of Mr. Ceesay ignited rumours that the military Junta were behind his murder to prevent him from exposing unfavourable financial management by the Junta in the 1995/1996 Budget Speech.
80. Bajen Ceesay, sister of the late Mr. Ceesay testified that he had confided to their mother of problems he was having with the AFPRC Vice Chairman Edward Singhatey, who had threatened to kill him. Bajen Ceesay also provided that Cpt. Ebrima Kambi, a soldier then detained at Mile II Prison had sent a note to Mr. Ceesay warning him to be careful of Edward Singhateh which Mr. Ceesay brushed off.

81. The Commission found that Edward Singhatey, Yankuba Touray and Cpt. Peter Singhatey led the killing of Mr. Ceesay with their juniors Alhagi Kanyi, Tumbul Tamba, Pa Alieu Gomez and B.K Jatta. In his evidence, Mr. Kanyi stated that Edward Singhatey in the presence of Cpt. Peter Singhatey (Edward's brother) had *stated "we are going to get rid of one fucking cunt."* However, Edward Singahtey had not revealed the identity of the individual.
82. The evidence shows that Mr. Ceesay was brought to the house of Yankuba Touray, following the departure ceremony. Upon entering the compound he was struck over the head twice with a pestle by Peter Singhatey, after which Yankuba Touray and Edward Singhatey using the pestle also struck Mr. Ceesay and invited Alhagi Kanyi, Tumbul Tamba, Pa Alieu Gomez and BK Jatta to also strike Mr. Ceesay using firewood.
83. The Commission found Mr. Ceesayo died following the brutal attack and was placed in his official Mercedes Benz by Mr. Kanyi, Tumbul Tamba, BK Jatta and Pa Alieu Gomez who then returned to clean the blood from Yankuba Touray's house while Edward Singhatey, Peter Singhatey and Yankuba Touray left with Mr. Ceesay's body.
84. Amat Jangum former Commander at Yankuba Touray's residence, Lamin Ndure, Lamin S Marong, Ensa Mendy and Lamin Fatty, all serving military officials who were attached to either Yankuba Touray or Edward Singhatey, placed Edward Singhatey at Yankuba Touray's residence. Mr. Jeng testified that he saw Edward Singhatey wearing an American camouflage attire which appeared to be wet and his shoes were muddy. He stated he also found a fleet of four vehicles parked outside the residence and upon entering the house found it in an unkept state: dirty, muddy, messy, wet, and not in its usual order.
85. Amat Jangum also adduced to the TRRC that he found Yankuba Touray in the green fatigue uniform he wore earlier at the State House however it had some dirt,

mud and burnt marks. That Yankuba Touray upon seeing him left the sitting room and entered his room without speaking to him, as if he was avoiding him.

86. According to the evidence of Lamin Kaba Bajo, the Minister of Interior at the time, following the arrival of the delegation in Addis Ababa, they were informed by Chairman Jammeh that Mr. Ceesay had died in an accident. Similar to other testimonies, Mr. Bajo adduced that prior to the delegation's departure from Banjul Chairman Jammeh and Edward Singhatey interacted in an unusual manner.
87. The information gathered by the TRRC point to the conclusion that Mr. Ceesay was killed by Edward Singhatey, Yankuba Touray and Peter Singhatey at Yankuba Touray's residence together with Alhagie Kanyi, Tumbul Tamba, Pa Alieu Gomez and BK Jatta. Following his death, Mr. Ceesay was placed in his official vehicle, and driven to Jambur, accompanied by the vehicles seen outside Yankuba Touray's house, where the body of Mr. Ceesay was burnt inside his vehicle and made to appear as though he had died in an accident.
88. At the scene of the incident, police investigators Momodou Bojang and Pa Habibou Mbye established that the accident was unusual as there were no skid marks or evidence of a collision with the car only having a small dent at the front. They also found that the fire had not affected the number plate indicating it was man made. They further adduced that there was no evidence of Mr. Ceesay attempting to escape the blazing car rather just sat still and allowed himself to be burnt. This they said indicated the person in the car was not alive. The evidence also showed that Peter Singhatey was seen with a bandage on his arm following the events at Yankuba Touray's house.
89. The evidence points to the conspiracy or common plan to kill Mr. Ceesay at Yankuba Touray's house by Edward Singhatey, Yankuba Touray and Peter Singhatey and the actual commission of the act with their subordinates is quite compelling taking into consideration the confession of Mr. Kanyi.
90. However, the participation of Yahya Jammeh and other members of the Junta is subtler. There is sufficient evidence to suggest however that although other

members of the Junta did not directly participate in Mr. Ceesay's killing they were either aware or contributed to the pre-meditated plan to get rid of him or became aware after the fact and did nothing.

91. The Commission found that despite being a high-profile government minister, no meaningful investigations were conducted into his death nor was anyone held accountable for the death of Ousman Koro Ceesay. This is despite Yahya Jammeh knowing fully well that his colleagues were connected to his death. On this basis and on the rules of command responsibility, he ought to be held responsible for the crime.
92. There was general indifference on the part of the AFPRC Junta to the death of Mr. Ceesay and an unwillingness to investigate his death. Not only was Yahya Jammeh aware of the circumstances leading to the death of Ousman Koro Ceesay, but there was also a deliberate state sanctioned effort to suppress the truth about his death.
93. The substantially corroborated evidence by staff of Edward Singhatey (Fatty and L.S. Marong), the staff of Yankuba Touray (Ndure and Jangum) and Alagie Kanyi (who at the time was working under Peter Singhatey at the Training School) is very convincing and compelling account of the truth of what happened, as opposed to the uncorroborated version of events by Edward Singhatey.
94. The evidence of then Attorney General, Mustapha Marong that Yahya Jammeh ordered Mr. Bajo to go slow/quietly with the investigations, and although denied by Mr. Bajo, his confession of neglect/failure to have a proper investigation conducted suggests that the evidence of Attorney General Marong is more in line with the truth.
95. The Commission found that Ousman Koro Ceesay was killed in a planned killing by members of the Junta and their subordinates at the official residence of Yankuba Touray on the night of 24 June 1995 when Yahya Jammeh travelled to Addis Ababa.

96. The evidence provided discredits any notion that the Mercedes Benz belonging to Mr. Ceesay was involved in an accident leading it to catch fire and reinforces the finding of the TRRC that Mr. Ceesay's body was deliberately burnt in his vehicle to conceal the nature and manner of his killing.

97. Some of the reasons ruling out an actual accident are outlined by the testimonies of the investigators - including M.K. Bojang and Pa Habibou Mbye and other witnesses - who concluded that there were signs of the accident being framed or staged to look real.

98. There is compelling circumstantial evidence linking Edward Singhatey, Yankuba Touray and Peter Singhatey to the burning of Mr. Ceesay's vehicle and therefore in his murder. They tried to cover up their crime by staging the accident.

Recommendations from the TRRC and the position of the Government:

99. The Commission, having considered the totality of the evidence, made the following recommendations:

(1) Taking the totality of the evidence, the Commission recommends the prosecution of Yahya Jammeh, Edward Singhateh, Yankuba Touray and Peter Singhatey for their role in the premeditated murder of Ousman Koro Ceesay and also subverting the course of justice by covering up their crime.

100. **The Government accepts the recommendation of the Commission. This recommendation is partially implemented with the conviction and sentencing of Yankuba Touray for his part in Koro Ceesay's murder. However, others referred to are outside the country as such the government will work with the countries they are residing for their extradition to The Gambia to face prosecution. Alternatively, where possible arrangements can be made for them to be prosecuted in the countries they reside in. Yankuba Touray for his part has already been indicted for the murder of Koro Ceesay**

in his individual capacity and was convicted of the murder of Koro in the High Court of The Gambia on 14th July 2021.

(2) For low-level perpetrators such as Alhagie Kanyi, BK Jatta, Pa Alieu Gomez, the Commission notes that they may qualify amnesty under the provisions of the Act. –

101. The Government notes the recommendation of the Commission and will be guided by the Prosecution Strategy.

(3) For low level perpetrators such as Alhagie Kanyi, BK Jatta, Pa Alieu Gomez in the event that they are granted amnesty, the Commission recommends that they are banned from holding public office for a minimum period of 10 years.

102. The Government accepts the recommendation of the Commission. The government will explore the appropriate manner for the individuals identified to be lawfully banned from holding public office.

(4) The National Assembly should be given the power to initiate investigations into interference of the executive in the exercise of their constitutional powers.

103. The Government accepts the recommendation. The Government is committed to the principle of separation of powers and further notes that the powers referred to are already provided under section 109 of the 1997 Constitution which empowers the National Assembly “to appoint Committees to investigate or inquire into the activities or administration of ministries or departments of the Government.”

Theme 4: The Convoy of The President

Background

104. During the regime of the former President Yahya Jammeh, his presidential convoy drove with reckless abandon and power which resulted in the death and injuries of numerous pedestrians, motorists and bystanders.
105. In all the accidents that occurred, the convoy drivers who caused the said accidents were never investigated, prosecuted, or held accountable for their actions. There was complete immunity for the drivers and the victims often treated their injuries themselves without any government intervention or compensation.
106. According to the evidence presented, the Commission found that the pattern of mistreatment and brutality of road users commenced with the heavily armed convoy of the then Vice Chairman of the AFPRC Sanna B. Sabally. It was found that former President Jammeh was aware that the soldiers who were part of his convey terrorized, intimidated, bullied and beat road users.
107. The theme on the attack on road users, also covered incidents concerning the throwing of biscuits and t-shirts while the presidential convoy was moving, over speeding, attacks on people who failed to acknowledge the convoy, attacks on people who were perceived as a threat to the convoy and those who did not give way to the convoy which led to numerous deaths and injuries. .
108. The Commission received evidence that there was a failure by former President Yahya Jammeh and his convoy to mitigate the risks posed to the public and road users by the speed of the convoy.
109. The Commission found that the throwing of biscuits by former President Jammeh to the crowds welcoming him was negligent and was carried out without due regard to the consequences it may cause to the crowd. The Commission found that the occurrences of the repetitive deaths suggested that former President Jammeh was aware of the deaths caused as a result of his actions but did not care about the reckless nature and consequences of his actions.

110. The Commission found that the four incidents of death arising from the throwing of biscuits amounted to unlawful killing and that the former President Jammeh and those who were part of the convoy directly caused the deaths of these people.
111. The Commission also found that the death of Lamin Jarjue who died three days after being beaten by members of former President Jammeh's convoy was unlawfully caused by the convoy members.
112. In relation to the death of Omar Kanyi who was riding a bicycle when former President Jammeh's convoy was about to pass, the Commission found that the soldiers who were part of the former President Jammeh's convoy under the command of then Capt. Armando Jatta unlawfully attacked and killed Omar Kanyi by kicking him and beating him with gun butts. The Commission also found that Major Armando Jatta should be held accountable for the death of Omar Kanyi as he failed to investigate and punish those involved in the act.
113. The Commission found that the events involving the shooting of a vehicle around Methodist Academy School, was an attempted murder of Kisira Krubally. There was no investigation or prosecution; instead, agents of the state intimidated Abdoulie P.O. Njie who had witnessed the incident and recovered incriminating evidence from him. It held the view that former President Yahya Jammeh should be held responsible for this crime.
114. The Commission found that the case of Abdoulie Barry and other similar cases showed that former President Jammeh had no regard for road users who came into contact with his convoy. This is because former President Jammeh caused Abdoulie Barry to be prosecuted for allegedly giving false information against him which clearly shows that he was aware of the case. The Commission found that the former President Jammeh as the Commander in Chief of The Gambia Armed Forces, had an obligation to hold accountable the soldiers who committed an offence and as such he should bear responsibility for the reckless driving which caused the injury of Abdoulie Barry.

115. In the case involving a Swedish National, the Commission found that Lamin Sillah deliberately blocked the path of the oncoming vehicle which he viewed as a threat to the safety and security of former president Yayha Jammeh as he had no other option other than placing his vehicle in the path of the oncoming Mercedes Benz to avert the oncoming threat. For this reason, the Commission found that Lamin Sillah's conduct was to be expected under the circumstances even though it led to an unfortunate situation.
116. The Commission found that the actions of former President Jammeh who failed to investigate and prosecute Almamo Manneh after he shot a Nigerian taxi driver, is liable for the murder of the driver.
117. It was also found that several members of former President Jammeh's convoy violated the rights of individuals by beating, shooting, or killing motorists, pedestrians and bystanders as a result of their over speeding and reckless driving. The Commission found that former President Jammeh is responsible for the injuries and/or deaths of victims with his subordinates including Capt. Armando Jatta, Sulayman Jatta and Dawda Sanneh.
118. The Commission also found that Sanna B Sabally and his subordinates JCB Mendy, Baboucarr Njie (Ponkal) and other members of the convoy are responsible for the beating and injuries sustained by Abdoulie Tekanyi, John Njie, Fafa Ceesay and Alo Bah.
119. The Commission found that JCB Mendy gave false evidence when he stated that he was neither present nor aware of any incidents involving Sanna B Sabally's convoy.

Recommendations from the TRRC and the position of the Government

120. The Commission, having considered the totality of the evidence, made the following recommendations:
 - (1) The Commission recommends that members of the Presidential and Vice Chairman's convoys, including former President Yahya Jammeh,

be investigated and prosecuted for murder, manslaughter and other road traffic offences committed by them.

121. The Government accepts the recommendation of the Commission to investigate and prosecute members of the Presidential and Vice Chairman's convoy including former President Yahya Jammeh, for road traffic offences committed resulting in death.

(2) The Commission also recommends that Parliament enacts legislation and or regulations limiting the privileges of convoys, including the President's convoy. This could be included in the Motor Traffic Act or Highway Code.

122. The Government notes the recommendation of the Commission; however, presidential convoys have certain privileges based on security issues and are important to protect the administrative and security network of the President and for general public safety. As such regulations should not limit privileges but regulate how a convoy operates while guaranteeing the safety of the public.

Theme 5: Student Demonstrations

Background

123. The April 10 and 11 2000 Student Demonstration in The Gambia emanated from the physical assault, and later death of Ebrima Barry, a fifteen (15) year old Grade 10 student at Forster's Technical High School in Brikama, West Coast Region (WCR); and the rape of Binta Manneh, a Grade 7 student at Brikama Ba Upper Basic School, in the Central River Region.
124. Ebrima Barry was physically assaulted by fire officers in Brikama and died shortly after. Binta Manneh, who had represented her school at the Inter Secondary Schools Sports Competition at the Independence Stadium in Bakau was raped at the said venue by a security officer.
125. Following those two incidents, The Gambia Students Union (GAMSU) believed the Government of the day failed to sufficiently address both cases—which further aggravated students throughout the country. In the interest of its members, GAMSU engaged the Government seeking redress for the two incidents. However, negotiations proved unsuccessful to the satisfaction of GAMSU, culminating in the Union's decision to hold a "limited peaceful demonstration."
126. The said demonstration was scheduled to take place on 10 April 2000 at the gate of the Gambia Technical Training Institute (GTTI) in Kanifing where the students' procession was due to commence. That morning, hundreds of students gathered outside GTTI and the Police Intervention Unit (PIU), and later the Gambia National Army (GNA) were deployed to disperse the crowd. The senior security personnel on duty on that day included the former Army Commander Baboucarr Jatta, the Deputy Inspector General of Police Sankung Badjie, and the former Secretary of State for Interior Ousman Badjie.

127. The Commission found that no coherent plans were put in place by the security forces to deal with the situation. In the Serekunda area, forces fired tear gas and live bullets at the students killing twelve (12) students, a Red Cross volunteer, and a toddler. Several students also suffered serious wounds and had to be hospitalised and many others were arrested. While fleeing from the security forces some students trampled upon a child in his home.

128. The Commission found that Jai Sowe, the Commanding Officer at Banjul Police Station, unlawfully authorised the supply of firearms and live ammunition to Police Officers including Gorgui Mboob, Yorro Mballow and Ousman Cham. Officers Gorgui Mboob, Inspector Darboe, Modou Lamin Fatty, Abdoulie Bah, Modou Cham, and Modou Gajaga unlawfully entered St. Augustine's High School in Banjul and fired a tear gas canister into a classroom full of students. Following their unlawful entry into the school and total disregard for human life, Gorgui Mboob assaulted Ousman Sabally, a teacher, striking him with his baton and the butt of his gun causing him serious injury. Gorgui Mboob and his fellow officers unlawfully shot into a building at St. Augustine's High School resulting in unlawful damage and injury to three students.

129. On 11 April 2000, news of the fatal killing, wounding and brutalisation of the student reached other students in the rural areas. To show support for their fellow students who were brutally killed and wounded by the security forces, students in the rural areas turned out in large numbers. The Gambia National Army (GNA) was deployed to deal with the situation in the Central River Region (CRR) and Upper River Region (URR). The Police were deployed in the North Bank Region (NBR). The Commission from the testimonies learnt that security forces fired live bullets at students killing two (2) in the Brikamaba area; seriously wounding several; physically assaulted students and detained some at Armitage High School and Janjanbureh prison.

130. The Commission found that former President Yahya Jammeh instructed his Vice President Isatou Njie Saidy to “take care of the bastards in whatever way, in whatever form” and that the statement was a direct order from the President to shoot the student demonstrators. The Commission further notes that, Isatou Njie Saidy, following the President's orders, instructed Baboucarr Jatta to deploy the Army who were armed with AK 47 rifles and live rounds, culminating in the eventual tragedies of 10 and 11 April 2000.
131. Following the incident, the Jammeh Government set up a Commission of Enquiry to look into the events of April 10 and 11. The TRRC concluded that the Government tried to cover the illegal acts of the Army by saying “the shooting started from the students knowing the same to be false.” Although students responded to the brutality of the security forces by engaging in disorderly behaviour including the destruction of public and private properties, Former President Yahya Jammeh, Isatou Njie Saidy and the state security personnel dealt with the incident disproportionately and were responsible for the arbitrary arrests, unlawful detentions, torture including rape that occurred during April 10 and 11.
132. The Commission concluded that Gorgui Mboob, Inspector Darboe, and other State Agents conspired to cover up the full extent of the Police actions by giving false testimonies, concealing evidence, and fabricating evidence at the Commission of Inquiry into Public Disturbances of 10 and 11 April 2000, the sole attempt of which was to mislead the Commission. Baboucarr Jatta and Wassa Camara were also found to have given false testimonies and fabricated evidence at the Commission of Inquiry into Public Disturbances of 10 and 11 April 2000. Baboucarr Jatta provided false and misleading reports to the Commission of Inquiry into Public Disturbances of 10 and 11 April 2000 and to the TRRC when he stated that the soldiers did not fire their weapons.
133. The Report of Commission of Inquiry into the Public Disturbances of 10 and 11 April 2000 revealed a series of inconsistencies and contradictions by State Officers, and

a failure to investigate the persons responsible for the violations. However, the Government later absolved those responsible for the violations by enacting the Indemnity (Amendment) Act 2001, the sole purpose of which was to exonerate public officials, especially members of the security forces from liability. The Commission further concludes that there was an orchestrated cover-up by the State.

134. The Commission found that both the PIU and the GNA were jointly and severally responsible for all the human rights violations perpetrated against the students on 10 and 11 April 2000. The argument that the students provoked the situation was deemed immaterial by the Commission - considering the brutal response and the use of unreasonable force by security personnel throughout the country. The Commission also found evidence of torture of students detained. A student who was illegally detained and tortured at Janjanbureh Prison died shortly after his release. Many of the survivors still need urgent medical attention for injuries sustained.
135. The Commission found that a total of fifteen (15) people were killed by State Security Officers during the 10 and 11 April 2000 demonstrations. Twelve (12) were students; 2 were toddlers (one of whom was a three (3) year old - shot in the head by security personnel); and a Red Cross volunteer. A third child was trampled upon by students fleeing for their lives from the PIU's direct assault.

Recommendations from the TRRC and the position of the Government:

136. The Commission, having considered the totality of the evidence, made the following recommendations:
 - (1) The Commission recommends that Yahya Jammeh, as Commander in Chief of The Gambia Armed Forces be prosecuted for all the atrocities he had committed against the students – namely: arbitrary arrests,

unlawful detentions, tortures, assaults causing harm, and killings of the demonstrators by reason of the orders and instructions he had given; and failing to investigate and prosecute members of the security forces who committed the violation, and for seeking to seal them from responsibility via the Indemnity Act.

137. The Government accepts the recommendation of the Commission.

(2) That former Vice President Isatou Njie Saidy, Baboucarr Jatta, and Ousman Badjie be prosecuted for the arbitrary arrests, detentions, tortures, injuries, and killings of the demonstrators.

138. The Government accepts the recommendation of the Commission.

(3) The Commission recommends that Isatou Njie Saidy be prosecuted and banned from holding public office for a period of ten (10) years; and that Yahya Jammeh be banned from holding public office for life for their roles in the massacre of the students on 10th and 11th April 2000.

139. The Government accepts the recommendation of the Commission.

(4) That Baboucarr Jatta be prosecuted and banned from holding public office for a period of ten (10) years for the unlawful arrests, detention, torture, injury, and killing of the demonstrators.

140. The Government accepts the recommendation of the Commission.

(5) That Abdou Giri Njie be prosecuted for his unlawful arrest, detention, torture, and unlawful shooting resulting in the deaths and injury of two students Sainey Nybally and Ousman Sabally.

141. The Government accepts the recommendation of the Commission.

(6) Remove Corporal Lamin Camara from office if he is currently employed and ban him from holding any public office for a period of five (5) years for knowingly providing false information.

142. The Government accepts this recommendation.

(7) Ban all those recommended for prosecution from holding public office for a period of not less than 5 years if they have not been prosecuted or if they have been granted amnesty.

143. The Government accepts the recommendation of the Commission.

(8) Prosecute Gorgui Mboob for the assault and injury of Ousman Sabally.

144. The Government accepts the recommendation of the Commission.

(9) Ban Gorgui Mboob from holding public office for five (5) years.

145. The Government accepts the recommendation of the Commission.

(10) Subject all those who were with Gorgui Mboob at St. Augustine's High School, including Modou Lamin Fatty, Abdoulie Bah, Modou Cham and Modou Gajaga, to internal disciplinary mechanisms if they are still occupying public office.

146. The Government accepts the recommendation of the Commission.

(11) Ban Baboucarr Sowe and Momodou Ceesay from holding public office for a period of five (5) years.

147. The Government accepts the recommendation of the Commission.

(12) Proper training should be provided to the security forces on matters relating to crowd control (riot management), and on security and legal issues concerning the management of violent demonstrations and riots.

148. The Government accepts the recommendation of the Commission and is committed to instituting the necessary reforms for security forces to be able to effectively control crowds in a professional manner whilst maintaining law and order.

(13) Security forces should be provided with appropriate equipment and materials needed for demonstrations or protests of this magnitude.

149. The Government accepts this recommendation and is committed to instituting the necessary reforms for security forces to be able to effectively control crowds in a professional manner whilst maintaining law and order.

(14) That 10th and 11th April be declared school holidays. Failing that, other arrangements should be developed to memorialise the sad and historic events that transpired on those two days in 2000; and ensure that they never happen again.

150. The Government accepts this recommendation and will take the necessary steps as part of its national memorialisation plan.

(15) The Ministries of Basic and Secondary Education, and Tertiary Education should implement a structure or process which enables them to meet with student bodies annually and discuss issues which are of concern to the students.

151. **The Government accepts this recommendation and will take the necessary steps to develop mechanisms for addressing student concerns and responsibilities at the level of Ministry of Basic and Secondary Education (MOBSE) and Ministry of High Education Research Science and Technology (MoHERST).**

(16) Put in place mechanisms to facilitate and enhance setting up an official channel of communication to deal with student complaints on a timely and effective basis.

152. **The Government accepts this recommendation.**

(17) A rehabilitation centre or fund should be set up to provide medical assistance and support to victims left permanently incapacitated (be it mentally and/or physically) from this incident.

153. **The Government accepts this recommendation and can confirm that the creation of the fund is currently under review as part of the Government's proposed Victim Bill.**

Theme 6: Attack on Political Opponents

Background

154. The military Junta upon seizing power set to entrench themselves and consolidate power by crushing any form of opposition by unlawfully arresting, torturing, and detaining prominent Ministers and politicians of the former government and others in the aftermath of the coup.
155. From the early days of Jammeh's administration right to the end, he oversaw a campaign to persecute members of the opposition parties to intimidate them and instil fear in the opposition and the population at large with justice sector institutions such as the Ministry of Justice, the Police and the Judiciary used to suppress and intimidate members of the opposition parties. The Public Order Act was during his regime used by the Police as a weapon to restrict and suppress the freedom of movement and association of opposition parties.
156. This trend intensified in October 1995 with massive arrests of over fifty prominent politicians and ordinary civilians. Some of the detainees were tortured at the NIA and at Fajara Barracks by personnel of the State Guard and NIA. They were subsequently detained in inhumane and degrading conditions in an old store at Fajara Barracks for over a year without following due process of the law.
157. The military Junta resigned from the Army and formed a political party in 1996. The AFPRC announced its decision to transition to civilian rule, leading to the establishment of the Alliance for Patriotic Re-Orientation and Construction (APRC). The AFPRC/APRC in a bid to win the elections at any cost, systematically suppressed political opponents. The APPRC won by a landslide in the 1996 election which many observers concluded was not free and fair.
158. The PPP, NCP and GPP were banned from contesting in the 1996 election. Prominent Gambian lawyer ANM Darboe (Ousainou) the leader of the newly formed Democratic Party (UDP) in 1996, was detained without justification before he was later released. In September 1996, supporters of the UDP were attacked at Westfield by APRC supporters and by soldiers who ambushed them at Denton

Bridge and subjected them to brutal torture in the presence of Yankuba Touray and Edward Singhatey, then Junta members. Two persons, Kebuteh Jaffuneh and a young unidentified woman died as a result of the torture, with many sustaining permanent injuries.

159. In 1997 some UDP supporters were arrested, detained and severely tortured by the NIA. One of the victims was subjected to sexualised torture, leading to a permanent dysfunction of his manhood. The Commission however, was unable to ascertain the persons responsible for this act.
160. Despite evolving from military to civilian rule, the characteristics of the AFPRC remained unaltered and ruthless attacks on the opposition continued to pervade undiminished. From 2001 to 2006, the government of Yahya Jammeh used its institutions and supporters to violate the rights of leaders of the opposition parties and their supporters. The leaders and members of the UDP lived in constant fear without much protection from the law.
161. Prominent PPP politicians were “humiliated, dehumanised, disgraced,” by soldiers to break their resolve and spirits. During their detention at Mile II Prison, the political detainees at the Remand Wing had little freedom or access to social amenities. The detention conditions were subhuman and degrading and this was a deliberate strategy to punish the detainees. The arrests and unlawful detention of former PPP ministers at the Mile II Prisons were the beginning of a much bigger plan to crush any form of opposition to the Junta’s reign. The Junta did not honour its promise of handing over power to a civilian government.
162. Almost all political parties suffered from the brunt of Jammeh’s attack against politicians. On Saturday March 31 2012 at Sabach Njaien Village in the Sabach Sanjal District, North Bank Region of The Gambia over sixty persons were arrested at the home of Hon. Ousman Touray the former Councillor and the NRP Candidate in the National Assembly. The arrests came in the wake of the National Assembly Election for Sabach Sanjal Constituency. The arrested persons both men and women, were physically assaulted and detained at Farafenni Police Station. One

of the women suffered a miscarriage in the police station and was not provided with medical attention.

163. In April 2016, the brutal crackdown against the UDP continued with top Executives of the party including its Leader, Ousainou Darboe, arrested and detained. Several other peaceful demonstrators were severely wounded by security forces led by officers from the PIU for holding a peaceful demonstration demanding to see 'Solo Sandeng dead or alive'. This was followed by the arrest of about twenty-five (25) more demonstrators on Thursday April 14, 2016. Those arrested included Fatoumatta Jawara, Fatoumatta Camara, Modou Ngum, Nogui Njie, Solo Sandeng, Kafu Bayo, and Ebrima Jabang who were protesting for electoral reforms. Some of them including Solo Sandeng were taken to the NIA where they were tortured with Solo Sandeng passing away while in custody at the NIA. Seven former senior officials of the NIA are currently being prosecuted for his death. Fatoumatta Jawara, Fatoumatta Camara and Nogui Njie were detained at the NIA for 14 days before being moved to Mile II Central Prison where they met other UDP female sympathisers including Jukuna Susso.
164. Following the arrests of the Ousainou Darboe and other prominent members of the UDP in April 2016, the "Kalama" revolution was born as women mobilised to stand against and condemn the brutality of the state. On May 9, 2016, the PIU arrested members of the "Kalama" revolution and detained them without due process of the law. The crackdown on these women was intended to crush them in the same violent manner as the April 16 incident.
165. Following a politically motivated prosecution, the UDP supporters were subsequently convicted and sentenced to imprisonment for three years for holding a demonstration without a permit among other charges. They were eventually released on bail after spending nearly eight months in prison by The Gambia Court of Appeal on December 5, 2016, pending the determination of their appeal for the three-year prison term that was handed down by the High Court in July 2016. The decision to grant bail came in the wake of former President Yahya Jammeh's election defeat to opposition coalition candidate Adama Barrow on December 2,

2016 and his surprising announcement conceding power after ruling the country for twenty-two (22) years.

166. Former President Yahya Jammeh during his rule also used the July 22nd Movement which later evolved into the Green Boys as an instrument of terror against political oppositions. Their main objective and operations were promoting Jammeh's political agenda. Some members of the Green Boys were recruited in the law enforcement agencies such as the Police, Prisons, Army and Immigration to act as spies for Jammeh and his ruling APRC party.
167. Between 1996 and 2016, opposition members were at risk of being arrested at any time without fair trial procedures being followed. Most of them were subjected to cruel, inhumane and degrading treatment and some disappeared without any trace. Often, the State denied knowing the whereabouts of these individuals who were arrested by its agents. In cases where state agents violated the rights of opposition supporters, no action was taken to punish or prevent such violations. Consequently, the State was complicit in the systemic violation of the rights of the opposition, especially members of the UDP.
168. The PIU and the NIA are responsible for the arbitrary arrests, detention, physical assaults, torture and inhumane and degrading treatment of the UDP supporters arrested in April and May 2016. The PIU brutally dispersed the protesters throwing tear gas into the crowd without warning. The protesters were arrested, manhandled with some of the women sexually assaulted.

Recommendations from the TRRC and the position of the Government:

169. The Commission, having considered the totality of the evidence, made the following recommendations:
 - (1) To prosecute Edward Singhatey and Yankuba Touray for the torture and inhumane treatment of the UDP supporters at the Denton Bridge in September 1996.

170. The Government accepts the Commission's recommendation and is committed to taking appropriate steps to ensure that those who bear the greatest responsibility for human rights violations are held accountable.

(2) To take administrative and internal disciplinary measures against Superintendent Almami Manga for unlawfully detaining an infant and her mother without a court or other lawful order.

171. The Government takes note of the recommendation of the Commission and in light of potentially exculpatory information received decides to refer the matter to the relevant authorities to carry out further investigation to determine if Superintendent Almami Manga was responsible for unlawfully detaining the mother and infant.

(3) There should be a comprehensive review of the Public Order Act by the National Assembly with a view to amending it to be in line with international human rights instruments and customary standards.

172. The Government accepts the recommendation of the Commission and will initiate a review of the Public Order Act. The Government will strengthen to the Law Reform Commission to enable a rolling review of all legislation to ensure conformity with best practice.

(4) To develop an effective training manual for the Police on crowd control and the use of force during riots and protests.

173. The Government accepts the recommendations of the Commission and will ensure training programs are developed to train security personnel on crowd control and use of force during public assemblies.

(5) Develop a training manual on crowd control and use of force by The Gambia Police Force, specifically the PIU.

174. The Government accepts the recommendations of the Commission. Working with the NHRC, the government will ensure training programs are developed to train security personnel on crowd control and use of force during riots and protests.

(6) The spirit of reconciliation anchored on social cohesion, harmony and mutual co-existence regardless of political differences should be pursued and strengthened in communities across the country.

175. The Government accepts the recommendations of the Commission and is committed to working closely with stakeholders particularly political parties, civil society and victim led groups as part of its reconciliation agenda.

(7) Consideration be given to passing of legislation to criminalise hate speech and making derogatory remarks against any ethnic group.

176. The Government accepts the recommendations of the Commission and confirms that hate speech including making derogatory remarks against any ethnic group is included in the draft Criminal Code.

Theme 7: Attack on the Media

Background

177. Every individual in The Gambia has the right to seek, receive and impart information and ideas of their choosing without interference from others - be it government, individuals, or organisations. Freedom of expression is a fundamental human right enshrined in domestic and international law, and it is a fundamental right covered in detail in Article 10 of The Universal Declaration of Human Rights. This instrument is a necessary condition for the promotion of public participation, accountability, and democracy.
178. During his reign of terror, former President Yahya Jammeh sought to remain in power by any means possible and viewed the media as a great threat to his self-perpetuating objective. He knew that in the execution of their duties to provide information to the public, the media, which is pivotal for accountability and democracy, could greatly influence public opinion. Under the pretence of a civilian and democratic rule, former President Yahya Jammeh subjected Gambian journalists and the media in general to severe human rights violations. Journalists were jailed, threatened, tortured, or killed, and some simply made to disappear without a trace - leaving families and loved ones behind and in limbo, searching and wondering about the whereabouts of their loved ones. During the Jammeh regime, freedom of expression was limited to instil fear in the hearts of Gambians and the media in general – including print, electronic, and the broadcast media.
179. There were countless targets made against journalists and media houses, including arbitrary arrests and detentions, prosecutions, imprisonments, harassments, intimidations, threats, arson attacks, disappearances, extrajudicial killings, physical attacks, closure or destruction of media houses that were critical of the regime or those that merely reported on actual events. In addition to the unlawful arrests and detentions, several non-Gambian journalists were deported; staff of Independent newspapers were targeted for arrest and detention; and there were cases of violations against women in the media such as Ndey Tapha Sosseh, a former President of The Gambia Press Union (GPU).

180. Along with these violations designed to limit freedom of speech and access to information, the Government of the day passed repressive laws designed to restrict what published media can report on – a mere exercise designed to control and influence the media. For example, the Information and Communication Act 2009 was passed to regulate information, communication, and technologies. The Act was amended in 2013 to include harsh punishments and further restrictions on freedom of expression on online platforms. In accordance with the provisions set out under the Act, spreading “false information” on the internet and “caricature” of government figures or public officials and for posts deemed “derogatory” carry a 15-year prison term or a fine of three million Dalasis (D 3,000,000), or both. Sections 46, 51, 52, 52A, 59, 178, 179, 181, 181A and 184 of the Criminal Code Cap 10 laws The Gambia provided further restrictions on freedom of expression causing Gambian journalists to voice concerns that the criminal laws of the country greatly impacted their profession and made it impossible for them to carry out their functions such as disseminating information to the public.
181. Further, the legal definition of “seditious intent” did not meet international standards and was made ambiguous to the point that a mere expression of discontent with the Government’s policies or actions was deemed seditious. During his regime, Former President Jammeh used seditious laws to arrest and detain many citizens, and to silence political opponents and critics. One example of the application of such draconian law was the case involving seven activists and journalists who were arrested and charged with treason and sedition for distributing t-shirts with the slogan “Coalition for change - The Gambia: End Dictatorship Now.”
182. The TRRC found that the testimonies of witnesses relating to the theme “Attack on Freedom of Expression and Press Freedom” has been consistent throughout. All the witnesses who testified about this theme spoke of the same incidents with a great degree of similarity. The Commission concluded that the witnesses were credible and ought to be believed. Having concluded its investigation, the Commission found that former President Yahya Jammeh’s cooperation with the media was brief upon coming into power. From the outset, he regarded freedom of

expression and of the press as a threat to his regime, refused to entertain any criticism of himself or his government and thus devised means to silence the media later.

183. Based on the evidence provided, the Commission found that over 140 arrests and detention of media practitioners were carried out during his regime, which the Commission believes illustrates a deep-seated intolerance for freedom of expression and the media. Yahya Jammeh used domestic law (the existing colonial legislation) or drafted new legislation of a draconian nature to silence and instil fear in the media and the country. For example, changes were made to relevant laws, and requirements made more stringent as in Decree Number 4 which essentially banned political expression. The aim was to make the legal requirements for registration of newspapers and/or other media platforms more difficult. These tough requirements were supported by introducing tougher fines or penalties for violations, as well as criminalising acts deemed non-criminal offences in a democratic nation.
184. The Commission revealed that some newspapers resisted former Yahya Jammeh's attempt to silence the media although they were met with harsh punishments such as Halifa Sallah and Sidia Jatta from the Foroyaa Newspaper who were arrested, detained, prosecuted, and convicted for distributing their banned newspaper. The hearings showed a consistent pattern of Yahya Jammeh's conduct and behaviour and any citizen who stated their view(s) public, or shared information that might be construed as a poor portrayal/critical of his government was deemed an enemy and needed to be dealt with.
185. The Commission found that most, if not all media practitioners arrested and detained at the NIA, a part of the Office of the President, were tortured. Acts of torture were mostly carried out by the "Junglers" deployed from State House. From the evidence, the Commission concluded that the acts of torture that were inflicted could not have happened without former President Yahya Jammeh's direct involvement. The Commission's Report went on to state that: "This consistent pattern of torture at the NIA of journalists who Yahya A.J.J Jammeh considers as

his enemies demonstrates a state or organizational policy to torture persons involved in cases that Yahya A.J.J Jammeh had an interest in.”

186. The Commission found that former President Yahya Jammeh went to great lengths to attack the media. His attack on the media included:

- the arson attacks on Radio 1 FM (causing injury to the owner) and the home of former BBC Correspondent Ebrima Sillah
- the closures of Citizen, Sud FM and Teranga radio stations
- the attacks on Ebrima Ceesay and the enforced disappearance of Ebrima Chief Manneh which demonstrates the level he would go to silence journalists and the media in general.
- The assassination of prominent journalist Deyda Hydara in 2004.
- Blocking internet access to The Freedom Online Newspaper which is based outside The Gambia and attacking known users of the site.
- The deportation of at least seven (7) journalists from The Gambia and making conditions for foreign journalists untenable that many left the country.
- The arrest and detention of journalists including Pap Saine, Alieu Badara Sowe, Bruce Asemota and others who were frequently targeted and questioned about their sources.
- Jammeh’s Government failure to genuinely investigate the criminal acts including the assassination of Deyda Hydara, and the efforts the NIA underwent to cover up the Junglers’ criminal activities including fabricating evidence by trying to tarnish the character Mr. Hydara.
- The unlawful arrest and detention of The GPU Executive (Emil Touray, Pap Saine, Sarata Jabbi, Pa Modou Faal, and Sam Sarr) following their President’s (Ndey Tapha Sosseh) letter to Yahya Jammeh requesting that he carry out a proper investigation into the death of Deyda Hydara and desist from smearing the name of the deceased.

- Yahya Jammeh’s disparaging remarks/name-calling directed at journalists with the sole intent to diminish their standing in society and pitting them against each other and the public.
- Creating or amending repressive laws to silence journalists.

Recommendations from the TRRC and the position of the Government

187. The Commission, having considered the totality of the evidence, made the following recommendations:

- (1) Former President, Yahya Jammeh should be investigated and prosecuted for the murder of Deyda Hydara, the disappearance of Chief Ebrima Manneh, the arson attacks on Radio 1 FM and The Independent newspaper and torture of all journalists and other persons mentioned in relation to the Freedom Online Newspaper issue.

188. **The Government accepts the recommendation of the Commission.**

- (2) An investigation be carried out for the purpose of prosecuting the Junglers who participated in the murder of Deyda Hydara, arson attack on Radio 1 FM, attacks on The Independent Newspaper, and torture of the journalists and other persons mentioned in relation to the Freedom Online Newspaper issue—bearing in mind any recommendations for Amnesty that may be made in relation thereto.

189. **The Government accepts the recommendation of the Commission.**

- (3) A study be carried out on the Criminal Code and the Criminal Offences Bill 2020 and the Criminal Procedure Bill 2019 – with a view to removing/repealing or amending any provisions contained in it – that

are repressive or unduly restrictive or inimical to freedom of expression and of the press in a democratic society.

190. The Government accepts the recommendation of the Commission. A review is being conducted with the view of bringing Gambian laws in line with international standards as they pertain to freedom of expression and media freedom.

(4) There should be a review of domestic laws relating to the media and carry out a comprehensive review of the regime with a view to bringing The Gambia's laws regulating the media in line with international standards and international best practice. Such a review shall include the National Media and Communication Act 2002, The Newspaper Registration and Broadcasting Act, and the Information and Communication Act 2009.

191. The Government accepts the recommendation of the Commission. Domestic laws relating to media freedom and freedom of expression in general as enshrined in Article 10 of The Universal Declaration of Human Rights will be reviewed as part of the Government's overall objective to bring Gambian laws in line with international standards as they pertain to freedom of expression and the media.

(5) The government should: a) With immediate effect, repeal all repressive legislation, including legislation that does not comply with international and regional human rights law, particularly the Information and Communication (Amendment) Act 2013 and Criminal Code (Amendment) Act 2013; being criminal libel and defamation. The Newspaper Act; and b) Take all necessary steps to ensure that all journalists are able to freely exercise their right to freedom of expression without fear of arrest, detention, intimidation, or harassment.

192. **The Government accepts the recommendation of the Commission. The Government is committed to reviewing and repealing repressive laws designed to violate press/media freedom.**

- (6) Ensure media and freedom of expression provisions contained within the Constitution comply with international standards and comply with Article 19 of the International Covenant on civil and political rights (ICCPR).

193. **The Government accepts this recommendation. The Government recognises the importance of strong constitutional protections for freedom of expression and the media, noting that work is in progress towards that attaining that objective.**

- (7) Provide comprehensive training and reform of the security sector to understand journalism and the importance of freedom of expression in a democratic government.

194. **The Government accepts the recommendation of the Commission as part of its reform of the security sector.**

- (8) Issue a standing invitation to all UN special procedures, including the Special Rapporteur on freedom of opinion and expression.

195. **The Government accepts the recommendation of the Commission.**

- (9) Finalise a comprehensive reform agenda for laws restricting media freedom and freedom of expression, in line with the recommendations of the National Media Law Committee, transparently and with the full and effective participation of civil society, and submit this to the National

Assembly without delaying the draft Media law that provides for an independent regulation.

196. . The Government accepts the recommendation of the Commission.

(10) Repeal Section 173A of the Information and Communications Act 2009 (as amended 2013).

197. The Government accepts the recommendation of the Commission. The Government notes Section 173(A) of the Information and Communication Act was repealed in 2021.

(11) Reform the Criminal Code to fully protect media freedom and freedom of expression, in particular by decriminalising sedition and defamation, ensuring that individuals' reputational interests can only be safeguarded through civil litigation, in conformity with international human rights law.

198. The Government partly accepts the recommendation of the Commission in so far as it concerns reforming the Criminal Code and safeguarding media freedom and freedom of expression; and the decriminalisation of defamation which should be a civil matter between private individuals. However, seditious laws are a necessary part of a nation's security provided they are not misused or abused by governments to curtail media freedom or freedom of speech/expression. The government will take necessary steps to providing a clearer definition on what constitutes sedition/sedition intent.

(12) Ensure media independence, including through reforms to Chapter IV of the Information and Communications Act 2009 and the repeal of the Newspaper and Broadcasting Stations Act 1994 (as amended in 2004), in particular, to ensure that broadcast content regulation is within the competence of an independent regulatory body applying standards in compliance with international human rights standards, and ensure the

establishment of an independent public service broadcaster and the transformation of the GRTS into a public service broadcaster.

199. **The Government notes that the status of GRTS is fully catered for in the 1997 Constitution through the requirement for media to provide divergent views on its platforms. The Government will task the Ministry of Information to work with GRTS to full this Constitutional mandate by providing divergent views on National Issues.**

(13) Review and reform legislation providing for government secrecy, such as the Official Secrets Act 1922, to bring it in line with international human rights standards.

200. **The Government accepts the recommendation of the Commission.**

(14) Reform or replace Decree 81 (1996) on NGOs to comply with international human rights law, particularly Article 22 of the ICCPR.

201. **The Government accepts the recommendation of the Commission as part of its overall reform on domestic law.**

(15) Harmonise national legal provisions with international standards on freedom of expression under the ICCPR inter alia by repealing section 173A of the Information and Communications Amendment Act (2013) and by amending sections 25 (4) and 209 of the Constitution.

202. **The Government accepts the recommendation of the Commission as part of its overall reform on domestic law.**

(16) Protect the right to freedom of expression by repealing the Sedition Act and the Official Secrets Act.

203. **The Government takes note of the recommendation of the Commission. The laws of The Gambia do not include a Sedition Act. Seditious offences as contained in the Criminal Code and the Official Secrets Act are necessary instruments in safeguarding State secrets and security. The Government will take the necessary steps to provide a clearer definition of what constitutes sedition/seditious intent. Furthermore, the Criminal Code amendment process is underway which will address some of the concerns raised with regards to the Official Secrets Act.**

(17) Protect freedom of expression by ensuring that all provisions of the Information and Communications Act of 2013 are brought into conformity with article 19 of the ICCPR.

204. **The Government accepts the recommendation of the Commission.**

(18) Fully implement the United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity.

205. **The Government accepts the recommendation of the Commission.**

(19) Consider libel, defamation, and media-related offences, in general, as civil, and not criminal offences, and as such, in the event of prosecution, should be The Newspaper and Broadcasting Stations Act 1944 (as amended 2004) be repealed and replaced to reflect the current trends in Information and Communication technology.

206. **The Government accepts the recommendation of the Commission. Libel and defamation between individuals are civil matters which should be dealt with by civil law.**

(20) Ensure the full implementation of the Access of the Information Act (2021).

207. The Government accepts the recommendation of the Commission.

(21) Accept in totality the submissions and recommendations on the way forward of legal position papers from Article 19 and the GPU on media law reforms in the country.

208. The Government accepts the recommendation of the Commission.

(22) Accept the November 2017 proposals of Article 19 on The Gambia: Draft Regulatory Guidelines on Media Ownership.

209. The Government accepts the recommendation of the Commission.

(23) Continue making progress in implementing ECOWAS Court of Justice decisions on ending impunity for crimes against journalists, in particular by ensuring persons responsible for the 2004 murder of Deyda Hydera, the 2006 enforced disappearance of Ebrima Manneh, and 2006 torture in custody of Musa Saidykhan, are brought to justice and implement the decision of the ECOWAS court decision of 2018 which called for the repeal of harsh media laws including sedition, insult, false news and criminal defamation.

210. The Government for the most accepts the recommendation of the Commission.

(24) Engage in comprehensive reforms to laws limiting the right to freedom of peaceful assembly to bring them into compliance with international human rights law, in particular the Public Order Act (repealing Sections

5 and 167), repealing Sections 15(A) and 72 of the Criminal Code, and the Indemnity Act.

211. The Government notes the recommendation of the Commission and will initiate a review of the Public Order Act as well as other relevant laws.

Theme 8: Attack on Religious Freedoms

Background

212. Freedom to practice any religion in The Gambia is provided for under section 25(1)(c) of the Constitution of The Republic of The Gambia, 1997. This is supported by numerous human rights laws such as the International Covenant on Civil and Political Rights (ICCPR) and Article 8 of the African Charter on Human and Peoples' Rights also known as the Banjul Charter.
213. Section 1 of the Constitution as contained in the revised edition of the Laws of The Gambia 2009 provides that The Gambia is a sovereign secular Republic, but the word secular was not originally stated in the original 1997 constitution. It was said to be included via a constitutional amendment by Act No:6 of 2001, which was challenged at the Supreme Court of The Gambia in the case of Kemesseng Jammeh vs. The Attorney General. The Supreme Court of The Gambia held that the amendment was unconstitutional as it was not done in accordance with the established procedures of amending the relevant section of the Constitution.
214. Contrary to the first Republic under the rule of Sir Dawda Jawara, the rule of former President Yahya Jammeh created an atmosphere of religious intolerance. Former President Jammeh ordered the arrest, detention and torture of Imams, Alkalos, chiefs and other leaders who he believed were challenging his authority or criticised his religious positions or beliefs.
215. Former President Yahya Jammeh used the Supreme Islamic Council on several occasions to legitimise his actions which led to gross intolerance and infringements on the religious rights of both individuals and groups who held views that conflicted with his.
216. President Jammeh issued Executive directives authorising the infringement of the rights of religious groups and communities including the Ahmadiyya Jamaat and the Ndigal Sect of Kerr Mot Ali.
217. The Supreme Islamic Council whose primary function was to mend issues amongst the Muslim population, mediate disputes and facilitate reconciliation between

disputing groups, readily accepted powers granted by former President Jammeh regardless of their legality. The Council issued bans and ordered arrests against preachers they disapproved of which included the arrests of Alhaiba Hydera, Ismaila Manjang, Ba Kawsu Fofana and Imam Baba Muhtar Leigh.

218. Former President Yahya Jammeh's decision in 2012 to execute death row inmates at the Mile 2 Central Prisons was supported by the Supreme Islamic Council who argued that the former President Jammeh had the mandate to order the implementation of the death penalty.
219. Former President Jammeh also gave instructions to the Supreme Islamic Council to monitor all sermons of preachers on the radio and television and gave them the power to require permits from anyone who wished to preach. There is no law in The Gambia which mandates the Supreme Islamic Council to issue a preacher with a licence, however the instructions from former President Jammeh gave the Supreme Islamic Council the power to establish a committee to issue and revoke licences.
220. The Supreme Islamic Council used its influence to strengthen the intolerance against the Jamaat and other groups with different views within the general public.
221. The Commission found that the honorary appointment of Former President Jammeh in the Supreme Islamic Council enabled him to dominate and dictate the actions of the Supreme Islamic Council which he used for his political gain. It was found that it is improper for the Head of State of the country to occupy a position in one of the religious bodies, especially an organisation that seemed to have a regulatory function.
222. The Commission also found that the Supreme Islamic Council's self-imposed power to register and/or ban preachers could not have been done without any legislative backing. . The authority purportedly given to the Supreme Islamic Council by former President Jammeh to ban preachers who were perceived to be preaching or espousing different beliefs was unlawful.
223. Former President Jammeh declared The Gambia an Islamic Republic and stated his intention to replace the Constitution with Sharia Law. The Commission found

that this declaration was contrary to section 1 of the 1997 Constitution which declared that The Gambia is a secular sovereign republic. As such the declaration was done unlawfully and without legitimate authority and infringed the rights of the Christian community and other religious communities in The Gambia.

224. The Commission also found that the removal of members of the Ndigal Sect from Kerr Mot Ali, who were forced to resettle in Senegal amounts to deportation. This is contrary to international human rights law and criminalised in the Rome Statute which is applicable in The Gambia.

225. The Commission found that the regime of former President Jammeh clearly operated outside the provisions of section 25(1) of the 1997 Constitution of The Gambia.

Recommendations from the TRRC and the position of the Government

226. The Commission, having considered the totality of the evidence, made the following recommendations:

- (1) Former President Yahya A.J.J. Jammeh should be prosecuted for unlawful arrests and detention and torture of Ba Kawsu Fofana, Imam Baba Leigh, Sheikh Muhideen Hydera and Alhaiba Hydera and the persecution of the Ahmadiya Jamaat, Shia Muslims and the Ndigal Sect in The Gambia.

227. **The Government accepts the recommendation of the commission.**

- (2) The government shall ensure the separation of the state and religion, but this shall not be interpreted to mean that the State cannot facilitate the free exercise of religious beliefs of the citizens.

228. **The Government accepts this recommendation. The right to exercise religious beliefs is guaranteed under sections 25 of the 1997 Constitution.**

- (3) The members of the Ndiggal Sect still living in exile in Senegal should be returned to live in Kerr Mot Ali (Gambia) and their properties returned to them. The government should enforce the judgement obtained by members of the Sect in the High Court of The Gambia.

229. The Government notes the recommendation of the TRRC with regards to the enforcement of the Judgement of The High Court of The Gambia obtained by members of the sect. While reiterating its respect for judicial pronouncements the Government notes that prior reconciliation and social cohesion activities are essential as a precursor to the comprehensive implementation of the Judgment.

- (4) The Government should establish a Peace Committee for Kerr Mot Ali comprising of all relevant stakeholders including the National Human Rights Commission whose mandate would be to negotiate the resettlement of the exiled residents and restoration of peace and religious co-existence in Kerr Mot Ali with all the relevant stakeholders and National Human Rights Commission.

230. The Government accepts the recommendation of the commission and will take the necessary steps to establish the proposed Peace Committee consisting of traditional leaders, religious leaders, the Ministry of Local Government, Lands and Religious Affairs and other relevant stakeholders.

- (5) Establish civic education in all educational institutions in The Gambia to teach the importance of religious tolerance and social cohesion.

231. The Government accepts the recommendation of the Commission and will work closely with the Ministry of Basic and Secondary Education and the National Human Rights Commission to review school curricula/modules on religious education provided in public schools to integrate religious tolerance and social cohesion. The Government through the Ministry of

Education will also engage and encourage private schools to equally integrate religious tolerance and social cohesion into their curricula.

- (6) Undertake a study of how the Supreme Islamic Council could be reformed and remodelled under a proper legal framework to be more useful in Gambian society considering its potential to carry out regulatory and other useful functions.

232. The Government notes its position and will forward the recommendation to the Supreme Islamic Council.

- (7) Make it a rule that the Head of State shall not hold any substantive or honorary position in the Supreme Islamic Council, religious body or religious order.

233. The Government accepts the recommendation of the Commission.

- (8) Establish an interfaith consultative body that will be mandated to carry out activities that will help strengthen religious tolerance and social cohesion

The Government accepts the recommendation and notes that structures are already in place.

Theme 9: The Junglers - Unlawful Killings, Tortures and Other Human Rights Violations

Background

234. The 22-year rule of Former President Yahya Jammeh was characterised by mass human rights violation ranging from enforced disappearances, torture, unlawful killings, and arbitrary arrests and detention. Human rights violations were carried out systematically pursuant to a state orchestrated policy, to deliberately silence any form of dissent or threat to Jammeh's rule by the state security apparatus including the NIA, police, and the military.
235. Under the 1997 Constitution of The Gambia, the President is the Commander in Chief of The Gambian Armed Forces comprising the Navy, Air Force and such other services established by statute. Their principal functions are to defend the sovereignty and territorial integrity of The Gambia, aid civil authorities during emergencies and national disasters and engage in productive activities that are of interest to the livelihood of Gambians. The army is required to uphold fundamental rights and freedoms of all individuals.
236. However, to entrench himself in power, former President Yahya Jammeh created a special group within the army, without any legal basis for its operations and with the sole task of repressing anyone considered a critic or a threat to his administration. As the architect of the Junglers, former President Jammeh gave the group a command structure within the State Guard Battalion and made State House their Headquarters giving him greater control over their activities.
237. This secret group of soldiers were loyal to former President Jammeh and carried out all his orders without question. Their operations were generally covert in nature, and they worked directly under the control and supervision of Jammeh through intermediary commanders such as Tumbul Tamba. On the orders of Yahya Jammeh, they carried out extra-judicial killings, arbitrary arrests, and acts of torture with total disregard for the functions of the armed forces to defend and not oppress

the people. Their existence was an open secret in the army and were avoided by senior members of the army implicitly giving them an additional air of invincibility to commit grievous human rights violations with impunity.

238. The group was first referred to as the “Patrol Team” and later “Junglers” due to the military jungler training most members of the group underwent. In 2006, the activities of the group became public, due to their atrocious acts such as the arson attack on the Independent Newspaper. They then became known as “Black Black”, derived from their dark mode of dressing during operations. The group was amorphous with fluid membership and at one point was comprised of nearly 40 personnel drawn from the President’s Guards Unit of the Army.
239. The Junglers caused widespread fear and anxiety amongst Gambians which made it easy for dictatorship to flourish allowing former President Yahya Jammeh to violate human rights with absolute impunity. This emboldened him to make a statement on the State broadcaster that he would personally supervise the killing of anyone who destabilised the country.
240. The Commission found that most victims of the Junglers fall under three categories. There were those perceived by former President Jammeh as security threats; vocal critics of former President Yahya Jammeh who challenged and condemned his self-perpetuating rhetoric and violation of human rights; business and close associates who fell out of favour with Yahya Jammeh.
241. The Commission found that Dawda Nyassi was killed on the orders of Yahya Jammeh after he was picked up at Serrekunda by Tumbul Tamba, Sanna Manjang, Alieu Jeng and Malick Jatta. All four Junglers participated in his unlawful killing.
242. The Commission found the NIA handed over Ndongo Mboob to the Junglers (Tumbul Tamba, Solo Bojang, Sanna Manjang, Alieu Jeng and Malick Jatta) who

took him to Bunubor Gardens where he was killed him. The Commission found Ndongo Mboob was killed due to differences he had with former President Yahya Jammeh. The fact that no investigation was conducted into his whereabouts following his disappearance shows that former President Yahya Jammeh intended for his disappearance to remain unknown.

243. Lawyer Ousman Sillah defended Baba Jobe when he was prosecuted after Baba Jobe had fallen out with Yahya Jammeh. Lawyer Sillah was a critic of Yahya Jammeh accusing him of wanting to entrench himself in power. The Commission found Yahya Jammeh ordered the junglers to kill Lawyer Sillah. He however survived the attempt on his life.
244. The Commission found that Deyda Hydara was a veteran journalist who had a column “Good morning, Mr. President” in the Point Newspaper and was regarded by former President Yahya Jammeh as one of his most ardent critics. The Commission found that the Killing of Deyda Hydara by the Jungerlers was ordered by former President Yahya Jammeh. The operation was conducted by two groups of junglers, one headed by Tumbul Tamba and another by Kawsu Camara (Bombardier) who ambushed Mr. Hydara at Kanifing in December 2004 and shot him. Mr. Hydara died from the gunshot wounds and two of his staff members sustained serious injuries.
245. The Commission found that Haruna Jammeh and Jasaja Kujabi, brother and cousin respectively of Yahya Jammeh who Jammeh fell out with as he believed the duo planned to kill him to take over his properties. The Commission found Yahya Jammeh ordered the junglers to kill the two. Tumbul Tamba, Solo Bojang, Sanna Manjang, Omar Jallow (Oya) and Alieu Jeng organised and executed the order by killing both Haruna Jammeh and Jasaja Kujabi and dumping their bodies in a well belonging to Solo Bojang where he disposed of the corpses.
246. The Commission found that Daba Marenah, Alpha Bah, Ebou Lowe, Alieu Ceesay, Manlafi Corr, Masi Jammeh (sister to President Jammeh), and a lady named Julia

were killed sometime in early 2006 by Tumbul Tamba and other Junglers on the orders of Yahya Jammeh.

247. Daba Marenah and his three male colleagues were suspected of being involved in the failed Ndure Cham coup. Masi Jammeh was killed for trying to obtain information from Yahya Jammeh on the whereabouts of her brother, Haruna Jammeh. Julia is suspected to be one of the West African migrants (Julia Maku) who was not killed together with the other male African migrants in July 2005.
248. The Commission found that following the unlawful killing of Daba Marenah and his colleagues, Yahya Jammeh caused a false press release to be released which attempted to mislead the Gambian people by suggesting that they escaped following a car accident while being transported to Janjanbureh Prison.
249. The Commission found Yahya Jammeh ordered the junglers to kill Ceesay Bujiling as he believed Ceesay needed to eat a very high-profile person to prove his mettle following his selection as Chief wizard (“Buwa Mansa”) so Jammeh decided to kill Ceesay out of fear that Ceesay may kill him.
250. Ebou Jobe and Mamut Ceesay were two Gambian Americans who visited The Gambia in 2013 and were arrested by the Junglers on the instructions of Yahya Jammeh as he believed they wanted to overthrow his government. The Commission found that on the orders of Jammeh they were arrested in Brusubi and taken to Kanilai where they were killed, mutilated, and buried in a single grave in Jammeh’s farm in Kanilai. Their remains have not been found despite excavation in the area identified as their grave.
251. The Commission found Tumani Jallow and Abdoulaye Gaye were apprehended by the Junglers at different places on the orders of Yahya Jammeh and unlawfully killed with their graves suspected to be in Santaba. Tumani Jallow was believed to be one of the soldiers who attacked the APRC headquarters in Kanifing and burnt the voters cards found there which were allegedly intended to be used by non-

Gambians to bolster Yahya Jammeh's votes in the 2016 election. Abdoulie Gaye was believed to be an informant of Pa Nderry Mbai of the Freedom Newspaper.

252. The Commission found that on 28 October 2011, Baba Jobe was strangled to death by the Junglers whilst sleeping on his hospital bed at the EFSTH. Baba Jobe had completed his prison term and was due for release having been imprisoned for several years following disputes between him and Yahya Jammeh which led to his prosecution for economic crimes and conviction. The Commission found that Jammeh did not want Baba Jobe to leave prison, so he ordered for his unlawful killing.
253. The Commission found former President Yahya Jammeh ordered the Junglers to kill Former CDS Ndure Cham after a former close aide of his led the Junglers to his hideout in Farafenni. He was apprehended having been on the run following coup accusations against Jammeh.
254. The Commission found Yahya Jammeh ordered for the killing of Ello Jallow who was believed to have been having an affair with the former First Lady Zeinab Jammeh. Ello Jallow was lured by Bora Colley a Jungler to meet him and upon his arrival was apprehended by the Junglers and killed after which he was placed in his vehicle and pushed over the bridge at Old Cape Road around Bakau to make it appear he had an accident.
255. The Commission found that on the instructions of Yahya Jammeh, Mustapha Colley, a former soldier was killed by the Junglers and placed in his taxi to make it appear he died a natural death in his car. It was revealed Yahya Jammeh specifically instructed the Junglers to make the death appear like that of Ello Jallow. After being killed, his car was driven from Kololi to Sukuta Jabang road, and he was placed in the driver's seat.
256. The Commission found Jammeh ordered the killing of Sulayman Ndow and Mahawa Cham having learnt that they were planning to overthrow his government. He used former Gambian mercenaries in Liberia (Swandi Camara and Lau Jarjue) who worked for him as government agents to lure Sulayman Ndow and Mahawa

Cham into Casamance and with the assistance of a Senegalese military intelligence officer the two were arrested by the Junglers, returned to The Gambia where they were unlawfully killed, and buried in Jammeh's farm in Kanilai.

257. The Commission found that Mariama Camara and Alpha Jallow were killed at Hamza Barracks. There were speculations surrounding their death with some suggesting they committed suicide. Whilst others said they were killed by the Junglers on the orders of Yahya Jammeh to hide an illicit relationship he had with Mariama who had gotten pregnant. The Commission however could not reach a conclusion on how the two died.
258. The Commission found that over sixty-seven (67) West African migrants arrived on Gambian shores on July 22, 2005, to meet their Gambian agent Lamin Tunkara who was to facilitate their travel to Spain. Upon their arrival in The Gambia, they were apprehended by Gambian security officers in Barra and sent to Banjul where they were received at the Marine Unit by senior security officers some of whom referred to the group as mercenaries and Kawsu Camara (Bombardier) assaulted a few. The group was later detained at different locations: Kairaba Station, Bundung Station, Baba Jobe's house and the PIU. The Commission found that on the orders of Yahya Jammeh, they were unlawfully killed in groups at different locations within The Gambia and areas around the Gambian border with the Casamance region of Senegal. Yahya Jammeh then ordered a major campaign to destroy and fabricate evidence contained in the police diaries and misled the UN/ECOWAS Investigation Team sent to The Gambia to investigate the issue.
259. The Commission found that Yahya Jammeh ordered nine (9) death row inmates convicted of capital crimes to be executed. There were allegations that they were executed as some form of human sacrifice by Jammeh. Though sentenced to death by a court, Yahya Jammeh and then Minister of Justice Lamin Jobarteh (Babadinding) did not follow due process to ensure that the executions were carried out in accordance with the law.

260. The Commission found that individuals arrested in connection with the 2006 Ndure Cham coup, the 2009 alleged Lang Tombong Tamba coup, the alleged Lalo Jaiteh coup and the Freedom Online Newspaper saga were all subjected to acts of torture by the Junglers at the NIA premises. These acts of torture were intended to punish the suspected coupists and to improperly obtain incriminatory evidence to secure their conviction either in civilian courts or military courts.

Recommendations from the TRRC and the position of the Government:

261. The Commission, having considered the totality of the evidence, made the following recommendations:

- (1) Prosecute Yahya Jammeh for the crimes referred to in this report and impose a life-ban on him from holding public office.

262. **Government accepts the recommendations of the Commission. The Supreme Court in the Yankuba Touray v The State immunity case has settled the issue of immunity with the effect that Yahya Jammeh cannot benefit from the immunity provisions of the Constitution for the crimes he stands accused of.**

- (2) Prosecution of all the Junglers and other persons listed for their complicity in crimes referred to in this report subject to the grant of amnesty that the Amnesty Committee may recommend

263. **The Government accepts the recommendation of the Commission. The government takes note of the report of the Amnesty Committee on the granting of immunity however immunity is not applicable to those who bear the greatest responsibility for the human rights violations during the period in question and for crimes against humanity.**

- (3) Introduce a mandatory course for all soldiers on Human rights and on the role of the military in a democratic society.

264. The Government accepts the recommendation of the Commission. A course will be designed in consultation with The Gambia National Army and the National Human Rights Commission and incorporated into the training curricula of the GAF with refresher training provided for in-service officers.

(4) Put in place a mechanism to identify the burial sites of victims, exhume their remains and conduct their proper identification with a view to handing them over to their families for proper burial.

265. The Government accepts the recommendation of the Commission and will seek to collaborate with partners for the creation of a central forensic laboratory for the exhumation process and to develop the capacity of personnel as there currently is insufficient capacity to carry out this exercise effectively. Furthermore, the Ministry of Justice will establish a Special Prosecutors Office with full investigative powers. Detailed prosecutions strategy, operating procedures and guidelines will be developed.

(5) Conduct further investigations into the killings of Mariama Camara and Alpha Jallow with a view to prosecuting those found responsible.

266. The Government accepts the recommendation of the Commission and will refer this case to the Special Prosecutor's Office that is to be established.

(6) Locate Solo Bojang and secure his cooperation in identifying the burial sites.

267. The Government accepts the recommendation of the Commission. The soon to be established Special Prosecutors Office will seek international mutual legal assistance to locate Solo Bojang as well as other perpetrators and ensure their cooperation in the identification the burial sites of missing persons.

Theme 10: The President's Alternative Treatment Programme

Background

268. The President's Alternative Treatment Programme was an alternative medicine treatment programme initiated and advocated by former President Yahya Jammeh – who claimed he could cure HIV/AIDS and other ailments.
269. In January 2007, former President Yahya Jammeh announced to the world that he had received a “mandate from God” to create a cure for HIV/AIDS. This cure was in the form of a herbal treatment. To the shock of the world and the scientific community who have tried for years to find a cure for HIV/AIDS without success, Jammeh went on to claim that he came across this cure from 7 herbs found in the Qur'an. Following his extraordinary claims, he established The Presidential Alternative Treatment Programme (PATP) – which was a fraudulent and bogus treatment with no scientific rigour behind it, coupled with his expansive claims that he could cure the virus within 3 days. Many people living with HIV/AIDS joined his programme.
270. The Commission held hearings on the theme of the President's Alternative Treatment Programme to investigate Yahya Jammeh's extraordinary and dubious claims, and the treatment received by his patients. The scope of this theme was for the Commission to investigate whether the former President had violated any human rights during his delivery of that treatment.
271. To assist the Commission with its understanding of HIV/AIDS containment, management of the health of those living with the virus, the utilisation of this alternative treatment on people, and its effectiveness thereof, the Commission heard from leading experts in HIV/AIDS, doctors, and laboratory technicians. Some of the experts who provided testimonies before the Commission included Dr. Assan Jaye, Dr. Tamsir Mbowe, Dr. Malick Njie, Dr. Mariatou Jallow and Dr. Adama Ahmadou Sallah. Some of these medical practitioners were accomplices to Yahya Jammeh's bogus treatment.

272. There is a stigma associated with HIV/AIDS in The Gambia. People are also sometimes discriminated against due to their positive HIV/AIDS status. As such, the Commission found it difficult to get witnesses to testify publicly or even privately. For the confidentiality of witnesses living with HIV/AIDS, those who have not publicly disclosed their HIV status are assigned a code rather than named.
273. Having concluded its investigation, the Commission found that former President Yahya Jammeh is neither a trained or certified medical doctor nor a trained or certified herbalist. He does not hold qualifications or academic credentials in either profession, and his alternative treatment program was a mere sham. His program was unproven and found to be fraudulent, and a direct abuse of power. Working in cahoot with his enablers, he conscripted innocent victims living with HIV/AIDS into his program and gambled with their lives by instructing them to stop taking antiretroviral drugs. Many of his patients who stopped taking the drug following his instructions later died.
274. The Commission concluded that not only did the former President refused to accept criticism of his fraudulent and bogus treatment, he utilised his dictatorial powers on any one bold enough to question the ethics and legitimacy of his bogus treatment and fraudulently diverted resources to his bogus treatment rather than investing in the country's HIV/AIDS prevention and response program. Former President Yahya Jammeh knew or later realised that his treatment did not work. Accordingly, he "assented" to the HIV/AIDS Prevention and Control Act 2015, on 2 April 2015. His treatment violated the procedures and guidelines stated therein relating to procedures, patient's consent, privacy, and medical confidentiality.
275. The Commission held that Yahya Jammeh forced people living with HIV to partake in his treatment program. He further adopted coercive and intimidating tactics, forcing his victims to give false statements in favour of his treatment – i.e., that they have been cured and or that their CD4 cell count has risen immensely. It also held that the first batch of patients conscripted to Yahya Jammeh bogus treatment never consented to the treatment. They were forced by Yahya Jammeh using the dictatorial powers he had bestowed upon himself. Patients who subsequently and

willingly joined the program were not sufficiently informed of the risks, thereby giving them the opportunity to have informed opinions and determine whether to consent or not.

276. The Commission further held that Yahya Jammeh's patients suffered numerous violations which included false imprisonment. Their mobility was severely restricted; they were denied visits from loved ones, and were constantly under the guard of State Agents.
277. Some of the participants were sexually abused by Yahya Jammeh and members of the PATP team. The former President sexually assaulted patients by massaging his bogus herbal concoctions on patients' private parts which disregarded patients' right to dignity and privacy.
278. The Commission found that patients were subjected to cruel, inhuman and degrading treatment and their right to privacy was violated. Patients' names, HIV/AIDS status, faces, and CD4 count results were broadcast on national television without their consent or approval. Patients' right to health were violated as the former President's alternative treatment stopped them from taking life-saving antiretroviral drugs and septrin, thereby causing HIV patients to develop full-blown AIDS. Patients admitted to the PATP in 2011 were also denied the right to vote; they were kept in isolation and prevented from voting.
279. Yahya Jammeh was found to have accused some of his PATP patients of being witches and wizards who tried to sabotage his bogus AIDS treatment. As punishment, they were left to suffer, neglected, and kept in isolation. Yahya Jammeh's bogus HIV/AIDS treatment did not only endanger the lives of many living with HIV/AIDS but also caused the deaths of many on the program. Patients were exploited and subjected to forced labour by Yahya Jammeh working on his cashew and rice farm without remuneration.
280. Furthermore, the Commission found that Yahya Jammeh admitted two children to his fraudulent and bogus PATP thereby violating the Convention on the Rights of the Child. He was also found to have used force to administer his concoction on at

least one child – resulting in the child’s critical illness and urgent need for hospitalisation.

281. The Commission found Dr. Tamsir Mbowe, who endorsed the bogus treatment causing loss of life to be an accomplice of Yahya Jammeh and his dangerous treatment. As a medical practitioner, he failed in his duty to uphold the standards and ethics prerequisites in his profession.
282. Ansumana Jammeh (and a fellow accomplice) was found to have endangered the lives of patients by purporting to be curing them of HIV/AIDS despite knowing that he had no proof or scientific basis to rely on confirming the effectiveness of the treatment other than Yahya Jammeh’s directions. Like Yahya Jammeh, Ansumana was not a qualified doctor or herbalist.
283. Dr. Mariatou Jallow, then Director of Medical Health Services, was found by the Commission to have administered the bogus concoction to innocent victims on at least two occasions – both under Yahya Jammeh’s direction. Notwithstanding her part in Jammeh’s fraudulent and dangerous program, neither the participants nor the Commission adversely mentioned her as being part of the PATP or informed patients that they would be cured.
284. Dr. Malick Njie, Director of Medical Health Services and Minister of Health at the time, during the early stages participated in this dubious programme under Jammeh’s directions. Notwithstanding his part in Jammeh’s fraudulent and dangerous programme, neither the participants nor the Commission adversely mentioned him as being one of those who administered the bogus concoction on them. He also was found not to have informed patients that they would be cured by Jammeh’s concoction.

Recommendations from the TRRC and the position of the Government

285. The Commission, having considered the totality of the evidence, made the following recommendations:

- (1) Charge and prosecute former President Yahya Jammeh and Dr Tamsir Mbowe with murder for intentionally and knowingly causing the death of People Living With HIV/AIDS (PLHIV), who were conscripted in the sham PATP and deprived of life-saving treatment.

286. The Government takes note of this recommendation but is of the view that the evidence led before the Commission was not sufficient enough to establish that former President Yahya Jammeh and Dr. Tamsir Mbowe had intended to cause the death of the patients. The availability of such direct evidence of intent will be crucial in sustaining a charge of murder. The Government directs the relevant authorities to conduct further investigation and for President Yahya Jammeh and Dr Tamsir Mbowe to be dealt with according to law based on the outcome of the investigations.

- (2) Prosecute Yahya Jammeh and Dr Tamsir Mbowe for negligence causing deaths of PLHIV who took part in the programme who were deprived from lifesaving treatment.

287. The Government accepts this recommendation.

- (3) Prosecute Yahya Jammeh and Dr Tamsir Mbowe for the inhumane and degrading treatment meted out on PLHIV that took part in the treatment programme.

280. The Government accepts this recommendation.

- (4) Prosecute Yayha Jammeh for admitting children into the PATP in violation of the provisions of the Children's Act 2005 and the Convention on the Rights of the Child.

281. The Government accepts the recommendation of the Commission.

- (5) Revoke Dr Tamsir Mbowe's practising licence indefinitely for failing to honour the medical code of conduct and for the role he played in the fake PATP.

282. The government accepts the recommendation and refers the matter to the Medical and Dental Council which is the relevant institution with the authority to take disciplinary measures against medical practitioners. The Government notes that the Medical and Dental Council's Code of Conduct is currently under review and will work with the relevant stakeholders to support sensitisation on the Code.

(6) Ban Ansumana Jammeh from holding any position in the government at all levels and in any capacity.

283. The Government accepts this recommendation. The Government further notes that the Ansumana Jammeh under reference here is distinct from and ought not to be mistaken with the now deceased brother of the former President.

(7) Strengthen existing regulations on the use of herbal medical products through the effective enforcement of the Medicines and Related Products Act, 2014.

284. The Government accepts this recommendation and is committed to strengthening the legal framework guiding the use of herbal medicinal products and the effective enforcement of the Medicines and Related Products Act 2014 and the Medicines and Related Products Regulations 2020. The Government through the Ministry of Health will also renew its efforts to collaborate with relevant stakeholders to sensitise the public on the dangers of unregulated herbal medicine.

(8) Ensure access to treatment, care and health services for PLHIV.

285. The Government accepts the recommendation of the Commission and confirms that programmes to ensure access to treatment, care and health services for PLHIV are currently being implemented within the framework of the national AIDS strategy. The Government is also committed to taking necessary steps to ensure the strengthening of these programmes.

- (9) Train all healthcare workers in The Gambia on HIV/AIDS stigma and discrimination and protecting the right to privacy and confidentiality of people living with HIV/AIDS, human rights and medical ethics in the context of HIV.

286. Government accepts this recommendation and remains committed to strengthening national policies and procedures to promote confidentiality and address discrimination and stigma faced by PLHIV/AIDS. It is worth noting that The HIV and Aids Prevention and Control Act 2015 makes provisions to protect the rights of PLHIV. The National AIDs Secretariat under the Ministry of Health provides training to healthcare personnel on stigma and discrimination and protecting the right to privacy and confidentiality of people living with HIV/AIDS which the government will continue to support.

- (10) Increase access to HIV testing services countrywide

287. The Government accepts the recommendation of the Commission and will continue to strengthen and increase where necessary testing services across the country.

- (11) Strengthen the Ethics for Health care providers.

288. The Government accepts this recommendation and is committed to working with the relevant health care professional bodies to review the healthcare-related regulations which include the Medical Control Agency Act and The Pharmacy Act and undertake the necessary reform.

- (12) Impose penalties, criminal or otherwise, on healthcare workers that disclose the status of people living with HIV/ AIDS to anyone, including family members, without obtaining the prior informed consent of the PLHIV.

289. The Government accepts this recommendation whilst noting that s. 21 of The HIV and AIDS Prevention and Control Act 2015 protects the privacy of PLHIV.

(13) Ensure Media Practitioners uphold the standard for reporting on persons living with HIV/ AIDS.

290. The Government accepts this recommendation whilst noting that s. 21 of The HIV and AIDS Prevention and Control Act 2015t protects the privacy of PLHIV.

(14) Impose penalties, criminal or otherwise, on journalists who disclose the HIV status of a person living with HIV/AIDS to the public without the prior informed consent of the people living with HIV/AIDS.

291. The Government accepts this recommendation whilst noting that The HIV and AIDS Prevention and Control Act 2015 protects the privacy of PLHIV.

(15) Support People living with HIV/AIDS

292. The Government accepts this recommendation of the Commission and is committed to strengthening support services for PLHIV including strengthening the National Aids Secretariat and increasing counselling and testing services across the country.

(16) Recognize support groups of people living with HIV/AIDS as an integral part of the public health system and include budgetary support for people living with HIV/AIDS-led support groups within their healthcare budgets

293. The Government takes note of the importance of strengthening support services for PLHIV and will work closely with the National AIDS Secretariat and other relevant stakeholders in ensuring that people PLHIV have access to treatment, care and support. Furthermore, the Government commits to supporting the medical expenses for PLHIV however to support these

groups fully will be difficult to implement bearing in mind Government's numerous national development obligations.

(17) Put in place a system of social safety nets to protect the right to education and welfare of people living with HIV/AIDS

294. The Government accepts this recommendation and notes that it is in line with the HIV and AIDS Prevention and Control Act 2015.

(18) Provide free primary and secondary school education and other support for children orphaned by HIV.

295. The Government accepts the recommendation of the Commission and notes that it is in line with the national HIV Policy guidelines 2014-2020. The Policy is currently being reviewed and updated. The Government will also work with relevant stakeholders to sensitise the public on this.

(19) 19. Strengthen mechanisms and procedures on ways to discipline medical personnel who violate the rules and regulations governing the conduct of medical practitioners Medical and Dental Health Association/MoH Consultations with Medical and Dental Health Association and MoH.

296. The Government accepts the recommendation of the Commission. The Government will support the ongoing review of the Medical and Dental Act and will work with the Medical and Dental Council to take into consideration the failures highlighted by the Commission's report.

(20) Review the regulatory framework to identify inadequacies that enabled doctors and medical assistants to participate and endorse the bogus program

297. The Government accepts the recommendation of the Commission. The Government confirms that review of the Medical and Dental Act is ongoing and will work with the Medical and Dental Council to take into consideration the failures highlighted by the Commission's report.

Theme 11: Sexual and Gender Based Violence

Background

298. Widespread sexual and gender-based violence (SGBV) characterized Yahya Jammeh's twenty-two (22)-year rule as President of The Gambia. Sexual violence was often perpetrated either as the main objective of certain human rights violations or it was used as an instrument of repression, torture and punishment. Across The Gambia, women were disproportionately affected by violations including sexual violence, other forms of torture, cruel, inhumane and degrading treatment, arbitrary arrests, detention and forced labour.
299. Amongst the incidents examined by the Commission include (i) the sexual violence and abuse of participants of scholarship pageants and "protocol girls"; (ii) rape and sexualized torture by state security officials of male and female detainees; (iii) violations committed as part of the of the witch hunt exercises and (iv) sexual violence during "the Presidential Alternative Treatment Program" (PATP). These violations were perpetrated mainly by security agents and former government officials. The Commission received credible evidence that Yahya Jammeh himself committed some of the most egregious violations against women and girls through a "sophisticated system" using state institutions and resources.
300. Worldwide, under reporting of sexual violence remains a phenomenon, but the shroud of secrecy surrounding sexual violence in The Gambia at this time was exacerbated by fear of the Jammeh regime's brutal suppression of dissent and impunity for violators. As Professor Abdoulaye Saine testified, "fear and a so-called "culture of silence" enveloped the entire country and ordinary citizens were not spared Jammeh's wrath". Impunity was the order of the day, particularly for sexual and gender-based violence, during the Jammeh regime.
301. The Commission heard testimony after testimony about the impact of these crimes – about the trauma, shame and misery that scores of women and girls have had to live with for so many years. Through its work, the experiences of

Gambian women and the abuse that they were subjected to have been made visible and must continue to remain so until perpetrators are held to account.

302. The Commission found that SGBV was committed throughout the mandated period under review. Violations included rape, sexual exploitation, sexual assault, and sexual harassment. The Commission also found that sexual violence also accompanied other violations. Sexual violence was used to repress, punish, intimidate, humiliate and ill-treat men and women who were opposed to or perceived as being opposed to Yahya Jammeh or his Alliance for Patriotic Reorientation and Construction (APRC) party. Members and perceived supporters of the United Democratic Party (UDP) and their family members were frequently targeted for arrest, detention and sexual violence. The Commission received evidence that at least one victim who rejected Yahya Jammeh's sexual advances and proposals for marriage was raped. The Commission found that sexualized violations, forced nudity and rape were adopted as organisational policy of the former regime.
303. The Commission found that former President Yahya Jammeh and other senior government officials (including senior security officials and government ministers) subjected women and girls to a range of sexual violence including rape, sexual assault, sexual harassment and sexual exploitation, with impunity. These powerful men took advantage of their positions of authority, the vulnerability of the women and girls and the climate of fear that they themselves created to commit these violations. Sexual violence was committed in various places including in private homes and in public locations including at the State House of the Republic of The Gambia, the Residence of Yahya Jammeh in Kanilai, Yahya Jammeh's farms in Kanilai, at the premises of the National Intelligence Agency (NIA) Headquarters, at Mile II Prison and at the Fajara Army Barracks.
304. The Commission's findings revealed that men, women and girls were victims of SGBV. Men were victims most often in detention settings and during interrogations. The Commission also found that victims ranged from all age groups, including children, older women and men. There was an organisational

policy at the NIA to strip male or female detainees naked especially in cases where detainees were arrested for their perceived opposition to Yahya Jammeh.

305. Women and girls faced systemic discrimination in public and private spheres despite reforms to policies, applicable laws, enactments of women-centric legislations and ratification of key international instruments during the mandated period. The Commission found that through the application of customary laws and patriarchal norms, women faced discrimination when it came to their right to own land, inheritance rights and their status in judicial processes. Victims most often did not report the violations due to fear of reprisal, having nowhere to report since the perpetrators were from the security agencies and sometimes highest-ranking State Officials. These victims also did not have access to medical care or psychological support.
306. The culture of fear that existed under the Jammeh regime and the cultural and social norms in Gambia's patriarchal society suffocated the rights of women and girls to their detriment and silenced the crimes they were subjected to. Sexual violence was not reported due to the stigma and shame that accompanies disclosure and the pressure to place family honour at the centre and above one's own suffering. Access to justice was absent in the repressive Jammeh regime for sexual violence committed by the Head of State and senior government officials.
307. The information and evidence received by the Commission underscore the reality that The Gambia is particularly afflicted by the widespread lack of knowledge and understanding of SGBV, which means that such violations and crimes are not properly identified, prevented, managed and/or subject to effective accountability. This has led to widespread impunity and horrifying incidents of SGBV against all genders and age groups, particularly girls. Furthermore, the various complaints mechanisms such as police stations, health facilities, social welfare, child protection alliance and various civil society organisations and the legal system are faced with serious challenges ranging from:

- i. the lack of sufficiently trained personnel (psycho-social/ counselling officers, police officers, lawyers and judges);
- ii. limited or no psycho-social or counselling support; lack of privacy and confidentiality; inadequate infrastructure;
- iii. lack of gender-sensitive approach to investigating and prosecuting such crimes at various levels of the legal process from the police station to the court-room;
- iv. victims being forced to constantly relive the same traumatising narrative at each stage of the process;
- v. limited/ no shelters to provide temporary safe havens for victims, particularly when they live with their alleged perpetrators; slow and inadequate investigations;
- vi. inadequate/ improper collection of forensic evidence when available; and lengthy court cases.

308. The TRRC's proceedings contributed to breaking the silence and taboo around SGBV matters and created conversations as most witness testified on the sexual torture they suffered and the expert witness elaborated and emphasized on SGBV in their testimonies. Unfortunately, some victims did not testify before the TRRC. The hearings revealed that there is the need to adequately and effectively address SGBV in The Gambia which requires a transformative, multi-sectoral and holistic approach that combines continuous and focused public sensitisation campaigns, training and capacity-building of law enforcement. Discussions about SGBV should be part of the broader conversations in our communities, schools, and homes.

Recommendations from the TRRC and the position of the Government:

309. The Commission, having considered the totality of the evidence, made the following recommendations:

- (1) Prosecute former President Yahya A.J.J. Jammeh for the rape of Fatou Jallow (Toufa) and Protected witness DB18 and for ordering the Junglers to rape FB17 and for his role in other forms of SGBV.

310. **The Government accepts the recommendation of the Commission.**

- (2) Prosecute Ousman Sonko for the rape of Binta Jamba, 15-year-old girl in Lamin Daranka and Protected Witness F and the harassment of 5 Female Prison Officers of The Gambia Prison Services.

311. **The Government accepts the recommendation of the Commission. The Government further notes that Ousman Sonko is currently in pre-trial custody in Switzerland. The Gambia recognizes the efforts and collaboration of the Swiss authorities but notwithstanding reserves its rights to invoke its jurisdiction as necessary.**

- (3) Prosecute General Solo Bojang and Captain Saihou Jallow for their roles as superior officers in directing and supervising the witch hunting exercise during which SGBV occurred.

312. **The Government accepts the recommendation of the Commission.**

- (4) Make tangible efforts to identify Badgie, a PIU officer implicated by Sainabou Camara and accused of torturing, including on her genitals, during the April 2000 student demonstrations with the view to prosecuting him for the crime should he fail to meet the requirements that would qualify him for amnesty

313. **The Government accepts the recommendation and is committed to taking all relevant measures to ensure that perpetrators of sexual and gender-based violence are brought to justice. A Special Prosecution Unit will be**

set up at the Ministry of Justice to investigate and prosecute cases from the TRRC.

- (5) Prosecute Foday Barry, Baba Saho, Kawsu Camara (Bombardier), Alagie Martin, Solo Bojang and Sheikh Omar Jeng for the multiple crimes they committed including the sexualized tortures they carried out.

314. The Government accepts the recommendation of the Commission.

- (6) Not to prosecute Yankuba Colley, Lang Tombong Tamba and Momodou Hydera for the violations under this theme as they did not appear to have control over the events that were happening at the NIA in March 2006.

315. The Government accepts the recommendation of the Commission.

- (7) Ban David Colley from taking up a government appointed position for 5 years for his roles investigated under this theme.

316. The Government accepts the recommendation of the Commission.

- (8) Provide and run, through the Department of Social Welfare, facilities such as one-stop centres with more trained staff and adequate facilities to receive and assist victims.

317. The Government accepts the recommendation of the Commission. The Government notes that a number of these centres already exist and will work with relevant stakeholders to strengthen existing centres and gradually set up new centres across the country especially in communities with higher prevalence rates of SGBV cases to increase coverage of the service and ensure that victims of SGBV receive the necessary support. Additionally, the provision of psychosocial services and support (PSS) shall be prioritised for victims of SGBV.

- (9) Ensure sufficient funding to the Child Protection Unit [Gender and Child Protection Unit] build capacity of the staff, construct a separate structure that will reflect the new trend, hire experts such as psychologists,

interpreters, social workers, and allocate vehicles and fuel to enable the unit to embark on sensitization at all times to prevent SGBV Crimes.

318. The Government accepts the recommendation of the Commission. The Government is committed to enhancing the broader capacities of actors that work with children and recognizes that other than the Police, a number of justice sector institutions have similar needs and would therefore strengthen coordination between these institutions to be able to respond to cases of SGBV in a more holistic manner.

(10) Establish a mechanism to implement a Victim Support Fund in compliance with its obligations (e.g. Section 9, of the Domestic Violence Act 2013 establishes the Domestic Violence Support Fund);

319. The Government accepts the recommendation of the Commission and confirms that it is currently in the Process of drafting a Victim's Bill. The Ministry of Justice has made a call for position papers from all relevant stakeholders on the bill. The Victims Bill being drafted will take into account government's outstanding obligations contained in domestic legislation including the Victim Support Fund as provided by the Domestic Violence Act 2013.

(11) Establish proper and functioning safe spaces and shelters for victims of SGBV, especially female victims.

320. The Government accepts the recommendation of the Commission and will through the Ministry of Gender, Children and Social Welfare continue to collaborate with relevant actors including civil society organisations and development partners to establish and strengthen safe spaces for victims of SGBV especially female victims.

(12) Strengthen already existing safe spaces, and increase within the greater Banjul area and decentralize into regions.

321. **The Government accepts the recommendation of the Commission and is committed to using a holistic approach to addressing SGBV whilst safeguarding the rights of victims of SGBV.**

(13) Utilise and equip the government run shelter at Bakoteh

322. **The Government accepts the recommendation of the Commission and is committed to ensuring the provision of comprehensive and adequate services for SGBV victims.**

(14) Make it mandatory for all institutions including private and civil society to put in place sexual abuse and harassment policies in place as required by the Women's Act 2010 and the National Women's Policy.

323. **The Government accepts the recommendation of the Commission and can confirm that a draft Policy to address sexual abuse and harassment in the workplace developed by the NHRC in collaboration with relevant stakeholders exist. Government is committed to taking the necessary measures for the policy to be adopted and enforced by both private and public institutions in consultation with the Ministry of Gender, Children and Social Welfare, PMO, GCCI and other stakeholders. The government is further committed to fully implementing the provisions of the Women's Act 2010.**

(15) Expand the One Stop Centre approach for the management of SGBV;

324. **The Government accepts the recommendation of the Commission on providing comprehensive services for the management of SGBV cases.**

(16) Improve on the reporting mechanism by introducing a toll-free hotline which is accessible to all

325. **The Government accepts the recommendation of the Commission. The government notes that a toll-free hotline already exists and will work with stakeholders to strengthen the service and increase awareness of its existence.**

- (17) Include in the security sector reform thorough education of law enforcement officials in dealing with SGBV cases
326. **The Government accepts the recommendation of the Commission. The government as part of the security sector reform will continue to build the capacity of security sector personnel in dealing with cases of SGBV to avoid re victimisation.**
- (18) Enforce institutional policy and laws of the land regardless of who is involved MOI/MOJ/Judiciary Internal consultations
327. **The Government accepts the recommendation of the Commission. The Government is committed to the enforcement of all laws and will strengthen national institutions to promote accountability and creation of safe spaces for victims to report violations. Government will continue to develop the capacity of law enforcement officials, expand channels for reporting and promote a culture of reporting.**
- (19) Provide funding for key and strategic units of law enforcement agencies to ensure timely response and investigation of reported cases
328. **The Government accepts the recommendation the Commission and is committed to fulfilling its legal obligations in responding to human rights violations. Government will continue to prioritise and strengthen holistic measures and strategies to enable timely and effective response and investigation of reported cases of all violations of human rights and especially SGBV by providing financial resources, developing policies, protocols and SOPS and raising awareness.**
- (20) Provide, where possible, subvention to key CSOs working in the area of sexual violence
329. **The Government notes the recommendation of the Commission. Government acknowledges the key role civil society has played over the years and continues to play in addressing SGBV in The Gambia. However**

due to numerous competing national priorities and limited State resources, at present the Government is unable to commit to providing subventions to CSOs but would continue to collaborate with civil society in addressing SGBV and support resource mobilisation initiatives of CSOs.

(21) Ensure special focus on research, education, and training in building capacities and expanding support to the communities that need assistance while targeting behavioural change.

330. The Government accepts the recommendation of the Commission. The Government recognizes that SGBV is widely prevalent in The Gambia and many acts that constitute SGBV are not seen as violations due to the patriarchal nature of the society which accepts discrimination against women and girls and shames male victims of SGBV into silence. Government commits to investing more on research, education, training and behavioural change communication to address SGBV particularly for vulnerable communities.

(22) Consider partnering with agencies in researching this area and setting up a program in social work where people could study to become licensed clinical social workers

331. The Government accepts the Commission's recommendations.

(23) Provide continued education and training for law enforcement and the justice system on the right based framework to development and better documentation of cases.

332. The Government accepts the recommendation of the Commission. Law enforcement officers have a critical role to play in preventing and responding to SGBV however without the required capacity, they risk secondary victimising and re-traumatising victims of SGBV. The Gambia has a number of international human rights obligations and extensive legal framework to prevent and address SGBV but these can only be effectively implemented if duty bearers have the capacity and attitudes towards

addressing this phenomenon. Government is committed to implementing this recommendation as part of its institutional reform process.

(24) Establish in Police Stations friendly spaces for persons that have suffered SGBV

333. The Government accepts the recommendation of the Commission and will work with relevant actors to ensure the realisation of this recommendation especially in areas where SGBV is prevalent. However, bearing in mind the limited spaces at most police stations, the Government in consultation with civil society and other relevant actors would explore other appropriate alternatives for interviews of SGBV victims to be conducted, for example at one stop centres.

(25) Police stations to have sexual harassment policies in place even though officers are free to report cases of such when it occurs and they deem it necessary to do so.

334. The Government accepts the recommendation of the Commission. The Government is committed to addressing sexual gender-based violations in all settings in The Gambia and will take necessary measures to ensure peaceful enjoyment of rights by all individuals especially vulnerable and marginalized groups.

(26) Build capacity through training; funding; SOPs; policies – e.g. prevention; re: internal cases; internal sexual harassment policy and independent complaints mechanism.

335. The Government accepts the recommendation and is committed to addressing SGBV in a comprehensive and holistic manner working with relevant stakeholders.

(27) Police Stations to keep Special diaries (not the general Station dairy) to ensure confidentiality of cases (use of codes)

336. **The Government accepts the recommendation of the Commission. It will take steps to build the human and material capacity of the Police and other state actors to respond to cases of SGBV in a sensitive and victim-centred manner. The need to expand on the existing station diaries and review the possibility of introducing electronic diaries is well noted. Government is committed to implementing this recommendation using a staggered approach targeting the major police stations and eventually expanding to all other police stations in the country.**

(28) Ensure and put in law systems and structures for the enforcement of laws that protect the rights of women, such as the Women's Act 2010 and the Sexual Offences Act 2013 so as to ensure that the violations that happened in the past do not recur

337. **The Government accepts the recommendation of the Commission. The Government reiterates its strong commitment to the protection of the rights of women and girls in The Gambia. Under the leadership of the Ministry of Gender, Children and Social Welfare, the Government will intensify its efforts in strengthening the implementation of existing laws and policies. Furthermore, the Government calls upon the National Human Rights Commission as an independent body to set up and lead a multi-sectoral SGBV working group that periodically investigates, promotes, reports and monitors state institutions' implementation of laws that protect women.**

(29) Educate and sensitise all relevant government institutions and the Gambian people in general about their rights and responsibilities and on sexual and gender-based violence through community-based outreach activities, civic education, and women's empowerment initiatives (government and civil society organizations)

338. **The Government accepts the recommendation of the Commission. Gender inequalities and sexual and gender based violation has no place in The Gambia as they limit women and girls' enjoyment of their basic human rights and slow down the country's growth and development. The country**

will not develop fully if over half of its population is discriminated against. Women contribute to the country's economy and play a vital role in all spheres of life in The Gambia. The Government will prioritise the implementation of the National Action Plan on SGBV to ensure that women are empowered to live full and dignified free from abuse, discrimination and violence.

Theme 12: President's Witch-Hunt Exercise

Background

339. Former President Jammeh launched a nationwide witch hunt between 2008 to 2009 where victims were unceremoniously identified as witches or wizards, forcefully detained by the “witch hunters” and security personnel, and removed from the security and privacy of their offices, homes and communities to unknown destinations.
340. The witch-hunting exercise was conducted in Kanilai, Sintet, Jambur, Essau, Barra, Mankumnaya, Galoya including villages in Foni and expanded to government institutions.
341. The “witch-doctors” believed to be from Guinea Conakry or Mali were escorted and assisted by members of the Gambia Armed Forces (GAF), members of the Police Intervention Unit (PIU), the paramilitary wing of the Police, conventional police officers in some villages and the Green Boys and Girls and some villages were accompanied by Alkalos, residents and APRC supporters.
342. Due to Former President Jammeh's strong belief in superstition and supernatural activities, the first witch-hunting exercise was conducted in Kanilia following the death of Former President Jammeh's Aunt which he attributed to witchcraft. Some testimonies also revealed that the witch hunt exercise was politically motivated.
343. The witch hunt exercises conducted at the Gambia Police Force (GPF) were sanctioned by Former President Jammeh and done to ensure the loyalty of the police and to defeat the opposition of ranks through employing tactics of fear, intimidation and humiliation throughout the exercise. Similar witch-hunting exercises were also subsequently held in the military barracks and the NIA Headquarters.
344. From testimonies received it was also gathered that the witch-hunt was used to persecute personal enemies and execute personal vendettas against individuals

with impunity as seen in Sintet where the Alkalo was targeted and Jambur, which was considered an opposition territory.

345. The non-institutional witch-hunting exercises generally targeted older persons and less privileged members of society, detained against their will for several days. These victims were forced to drink bitter or unpleasant herbal concoctions thought to be sourced from “Kubejera” and “Talo” a local hallucinogenic plant identified as toxic to the body.
346. The witch hunt exercise in Sintet, Makumbaya, Jambur, and Essau was similar in nature and pattern in terms of how victims were forcefully abducted and treated including the devastating effects of the exercise. However, victims in Essau included pregnant women, nursing mothers and children. Victims, including women, were forced to bathe in a repulsive herbal concoction whilst nude or semi-naked under humiliating and sexually abusive circumstances.
347. To instill fear and ensure full compliance with witch-hunting exercises, victims were, threatened, exposed to guns and ammunition, beaten, tortured, and subjected to inhuman and degrading conditions including the deprivation of food, medical, and attention.
348. The Commission found that at least one of the victims of the witch-hunting exercise was raped while other victims died or suffered from serious illnesses and other negative effects such as nausea, unconsciousness, hallucinations, intoxication, diarrhoea and exhibiting strange behaviors following their release.
349. The Commission found that some officers at the GPF HQ Banjul were forcibly requested to undress and were subjected to personal body and office searches. During this process, several individuals were identified as witches and wizards including Yahya Darboe, Wuday Ceesay and Yusupha Saine and were assembled and required to drink and bathe in a witchcraft cleansing ritual or be dismissed

350. The Commission found that the impact of the witch hunt exercise had devastating effects on victims with some suffering from deteriorating health, loss of memory and mental health issues due to the shame and stigma of being identified as a witch or wizard.
351. The Commission found that the incident continues to have a serious impact on the lives and livelihood of victims and their families. Many victims also lost their means of earning a living because they were no longer fit to work. They were forced to spend the little money they had on medical treatment despite it failing to alleviate their suffering
352. The Commission found that Former President Jammeh, Solo Bojang, the security forces, witch hunters and Green Boys are all individually and collectively responsible for ordering the persecution, arbitrary arrest and detention, torture, inhumane and degrading and sexual gender-based violence treatment of hundreds of persons, leading to about forty-one (41) deaths during the 2009 witch-hunting exercise. The Commission found the former president responsible for the forced labour of several people in the Fonis and other areas in his home village Kanilai.
353. The Commission also found the following individuals responsible for their role in the witch-hunts; Saihou Jallow for his unlawful assault and torture of Lamin Ceesay and his role in witchhunts in Essau and Barra. Ensa Badjie for his role in the Banjul, Police force witch hunts. Omar Jawo a senior member of the police in the North Bank Region for his participation in the witch hunts including the unlawful arrest torture among others of Lamin Ceesay of many people which has led to the death of 40 people including others. Tamsir Bah the OC of Sibanor Police Station in 2009 for the unlawful arrest and detention of Nyima Jarju, and her mother-in-law Fatou Bojang 2009 during the Sintet Witch Hunt.

Recommendations from the TRRC and the position of the Government:

354. Based on the evidence gathered, the Commission recommends the following: -
- (1) The prosecution of Yahya Jammeh, Solo Bojang and Saikou Jallow for the murder, manslaughter of forty-one (41) individuals (Jamburr (18), Sintet (13), Makumbuya (2), and Essau (8) who died as a result of being targeted and forced to drink toxic concoctions which resulted in all the deaths.
355. **The Government accepts the findings of the Commission.**
- (2) Prosecution of Yahya Jammeh, Solo Bojang, Ensa Badjie, Tambajiro, Saikou Jallow, Omar Jawo for the inhumane and degrading treatment and torture inflicted on the victims during the witch hunting exercise.
356. **The Government accepts the findings of the Commission.**
- (3) The referral of Tamsir Bah to The Gambia Police Force high command for disciplinary measure for his role in the unlawful arrest and detention of Nyima Jarju, her baby and her mother-in-law Fatou Bojang in 2009 during the Sintet Witch Hunting exercise.
357. **The Government accepts the findings of the Commission. The case will be referred to Gambia police for disciplinary action in line with its internal disciplinary procedures.**
- (4) Ensa Badjie, Omar Jawo [and] should be banned from serving in the security services or holding any public office in the civil service or government in general.
358. **The Government accepts the findings of the Commission.**
- (5) Consideration be given to passing of legislation to criminalise labelling individuals as witches because of the societal stigma attached to it.

359. **The Government accepts the findings of the Commission and will take necessary steps to ensure the offence of labelling individuals as witches and wizards is criminalised under the Criminal Offences Bill currently before the parliament for review.**

(6) Training of security personnel to be able to know and appreciate the negative impact of witchcraft in society and how damaging it is to persons being accused of being witches/ wizards.

360. **The Government partially accepts the Commission's recommendations. The Government notes that security personnel were not solely responsible for perpetrating the witch hunt as these also included a section of the public. The Government will not only conduct training for the security personnel but also work with the National Council for Civic Education (NCCE), CSOs, religious leaders and community heads to spread awareness and sensitisations on the negative impact of branding individuals as witches and wizards.**

(7) The National Council for Civic Education (NCCE), Ministry of Basic and Secondary Education (MOBSE) and Civil Society Organizations engage in advocacy and awareness programmes to sensitize the public and local communities to change the mindset and attitudes regarding the stigma attached to Witch Craft so as to remove negative impacts against persons accused of being witches, wizards and witchcraft.

361. **The Government accepts the recommendations of the commission and will seek to collaborate with such institutions mentioned including CSO's and the National Human Rights Commission to create awareness of and change mind-sets and attitudes regarding the stigma of persons accused of witchcraft.**

(8) That guideline be provided to prevent security forces being used to carry out unlawful orders.

362. **The Government accepts the recommendations of the Commission and will take the necessary steps to introduce or strengthen existing guidelines regulating the operations of security forces to ensure they are not used to carry out unlawful orders.**

Theme 13: Enforced Disappearances.

Background

363. Between July 1994 to January 2017, many Gambians and non-Gambians disappeared without any explanation or were extra-judicially killed. The Government of The Gambia failed to investigate the disappearances and refused to disclose any information to the families of those who disappeared.
364. The International Convention for the protection of All Persons from Enforced Disappearance defined “Enforced Disappearance” as the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State; followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person.
365. Officials from the office of the Inspector General of Police, the National Intelligence Agency (NIA), the Military, the Prisons and the National Drug Law Enforcement Agency (NDLEA) arrested and detained individuals which led to their disappearance. They were made to disappear in secret ways which prevented their family members of knowing of their fate and whereabouts.
366. Following the 11th of November 1994 alleged attempted coup, the Junta members killed several people including Lieutenant Basiru Barrow, Sergeant Fafa Nyang, Lieutenant Abdoulie Dot Faal, Lieutenant Bakary Manneh (Nyancho), Lieutenant Gibril Saye, 2nd Lieutenant Momodou Lamin Darboe, Cadet Officer Amadou Sillah and many others. The families of those killed were not informed of their burials and had no access the dead bodies.
367. The Commission received evidence that before their execution the arrested soldiers were stripped naked, tortured, humiliated and executed in various locations and, then their bodies disposed in mass graves at Yundum Barracks in total violation of the law.

368. Following their executions, the Government of The Gambia failed to take any steps to establish the nature, causes and magnitude of the incident. No individuals were arrested or prosecuted for their actions.
369. On the 20th of January 2000 following reports of another attempted coup, Lieutenant Almamo Manneh was shot and killed by soldiers. The Commission held that he was set up by Ousman Sonko who called him under false pretences and was killed by Musa Jammeh.
370. Over the course of Jammeh's regime, several other disappearances took place. The said disappearances include that of Dawda Nyassi, Ceesay Bujiling Mamut Ceesay and Ebou Jobe, Ndongo Mboob, Modou Lamin Kujabi (Jasaja), Tumani Jallow and Abdoulie Gaye, Lamin Tunkara and the West Africa Migrants. The Commission received evidence that 9 Nigerians were part of the West African migrants however their fate was not established.
371. Haruna Jammeh was detained for several months at the National Intelligence Agency and then killed in Kanilai where his body was dumped in a well where the bodies of the Ghanaians migrants were dumped.
372. Daba Marena, Ebou Lowe, Alieu Ceesay, Alpha Bah, Manlafi Corr, Masireh Jammeh and Julia were arrested following suspicion that they were plotting a coup. They were all killed and their bodies dumped in a well. On the 6th of April 2006, the Government of The Gambia issued a press release stating that the said persons whilst been transported to Janjanbureh Prison were involved in a car accident during which the men escaped.
373. The Commission visited several areas and held that the former President Jammeh had used his personal properties as burial places for his victims. Most of the burials of the disappeared persons during the Jammeh regime were done at Military Barracks, state-protected areas, at former President Jammeh's farms or near the border with neighbouring Senegal. However, it was noted that the areas were difficult to identify even by those who did the operation. It was also found that the thickness of the forest and vegetation cover made the identification of the specific areas difficult.

374. The Commission also found evidence that the Junglers were operating under the orders of the former President Jammeh who used enforced disappearance to neutralize his critics and perceived enemies.
375. The Ghanaian Foreign Minister at that time did an investigation of the killings of the West African Migrants and managed to secure the release of three Ghanaians. The Gambian government also created a panel to investigate the 8 dead bodies found in Brufut.
376. A joint investigation was conducted by the UN- ECOWAS Mission and a task force was created to help the UN- ECOWAS Mission. The Commission held that there is a need to further investigate the fate and whereabouts of Bubai Sanyang, Kanyi Ba Kanyi, Momodou Lamin Nyassi and Chief Ebrima Manneh which cases they held to be unresolved cases.
377. The Commission found that the former President Jammeh caused the enforced disappearance of all those who were detained tortured and/or killed by the Junglers.
378. The Commission received evidence suggesting that Yahya Jammeh had disappeared babies. However, the Commission was unable to fully investigate these allegations to establish the veracity of these claims. The Commission noted that there is a lack of knowledge amongst the security forces and those working in the justice sector about the phenomenon of enforced disappearances and recognizing how it may be used by the state to silence critics and dissenters.

Recommendations from the TRRC and the position of the Government

379. The Commission, having considered the totality of the evidence, made the following recommendations
- (1) Prosecute Yayha Jammeh and the Junglers for the unlawful disappearances and killing of the victims.

380. **The government accepts the recommendation of the Commission concerning the prosecution of Former President Jammeh and Junglers for the unlawful disappearances and killings. The Government notes that Enforced Disappearance is not a distinct criminal offence under our laws and will work towards its criminalisation. The Government further notes that Yahya Jammeh and some of the Jugulars can be tried for crimes against humanity under the special judicial framework to be set up for prosecution of offences emanating from the Commission's Report.**

- (2) Set up a task force to inquire and investigate the fate and whereabouts of persons who remain missing and the whereabouts of those who have been found to be killed but their whereabouts still remain unknown and other persons who are missing but have not been reported to the Commission.

381. **The Government accepts the recommendation of the Commission on the need to set up a task force to inquire and investigate the fate and whereabouts of the missing persons to ensure the families and loved ones of the victims get the much-desired closure they deserve. As an immediate step, the Government will work towards identifying and preserving suspected burial sites. To ensure adequate resources and expertise are in place, the Government will seek to collaborate with and galvanise support from victim countries such as Ghana and Senegal, development partners and institutions such as the International Committee of the Red Cross (ICRC) for the proper investigations of missing persons whose fates are unknown and search of burial sites, identification, and excavation of the said missing persons determined to have been killed. The Government also takes note of the recommendation from the Working Group on Enforced Disappearances including:**

- (a) **Ensuring the preservation of the sites and the protection of the chain of custody of the samples taken, reinforcing the forensic**

capacity of the investigators, the prosecutors and the judiciary and ensuring that they have adequate resources.

(b) Adopting a comprehensive strategy and plan for the search for and the identification, excavation and proper investigation of existing burial sites and the identification of new ones.

(c) Adopt legislation which makes provision for the issuance of “Certificates of Absence” to the families of victims of enforced disappearance.

(d) Developing a gender-sensitive policy and action plan to provide support and rehabilitation for families of forcibly disappeared persons, including specific measures to support families of disappeared persons whose death is confirmed through the truth-seeking processes.

(3) To provide training to security and justice sector personnel on the phenomenon of and the illegality of enforced disappearance.

382. The Government accepts the recommendation of the Commission and seeks to work closely with the National Human Rights Commission, CSO’s such as ANEKED and other development partners to provide training to the justice and security personnel on the illegality of enforced disappearances. The Government will intensify its efforts through the Ministry of Justice to accelerate the domestication of the International Convention for the Protection of All Persons from Enforced Disappearance ratified in 2018 to ensure a national legal framework is in place to protect against enforced disappearances.

(4) The establishment of a taskforce comprising of seasoned investigators, medical personnel, social welfare officers and forensic experts and wildlife officers to investigate allegations of:

- i) Missing babies (the identities of these babies, circumstances of their disappearance and where they disappeared to and by whom)
- ii) The disposal of the bodies and whereabouts.
- iii) To investigate the crocodile ponds in Kanilai in order to determine whether babies and other human remains were disposed or dumped there

383. The Government accepts the recommendation of the Commission concerning the need to set up a task force to ascertain the identity of the missing babies and investigate their fate and whereabouts. The Government will work closely with development partners and institutions such as the International Commission on Missing Persons (ICMP) to ensure adequate resources and expertise are available for the search and identification of burial sites including the crocodile pond in Kanilai, and excavation of the said missing babies alleged to have been killed. The Government will work towards putting in place the necessary cooperation frameworks with the Government of Senegal with regards to those burial sites that are suspected to be located across the southern border in Senegalese territory.

Theme 14: The Killing of the West African Migrants

Background

384. On 22 July 2005, over sixty-seven economic migrants (including 50 Ghanaians, 7 Nigerians, 2 Senegalese, 3 Ivoirians, and 2 Togolese) entered The Gambia hoping to get to Europe via the Atlantic Ocean and the Mediterranean Sea. They were advised by their agents to travel to The Gambia where a boat would be on standby to transport them to Europe. However, upon arrival, their agent/smuggler abandoned them. Many of the migrants were subsequently detained, perceived as mercenaries, arrested, and executed by Gambian State Agents comprised of the Marine Unit, Police officers from the now defunct National Intelligence Agency (NIA), and the Junglers. The execution site was by an old well.
385. On 23 July 2005, dead bodies were discovered in a forest at the Tanji Bird Reserve towards Tanji Village. The discoveries were reported to the Police by a passer-by.
386. Following local and international outcry from human rights activities/groups, and the Ghanaian Foreign Minister at the time Nana Akufo Addo's meeting with President Yahya Jammeh, and his press statement on 16 August 2005, an investigation was launched in 2005 to investigate the killings of the West African migrants. The investigation panel was headed by Malamin Cessay, a former Commissioner of the Gambian Police Force. However, the investigation was blighted with falsehoods, cover-ups, and destruction of evidence.
387. Having conducted its investigation, the Commission found that the accounts provided by the witnesses relating to the arrests, enforced disappearances, and extrajudicial killings of the West African migrants in July 2005, and on Gambia soil, was consistent throughout and ought to be believed. The victims were economic migrants hoping to get to Europe via The Gambia, but were perceived as mercenaries by former President Yahya Jammeh's regime.
388. The Commission found that on 21 July 2005, the West African migrants and victims, many of whom were from Ghana travelled on a boat from Mbour in

Senegal and arrived near Barra in The Gambia on the morning of 22 July 2005. At least 5 or 7 migrants jumped off the boat, swam to the shore, and entered Banjul. The remaining migrants attempted to contact their agent without success. They were subsequently arrested by Police officers when they tried to find a boat that would take them to Banjul to join their connecting boat to Europe. The migrants were arrested without being informed of the reason for their arrest and taken to Barra Police Station. The migrants were transferred from Barra Police Station to the Navy Headquarters in Banjul. A large number of high-ranking officials were present at the Navy Headquarters that night, and included Biran Mbye (Police Operations Commander); Assan Sarr (former Navy Commander); Abou Njie (Deputy Inspector General of Police); Ngorr Secka; Foday Barry; Baba Saho; Saddy Gassama; as well as other senior NIA officials and Jungler Kawsu Camara (nicknamed Bombardier). Many of these officials would subsequently go on to participate in the cover-up of the massacre.

389. This incident coincided with the 22 July “Revolution Day” celebrations and while attending the celebrations in Banjul with other senior officials, President Jammeh was informed about the migrants’ apprehension. Yahya Jammeh, whose previous attempted coup against his regime left him paranoid, dealt with coupists brutally as a way of deterring others from launching coups against his government. With his history of paranoia, the Commission concluded that when he was informed about the migrants onshore, a sense of “fear and paranoia about a new possible coup gripped him, leading him to make a rushed decision, believing that the migrants were mercenaries or coup-plotters” – which the Commission believes “led him to give direct orders to the Junglers to summarily execute the defenceless harmless migrants.”

390. As attested by multiple witnesses who testified before the Commission, there was nothing in the appearances or behaviour of the migrants which suggested or might have suggested that they were something else other than migrants. The Commission asserts that, even if they were criminals or broke Gambian law in any way or form, due process should have been adhered to. Despite being

economic migrants, the Commission affirms that former President Yahya Jammeh, in his fear and paranoia, backed by State Agents under his command, already made up their minds and the migrants were extrajudicially executed.

391. The Commission's investigations revealed that the migrants were brutally tortured at the Navy Headquarters when additional officers and members of the Marine Unit, Police, the NIA, and Junglers arrived on site. They were later tied up with ropes, forced onto two pickup trucks and transported to a forest about two kilometres away from Yahya Jammeh's residence in Kanilai. The Junglers included Solo Bojang, Malick Jatta, and Sanna Manjang. The Commission found evidence substantiating the fact that Solo Bojang was in regular contact with President Yahya Jammeh that night, and was ordered by the President to execute the migrants.
392. The Commission found that when the pickup truck transporting the migrants stopped in the forest, Martin Kyere, the only Ghanaian migrant that survived the massacre managed to escape by jumping off the back of the truck and making a run for it. The other migrants however did not survive as they were shot alternatively by the Junglers and pushed into a well. After their heinous act, they returned to Kanilai and President Jammeh was briefed by a Jungler as to what had taken place.
393. The Commission found that on 23 July 2005, the bodies of eight migrants were discovered near Brufut village and the Tanji Bird Reserve and reported to the Police. Many witnesses testified that they found blood coming from the mouths, noses, and ears of the migrants when their bodies were found. Further, their skulls were fractured, and they had facial injuries consistent with hacking.
394. Acting under the instructions of their Commander, two police officers from Ghana Town Police Station tried to conceal the evidence and buried two of the bodies at the Tanji Bird Reserve without investigating the identities of the victims and their cause of death. At the hearing, the Commission obtained evidence that two Ghanaian migrants escaped and sought refuge at Ghana Town near Brufut but

were turned over to the Police by local leaders. The two escapees have not been heard from since.

395. The Commission learnt that the migrant who escaped reported the matter to the Ghanaian authorities. Following that report, Ghanaian authorities wrote to the Gambian authorities requesting a joint investigation. Despite accepting Ghana's offer for a joint investigation, Gambian authorities set out to covertly conceal the evidence before the arrival of their Ghanaian counterparts. The Commission found that: "This was calculated and deliberate to mislead and conceal evidence so as to exculpate the culpability of Jammeh's regime."
396. The brutal killing of the West African migrants caused national and international outcry, and a demand for justice and accountability for the victims. The Commission found that, not only did the State sanction the gruesome execution of victims, but it also went to great lengths to cover it up including destruction of evidence such as the police diaries of the Police Stations where the victims were taken to and detained prior to their gruesome execution.
397. The Gambian authorities set up an investigation panel in 2005 however, the Commission found that the investigation panel was not interested in investigating the incident properly and bringing the killers to justice. Instead, it was a sham whose brief was to conceal evidence and refute Martin Kyere's account that the victims were massacred following his return to Ghana. In his testimony before the Commission, Malamin Cessay confessed that he presided and directly participated in that sham and deceptive investigation, as well as fabricated the panel's report that came from the investigation. Malamin Cessay admitted to the Commission that "it was all part of a collective and massive state-wide campaign aimed to cover-up and exonerate Yahya Jammeh's regime from its responsibility for these brutal killings."
398. Based on the evidence received by the Commission, the Commission concluded that the national task force was created solely to hamper the ECOWAS/UN investigation by deliberately misleading them. That former President Yahya Jammeh was responsible for the extrajudicial killings, enforced disappearance,

and torture of the West African economic migrants. The Commission concludes that, in July 2005, President Jammeh gave the Junglers the direct orders to summarily execute the migrants. Further, the Commission holds Yahya Jammeh responsible for the subsequent mass cover-up designed solely to exonerate him for these heinous crimes.

Recommendations from the TRRC and the position of the Government

399. The Commission, having considered the totality of the evidence, made the following recommendations

(1) Yahya Jammeh and his enablers and accomplices be prosecuted for their roles in the unlawful killings of the West African Migrants and the cover up of these killings. These enablers and accomplices include the following:

- (i) Yahya Jammeh
- (ii) Ousman Sonko
- (iii) Solo Bojang
- (iv) Malick Jatta (Alfidie)
- (v) Sanna Manjang
- (vi) Kawsu Camara (Bombardier)
- (vii) Tumbul Tamba
- (viii) Bai Lowe
- (ix) Nuha Badjie
- (x) Landing Tamba
- (xi) Alieu Jeng
- (xii) Omar A. Jallow (Oya)
- (xiii) Buboucarr Jallow
- (xiv) Lamin Sillah

400. **The Government accepts this recommendation.**

(2) Yankuba Sonko and Malamin Ceesay be banned from holding public office with the Gambia government for ten (10) years for their roles in covering up of the killings of the West African migrants.

401. **The Government partially accepts this recommendation and refers it for further investigation in light of potentially exculpatory evidencing submitted in favour of Yankuba Sonko.**

(3) Establish an international joint investigation team (Joint Forensic Investigation Team) based in The Gambia, which will comprise forensic investigators and scientists from The Gambia, Ghana, Senegal and Nigeria, with the relevant skills, training and background to carry out the following tasks:

- (i) To without delay identify the exact locations where the victims were buried, including the wells and graves mentioned by the witnesses that are located in both The Gambia and also in Cassamance, Senegal.
- (ii) Take all reasonable steps to ensure the security and full protection of all the sites where the remains were buried and yet to be exhumed for the purposes of protecting the human remains therein and from tampering with the evidence.
- (iii) Be given the mandate to exhume and conserve the remains of the victims that may be found in those wells or graves.
- (iv) Be given the full cooperation of the Gambian authorities, including full access to all documentary, testimonial and physical information and evidence in their possession that the Joint Forensic Investigation Team deems relevant to the inquiry;
- (v) The Government of The Gambia to undertake without delay the steps, measures and arrangements necessary for the speedy establishment and full functioning of the Joint Forensic

Investigation Team, including recruiting impartial and experienced staff with relevant skills and expertise.

(vi) The Government of the Gambia to establish procedures for carrying out the activities of the Joint Forensic Investigation Team taking into account the Gambia's relevant laws and judicial procedures

402. **The Government notes this recommendation but notes further the need for all investigative bodies to fall under the authority and direction of the central investigative unit to be created within the framework of the special structures to be put in place for the purposes of prosecutions. The Government shall set up a special investigations unit which shall be headed by a lead investigator with the requisite expertise in the investigation of crimes of a magnitude and severity such as those committed under the regime of former President Jammeh. The Government shall work with partners such as Justice Rapid Response and the International Commission on Missing Persons to set up an effective forensic investigation team with a mix of local and international expertise, within the framework of the special investigative mechanism.**

(4) Provide training to the members of the security forces on the relevance of ECOWAS human rights instruments and their applicability.

403. **The Government accepts the recommendations of the Commission. The Government notes that this forms part of ongoing Security Sector Reform process however it will also work closely with the National Human Rights Commission and other international human rights bodies to ensure regular training for security forces on human rights.**

(5) Put in place modern mechanisms, procedures and facilities for all security institutions to ensure that all vital data and information collected by the police in the course of investigations are properly maintained and preserved.

404. **The Government accepts the recommendation of the Commission. The Government notes that the preservation of investigation related information is crucial to the justice process and for accountability. The Government will work with the National Records Services as part of the ongoing work on electronic record management to institutionalise the modern forms of record keeping for the police as well training of security personnel on the accurate collection, documentation and preservation of data obtained in the course of investigations.**

Theme 15: Institutional Hearings: National Intelligence Agency (NIA)

Background

405. After the military coup d'état of 22 July 1994, former President Yahya Jammeh's military Junta adopted several draconian laws to curtail human rights and freedoms. In essence, that was the beginning of the military government's plan to rule by fear and remain in power. To achieve their goal, Decree No. 13 was passed on 3 November 1994 to establish the National Intelligence Agency (NIA) – replacing the ousted democratically elected President Sir Dawda Kairaba Jawara's National Security Service (NSS) whose brief was mainly intelligence gathering and state security. Decree No. 13 was repealed by Decree No.45 on 29 June 1995 which outlines the functions of the NIA and gave it enormous powers including powers formerly exercised by the police—to investigate and intervene in matters of private nature and those relating to national security. Section 1(a) provides the NIA powers to “obtain and provide the government with information relating to actions or intentions of persons which may be a threat to state security.” Section 1(a), along with other provisions laid out in Decree No. 45 gave the NIA unlimited powers, and Section 3(a) to (f) changed its function as an intelligence gathering Agency to an institution working for and on behalf of Yahya Jammeh—which President Jammeh could utilise to deprive Gambians of their rights and freedoms.
406. After Gambia's transition from military to democratic rule in 1997, Section 7(c) of the new Gambia Constitution enacted in 1997 absorbed all the decrees which were passed by Yahya Jammeh's Armed Forces Provisional Ruling Council (AFPRC) as part and parcel of Gambian law. In essence, this meant that all the powers that were conferred to AFPRC council members under Decree No. 45 was now vested on former President Yahya Jammeh alone as provided in Section 191, subsection 1 which states:

“There shall be a National Intelligence Agency which shall be under the command of the President.”

407. The NIA was divided into several Units during its designation as the NSS – including the Counter Espionage Unit; Political and Dissidents Unit; Economic Sabotage Unit; External Security Unit; and the Operations Room. Following its transformation into the NIA, an Investigation Unit was created followed by the creation of the Special Operations Unit much later. The Investigative Unit and Special Operations Unit undertook the roles and responsibilities previously assigned to the police, the drug enforcement authority, the Immigration Department, etc. Created in 2007, the Special Operations Unit became infamous for its brutality, total disregard for due process, and human rights and fundamental freedoms.
408. The Investigation Unit exemplified the operational wing of the Agency – identifying perceived threats to the government of dictator Yahya Jammeh. Its operatives acted with total impunity and disregard for human life and dignity—in their attempt to fulfil Yahya Jammeh’s self-perpetuation agenda at whatever cost including striking terror in the hearts of ordinary Gambians.
409. The National Intelligence Agency (NIA) was one of Yahya Jammeh’s weapons of choice, utilised by the former dictator against the people and anyone who opposed his regime. Torture, sexual violence against women detainees, unlawful arrests, enforced disappearances, destruction of evidence, were some of the tools utilised by the Agency to advance Jammeh’s cause. Since its inception, it has been involved in numerous gross abuses of human rights in its attempt to sustain former President Jammeh in power. Individuals who have been arrested or detained in its detention centres became a cross cutting during the TRRC hearing, affecting most, if not all the themes during the Commission’s public hearing.
410. The Commission investigated various matters pertaining to the NIA’s gross abuses and violations. The areas investigated by the Commission included:

Farafenni Attack

411. In November 1996, the Farafenni Military Barracks was attacked by rebel forces who wanted to overthrow Yahya Jammeh's military government. The rebels of that attack included Yahya Drammeh, Ballo Kanteh, Omar Joof Dampha, Sulayman Sarr and Essa Baldeh. Their attack on the military barracks led to the death of some Gambian soldiers. The Commission notes that, although the rebels' attack was unlawful and cowardly, resulting in the death of innocent Gambian soldiers, defending the territorial integrity of the country, the attack of the Farafenni Barracks is not the Commission's focus of investigation, rather, the actions and conduct of security personnel after the rebels were arrested from various locations and taken to the NIA Headquarters in Banjul.
412. With reference to the Farafenni Military Barracks attack, the Commission found that during Ballo Kanteh's interrogation at NIA premises he was tortured by Lamin AMS Jobarteh (nicknamed Babadinding), Captain Samsideen Sarr (second in command in the Army at the time) and other security personnel. It also found that Ballo Kanteh and Yaya Drammeh were further tortured by Harry Sambou, Salimina Drammeh, Foday Barry and an unidentified man referred to as Ninja.
413. The Commission found that torture was commonly used by NIA officials to extract a confession. The Commission further concluded that the former dictator President Yahya Jammeh knew or had reason to know about the tortures of the Farafenni attackers during their interrogation at NIA premises. The Commission therefore holds Yahya Jammeh, Foday Barry, Salimina Drammeh, Lamin AMS Jobarteh (Babandinding), and Baba Saho responsible for the tortures of Ballo Kanteh, Omar Dampha, and Essa Baldeh at NIA premises.

414. The Commission investigated various matters pertaining to the NIA's gross abuses and violations. Some of the areas investigated by the Commission with its findings are outlined below:

2000 Coup Plot

415. The Commission found that Lt. Lalo Jaiteh, Lt. Omar Darboe, Ebrima Barrow, and Ebrihima Yarbo and Dumo Saho were arrested in 2000 relating to an alleged coup plot and brought before the NIA investigative panel. On the orders of Foday Barry, Omar Darboe was tortured twice by soldiers at the NIA, and in the presence of Sukuta Jammeh among others. The acts were s inflicted upon Omar Darboe in order to extract a confession from him. On the orders of Biran Jobe, and in the presence of other members of the investigative panel including Tijan Bah, Baba Saho, Foday Barry, Ousman Jallow, Salimina Drammeh, Ousman Sowe, and Sukuta Jammeh (deceased), Ebrima Barrow was sexually torture and severely beaten by Edrissa Jobe (Alagie Morr). Although members of the NIA named above who appeared before the Commission denied any participation in torture, the Commission unanimously believed the testimonies of Lt. Omar Darboe and Ebrima Barrow, and found the testimonies provided by the NIA officials lacking in truth and designed only to extricate themselves from any responsibly.

Torture of NAWEC Staff

416. To spy on citizens with the view to keep Yahya Jammeh in power, the NIA deployed agents to various governmental offices including the National Water and Electricity Corporation (NAWEC). During their operation, they committed numerous human rights violations and abuses. Between 2001 and 2003, the NIA operative Omar Cham was posted to NAWEC where he admitted to the Commission of torturing NAWEC staff including Gibril Wakka, Musa Oldie Jawo, Famara Naso, Simon Grant, and Sainabou Keita. He however denied torturing Ebou Khan and Bakary Saho but Commission did not believe him.

2006 Failed Ndure Cham Coup

417. In March 2006, the former CDS Ndure Cham attempted a coup d'état against Yahya Jammeh's government however the coup failed. Lang Tombong Tamba, who was then the Deputy CDS ordered the arrests of several soldiers involved. An investigation was held into the failed coup by a panel at the NIA headquarters. The Commission found that the investigation panel "hired independent witnesses" which the Commission deemed improper. The Commission also found the investigation panel to have engaged in the fabrication of evidence, and that suspects were coerced to write statements of confession which conformed to what the panel wanted. Further, the panel's independent witness who was not even present during the writing of the confessions attained through torture, signed the statements. On occasions, former President Yahya Jammeh would ask Junglers carrying out the acts of torture to put their phones on loudspeaker or on video so he could hear the screams and agony of the victims.

Recommendations from the TRRC and the position of the Government:

418. The Commission, having considered the totality of the evidence, made the following recommendations:
- (1) Prosecute Yankuba Badjie, the former Director General of the NIA, and Sheikh Omar Jeng for their complicity in the unlawful detention and torture of Tumani Jallow and Abdoulaye Gaye at the NIA and for their roles in handing over Tumani Jallow and Abdoulaye Gaye to the Junglers knowing reasonably well that they were highly likely to be tortured and killed.
419. **The Government accepts the recommendation of the Commission.**
- (2) Prosecute Yankuba Badjie, Sheikh Omar Jeng and Tamba Masireh for their role in the torture against Solo Sandeng and the April 14th 2016 UDP demonstrators at the NIA

420. **The Government accepts the recommendation of the Commission and notes that the prosecution of the above-named persons is currently ongoing for the death of Solo Sandeng while in NIA custody. Notwithstanding, the Special Prosecutor Office to be created will be tasked to conduct a thorough investigation on the events of 14 April 2016.**

(3) Prosecute Edrissa Jobe (Alagie Morr) for the torture against Lamin Karbou and others at the NIA.

421. **The Government accepts the recommendation of the Commission but notes that Edrissa Jobe (Alagie Morr) is currently out of the jurisdiction. The Government will collaborate with the relevant authorities with the aim of securing his arrest and return to The Gambia to face charges bearing in mind that torture is an international crime. Whilst the Government will welcome his arrest and prosecution internationally it also reserves the right to secure his return to The Gambia and be charged and tried domestically.**

(4) Prosecute Lamin Darboe, the head of the Special Operations Unit, for his role in all the tortures committed by Special Operations at the NIA.

422. **The Government accepts the recommendation of the Commission.**

(5) Reprimand Basiru Sey, Alasan Baldeh and Gibril Kanyi for all the tortures they committed as members of the Special Operations Unit.

423. **The Government takes note of the recommendation of the Commission but equally notes that torture is a serious crime and a serious violation of human rights. The Government recognizes the need to balance investigations and prosecutions from the recommendations stemming from the Commission to ensure successful convictions of those who bear the greatest responsibility for the violations committed.**

(6) Reprimand Lt. Col Amadou Bojang, Ebrima Ceesay, Babucarr Trawally, Alpha Bojang and Babucarr Singhateh for the torture and unlawful detention of Pa Alasan Jallow, Ebrima Keita and Musa Fofana.

424. **The Government takes note of the recommendation of the Commission but equally notes that torture is a serious crime and violation of human rights. Government recognizes the need to balance investigations and trials from the recommendations stemming from the Commission to ensure successful convictions of those who bear the greatest responsibility for the human rights violations. The Government directs the relevant authorities to make further investigations to dismiss and ban Lt. Col Amadou Bojang, Ebrima Ceesay, Babucarr Trawally, Alpha Bojang and Babucarr Singhateh from working in the security services and consider the possibility of charging them with torture domestically.**

(7) Ban Ousman Sowe, the current Director General, from holding public office with the government of The Gambia for a minimum period of 10 years for the destruction and concealment of evidence at the NIA

425. **The Government notes that while the actions alleged above are said to have happened in May 2017, The TRRC's mandate covers the period from July 1994 to January 2017. The Government is therefore of the view that this recommendation goes beyond the scope of the TRRC's mandate.**

(8) Ban the following present and former NIA officials who directly and indirectly participated in the torture of detainees and other gross human rights violations and abuses from holding any office with the government of The Gambia for a minimum of 10 years which the Commission believes commensurate with the severity of their actions: Lamin Bo Baaji, Tejan Bah, Foday Barry, Ebrima Jim Drammeh, Salimina Drammeh, Momodou Hy dara, Ousman Jallow, Lamin Jobarteh (Babadinding), Baba Saho

426. **The Government accepts the recommendation of the Commission subject to an internal review and consultations with Security Council.**

- (9) Ban Harry Sambou and Samsideen Sarr from holding public office for five years for their participation in the torture of Omar Dampha and Ballo Kanteh respectively.
427. **The Government partially accepts the recommendation of the Commission. The Government notes that while Harry Sambou was given the opportunity to testify before the Commission Samsideen Sarr was not afforded a similar opportunity in spite of his well-publicised calls for an opportunity to appear before the Commission and respond to the allegations levelled against him by Ballo Kanteh. It is the Government’s view that this is inconsistent with his right to fair hearing. The Government further notes with dismay that the Commission failed to enquire further into the cold-blooded killing of 6 young soldiers nor did it make any attempts to establish their victimhood and that of their survivors. It is the Government’s position that Corporal Saihou Sidibeh, Corporal Essa Keita, Private Ebrima Manneh, Staff Sgt. Lamin Badjie, Private Bakary Saidy and Private Ebrima Bojang died defending the territorial integrity of The Gambia and shall be given due posthumous honours by the Gambia Armed Forces. Their survivors shall equally be classified as victims and shall be eligible to receive reparations.**
- (10) Completely overhaul and re-orientate the NIA to ensure that its principal function and duties are limited to its traditional intelligence gathering role and such related responsibilities.
428. **The Government notes the recommendation of the Commission and can confirm that the NIA Act is being reviewed with support from key stakeholders and development partners such as DECAF.**
- (11) Completely strip the NIA of its policing powers which allowed the institution to concern itself with ordinary matters that traditionally falls within the jurisdiction of the police in the exercise of its law-and-order duties.

429. **The Government takes note of the recommendation of the Commission and reaffirms its commitment to reforming the NIA.**

(12) Disband immediately the Special Investigations Unit of the NIA which over the years had been used to oppress and brutalise perceived opponents of Yahya Jammeh and those who befell the misfortune of coming into contact with the NIA

430. **The Government notes the recommendation of the Commission. The Special Investigation Unit of the NIA was used to oppress and brutalise opponents of the Government but notes that in a fully functioning democracy, the Special Unit has an important role to play in national security. The Government therefore cannot accept this recommendation fully to out rightly disband the Unit but reaffirms its strong commitment to reforming the NIA as part of the ongoing security sector reform process to ensure the excesses of the past are not repeated.**

(13) Remove immediately the extensive legal powers given to the NIA to investigate and concern itself with the private issues and lives of citizens and businesses.

431. **The Government accepts the recommendation of the Commission noting that no such legal powers are conferred by law. Notwithstanding, the Government reaffirms its commitment to implementing security sector reform to address violations of individual's rights by security personnel.**

(14) Overhaul the recruitment process of NIA personnel and introduce more stringent essential requirements at the minimum to ensure the institution hires individuals who possess minimum academic qualifications and professional experience to effectively and competently carry out the required functions of the institution.

432. **The Government accepts the recommendation of the Commission. The enactment and implementation of the Vetting Bill will ensure that the NIA management is manned by suitably qualified and experienced personnel.**

- (15) Remove all detention facilities at the NIA to ensure that the culture of arbitrarily detaining suspects completely ceases.
433. **The Government accepts the recommendation of the Commission. Arbitrary detention of individuals is unacceptable and any detention must be lawful and in compliance with the country's human rights obligations, however, it recognizes the importance of state security, and to strip the NIA of a detention facility may interfere with national security. Based on the foregoing, the Government is unable to accept this recommendation in its totality but is committed to taking relevant measures to ensure minimum standards for all detention facilities and that any detention is in line with minimum international standards.**
- (16) All NIA staff undergo adequate and comprehensive training to inculcate the culture of discipline and values that promote respect for fundamental human rights and freedoms and upholding the rule of law in a democratic system.
434. **The Government accepts the recommendation of the Commission and is committed to implementing this recommendation as part of its security sector reform agenda.**

Theme 16: Institutional Hearing: Prisons

Background

435. Prisons are an important part of the criminal justice system. Their role within criminal justice is mainly to facilitate a judicial decision to deprive an offender's liberty in order to fulfil the sentence of a court. The prison service deals with offenders convicted and sentenced to a custodial sentence or those on remand pending a decision on their case.
436. The Gambia is a party to key human rights instruments including the International Covenant on Civil and Political Rights (ICCPR) in 1979, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT). The Basic Principles for the Treatment of Prisoners, adopted and proclaimed by UN General Assembly resolution 45/111 of 14 December 1990, provides under Article 1, that "All prisoners shall be treated with the respect due to their inherent dignity and value as human beings". Article 5 of The Basic Principles holds further that, except for limitations that are made demonstrably necessary by the condition of their imprisonment, all prisoners must be afforded the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights as well as the ICESCR, the ICCPR and other rights found in other United Nations covenants.
437. The Commission found that like the other state and security institutions, The Gambia prison system was used as a tool to facilitate former President Yahya Jammeh's authoritarian machinations. He used the prison to instil fear and inflict punishment on those who opposed him or fell out of favour with him.
438. The Commission also found that the Prison Service over the years had become unfit for their purpose and did not comply with the United Nations Standard Minimum Rules for the Treatment of Prisoners. The public hearings painted a picture of the horrendous state of the prisons but particularly the Mile II Central Prison which it attributed in part to the location and infrastructure having been

built by the colonialists in 1920 in a swampy area has dampness on the walls and leaky roofs which constitutes a serious health hazard to prisoners and staff alike. The conditions of the cells in the Security, Remand and Main Yard Wings, particularly the Security wing where most detainees were held in solitary confinement in cramped, dark, mosquito, rat and vermin-infested cells are unfit for human beings. The dreadful conditions are not limited only to the Security Wing but extended to the Main Yard and Remand Wings. According to witness testimonies, the conditions of the Remand Wing was so overcrowded that some prisoners could not sleep and had to sit up for the entire night, while others spent the nights in the toilets. All the witness testimonies indicate that the conditions of the entire prison system was terrible, including in the country's other two prisons, Jeshwang and Janangbureh.

439. The Commission also found that the dire physical conditions of the prisons were further exacerbated by poor management. To ensure that the Prison Services served his purposes, former President Yahya Jammeh used loyalty as a basis to appoint the Director General of the Prison Services who would carry out his unlawful instructions without questions. The non-adherence to proper procedures in the appointment of prison officers had an impact on the behaviour of prison staff. Those who were recruited without due process were more likely to follow unlawful instructions. According to witness testimonies, "those who did not come into the prison administration through the right channels were more prone to just follow what those who brought them in instructed them to do rather than what the law, regulations, service and training requires."
440. The Commission found that many innocent victims including security officers, politicians, business persons, journalists and advocates were detained at Mile II Central Prison without due process. They were subjected to inhumane and degrading treatment, tortured and some died as a result. The Standard Minimum Rules for the Treatment of Prisoners, developed by the United Nations Commission on Crime Prevention that contained provisions protecting the human rights and personal liberties of detainees, were not applied.

441. It was found by the Commission that in some instances prisoners were simply brought in and detained at Mile II for indefinite periods of time in the Security Wing. Detainees that were brought in based on Executive Orders/Directives from the Office of the President could not be rejected by the prison officers as refusal was likely to lead to them being charged and dismissed for refusing orders. Under the direction of the former President, many arrests and detentions in the prisons were conducted outside of any legal framework. Many detainees were imprisoned without any warrant for their detention, without being booked or recorded in the records of the prisons.
442. In addition to admitting persons to the prisons without due process and in contravention of the laws governing the prison, stipulating the times when arrestees can be interned or removed from the prisons, the prison authorities, the NIA and other state institutions and agents also engaged in a number of gross human rights violations in their handling of prisoners. The NIA and Junglers enjoyed unrestricted access to the prisoners and could inflict any sort of treatment on prisoners without interference by the prison authorities under whose authority they were in.
443. The Commission also found that there were many young people in detention or remand for simple crimes that did not require a custodial sentence. Without rehabilitation services and putting them in the same space as hardened criminals many of these young people run the risk of developing anti-social behaviours. There were also several persons who were languishing in detention without their cases ever being taken before the courts. The Commission observed that the conditions of the prison cells were a gross violation of the right to the minimum of space, hygiene, privacy and security necessary for a humane and dignified existence.
444. Testimonies revealed that life in Mile II was made even more unbearable by the harsh treatment meted out against the prisoners. Political prisoners who were also mainly detained in the security wing in Mile II, often had 23 hours confinement with limited interaction with the general prison population. In relation to the

treatment of the convicted prisoners and those on remand, the public hearings showed that the prison officers were grossly neglectful of the condition of prisoners contrary to general modern standards on the treatment of prisoners. Several witnesses who testified before the Commission indicated that some of the prisoners were subjected to solitary confinement for extremely long periods in addition to being shackled and handcuffed (in some cases for up to 2 years). In such cases, the extreme punitive measure of restricting the movement of the prisoners resulted in paralysis for some.

445. Witness testimonies also indicated that the prisoners' diet was terrible and, in most cases, not fit for human consumption. The poor quality of the food resulted in malnutrition and beri-beri (Vitamin B-1 deficiency also called Thiamine deficiency). Witness testimonies indicated that beri-beri was the leading cause of morbidity and mortality at the Mile II Central Prison. Witnesses also reported that sometimes they were served with rotten fish or meat or that the food was simply inedible due to poor preparation or storage.
446. Individuals with cases of communicable diseases such as tuberculosis were not quarantined thus exposing other prisoners and staff to infections. There was a lack of care for prisoners with mental health issues putting such individuals and other prisoners in the same cells thus putting them at risk from violent attacks. A prisoner was found to have slit his throat to get attention for medical assistance and some prisoners suffered mental illness as a result of the ill-treatment and poor conditions. Access to medicine and medical care was inadequate and prisoners had to depend on illegal sources to acquire medicine.

Recommendations from the TRRC and the position of the Government:

447. The Commission, having considered the totality of the evidence, made the following recommendations:

(1) Appointments to all positions in the Prison Service, in particular leadership positions, should be based on merit and appropriate academic qualifications. An approved Schemes of Service should be developed for the Prison Services detailing the minimum qualifications for each position and providing all categories of staff equal opportunity to progress in the service without any form of discrimination.

448. **The Government accepts the recommendation of the Commission and is taking measures to ensure that the Prison Service is managed by competent personnel as part of the Government institutional reform agenda. Furthermore, the Vetting Bill which is currently being reviewed is expected to guarantee the right people serve in the right positions.**

(2) To repeal and replace the existing archaic prison laws with more human rights oriented and progressive laws that meet the requirements of a modern democratic society and the United Nations Standard Minimum Rules for the treatment of Prisoners.

449. **The Government accepts the recommendation of the Commission. The Prisons Act has been reviewed and revised to bring it in line with international standards and is expected to be presented to the National Assembly soon for adoption.**

(3) The housing facilities in Mile II Prison are substandard, degrading and not fit for human habitation. Considering the cost and complications of rehabilitating the facilities, the Commission deems it imperative to build new facilities that would be suitable for prisoners in a modern democratic society.

450. **The Government accepts the recommendation of the Commission and notes the minimum standards which it is legally obligated to uphold. Following the rapid assessments of the prison system that was conducted, the Government is committed to developing a strategy and a roadmap for**

the modernization of the prison system in line with the Mandela Minimum Standard.

- (4) It is inhumane and cruel to have prisoners sleep in toilets or be jam-packed like sardines. The government should provide enough facilities to cater for the requirements of the prison population.

451. The Government accepts the recommendation of the Commission and takes note of the minimum standards which it is legally obligated to uphold and is committed to taking deliberate steps towards realising this objective as part of the ongoing reform process. The Government has started work to modernise the Mile II Prison including changing the water and the drainage system.

- (5) The Jeshwang Prison for young offenders should be geared towards rehabilitating rather than punishing and should be resourced with recreational, educational and counselling facilities.

452. The Government accepts the recommendation of the Commission. The Government recognises that the social rehabilitation and reintegration of persons deprived of their liberty are among the main aims of the criminal justice system, ensuring, as far as possible, that offenders are able to lead law-abiding and self-supporting life upon their return to society. The Government in collaboration with its partners has introduced training courses at the prisons including Jeshwang Prison and will continue to take concrete steps to create rehabilitation programmes for young offenders to support them to realise their potentials and reduce their chances of re-offending.

- (6) Janjanbureh Prisons is also in need of rehabilitation. Whilst the female prison population is small a proper cell needs to be provided for the female inmates.

453. The Government accepts the recommendation of the Commission and is committed to addressing the numerous challenges within the prison

service as part of its wider prison reform agenda. A modern wing has recently been completed at Janjanbureh Prison for female offenders.

- (7) Long periods of pre-trial detention have been a major problem in all the prisons in the country. The government should put in place a system that would ensure that pre-trial detainees are tried within a reasonable period of time and in a manner respecting all their rights.

454. The Government accepts the recommendation of the Commission. As part of the Government's efforts to decongest the overcrowded prisons and accelerate the adjudication of criminal cases, particularly cases where the accused person is in remand, the Judiciary has set up a Committee to address the existing challenges which contribute to denying accused persons' the right to be heard within a reasonable time. The ongoing digitalisation of the Judiciary is also expected to address the existing challenges in the expeditious disposal of cases.

- (8) The government should provide adequate subvention to the Prison Services to ensure proper provision and maintenance of food and the general upkeep of the prison system.

455. The Government accepts the recommendation of the Commission.

- (9) All cooks and food handlers who work in the prison should always be given the appropriate training necessary to be able to discharge their responsibilities effectively and efficiently. The government should put in place a system to provide regular medical check-ups for cooks and food handlers in order to ensure that they are not transmit communicable diseases.

456. The Government accepts the recommendation of the Commission and is in the process of finalising an agreement to train the cooks and food handlers and will continue to take necessary measures to safeguard the health and welfare of prisoners through the Prison service reform agenda.

- (10) Provide modern cooking facilities in all prisons.
457. **Government accepts the recommendation of the Commission and can confirm that progress has been made in this area. Modern cooking equipment and utensils have now been introduced at the Mile II Prison. The diet for the prisons have been reviewed with changes made to it however, the Government will continue to implement the necessary measures to discharge its obligations.**
- (11) The Prison Service should enter into Memorandum of Understanding with the Ministry of Health to attach qualified health personnel in the various prison clinics and provide adequate/ appropriate training for prison staff attached to the clinics.
458. **The Government accepts the recommendation of the Commission and is committed to working towards the realisation of a prison service that is fit for purpose and in line with international standards.**
- (12) All prisons should be provided with adequate quarantine cells to contain infectious diseases or persons suffering from these diseases should be removed from prison and placed under adequate care until they recover to continue their prison term. This is even more critical now in view of the COVID 19 Pandemic.
459. **The Government accepts the recommendation of the Commission and is committed to implementing the prison reform agenda.**
- (13) The Government should ensure inspection of prison facilities by competent persons at regular intervals to ensure that the facilities are clean, safe and fit for human habitation.
460. **The Government accepts the recommendation of the Commission and is committed to implementing the prisons reform agenda. Visiting Committees as provided in the Prison Act will be reconstituted to be monitoring the**

conditions in prisons. This will complement the monitoring of prisons conducted by the NHRC.

(14) All prisons should have an ambulance for quick and easy referrals to the nearest health facility.

461. **The Government accepts the recommendation of the Commission. The government will work to ensure that all prisons are provided with a minimum of one equipped and functional ambulance.**

(15) Justice sector personnel should conduct capacity building training for their staff to fast-track remand and appeal cases so as to ensure that persons in remand do not spend more time than is necessary in jail and to reduce overcrowding in the prisons.

462. **The Government accepts the recommendation of the Commission and will continue to work with justice sector actors, development partners, and relevant stakeholders to identify sustainable strategies for dealing with cases judiciously and expeditiously.**

(16) Review and revise existing sentencing guidelines in order to avoid imposing long custodial sentences for misdemeanours and other petty offences, especially those committed by young persons.

463. **The Government accepts the recommendation of the Commission. The government will support the Judiciary as it develops the sentencing guidelines to ensure sentences are commensurate to the offence committed and are uniform to avoid conviction for similar offences receiving varying sentences.**

(17) The state should develop alternative systems to imprisonment to ease overcrowding in prison such as probation, community service etc.

464. **The Government accepts the recommendation of the Commission. The Criminal procedure Bill contains provisions that will introduce community sentences for certain offences. Through the Ministry of Interior, the**

government will be developing mechanisms that will address individuals places on probation.

(18) The Prison Service should provide effective rehabilitation programmes aimed at educating, training and re-training inmates. In addition to livelihood skills the programme should include life skills training to help the prisoners make decisions about their everyday life experiences and help them to integrate back into society after they are released and prevent re-offending particularly among young offenders.

465. The Government accepts the recommendation of the Commission. Through the support of partners the government has increased the programmes available to prisoners. However, the government will progressively be increasing and expanding these programmes.

(19) David Colley, Ebrima Jammeh (Chief torturer), Yahya Jarju, Saikouba Jarju and Muhammed Jabbi should be persecuted for tortures meted out on prisoners such as Samba Doro Bah. It is noted that Malang Tamba has apologised to his victim and reconciled with him in a reconciliation activity at the TRRC.

466. The Government accepts the recommendation of the Commission.

(20) The female prison officers who were denied incentives and promotions for refusing to submit to sexual violence by the DG of Prisons David Colley and senior government officials in 2007 should be promoted to the levels of their colleagues who were not subjected to any form of harassment or unfair treatment.

467. The Government accepts the recommendation of the Commission in so far as the matter has been investigated and appropriate measures taken.

(21) The NIA or any other security institution shall not be given direct administrative responsibility over a prison or any part of it, except administrative oversight thereof.

468. **The Government accepts the recommendation of the Commission.**
(22) The government should put in place rules in order to ensure that the prison service is not used as an institution for torture and that no one should be given access any prisoner or Prison except in accordance with the law.
469. **The Government accepts the recommendation of the Commission.**
(23) Review and restructure the salary levels of the Prion Services to bring them to the same level of the other security services.
470. **The Government accepts the recommendation of the Commission and confirms that the process of pay scaling and pay grading is currently ongoing as part of the civil service reform.**
(24) Fanta Sanneh and Buba Jatta should be recognized and rewarded for the good services rendered.
471. **The Government accepts the recommendation of the Commission.**
(25) There should be a remand wing for the female prisoners isolated from the Female Wing.
472. **The Government accepts the recommendation of the Commission and will take the necessary steps as part of its prison reform agenda.**
(26) Female prisoners should be held in the least restrictive environment possible.
473. **The Government accepts the recommendation of the Commission and will take the necessary steps as part of its prison reform agenda.**
(27) Mother and children's units should be developed and expanded
474. **The Government takes note of the recommendation but takes note that it is contrary to international human rights standards and section 218 (2) of the Children's Act which prohibits the imprisonment of nursing and expectant mothers.**

(28) A proper cell needs to be provided for the female inmates in Janjanbureh Prison.

475. **The Government accepts the recommendation of the Commission and has completed the renovation of a cell for female inmates at Janjanbureh Prison.**

(29) Skills learning facilities should be provided for the female prisoners

476. **The Government accepts the recommendation of the Commission and has recently introduced a number of training courses for all prisoners including female prisoners.**

Theme 17: Institutional Hearings: Justice Sector Entities

Background

477. Despite the legal frameworks stipulated in the 1997 Constitution, Acts of the National Assembly and International Instruments ratified by The Gambia aimed at ensuring justice and the protection of fundamental human rights, the regime of Yahya AJJ Jammeh interfered and undermined the independent functioning of public institutions such as the Judiciary, the Ministry of Justice, The Gambia Police Force and National Intelligence Agency.
478. The Commission has illustrated how the twenty-two years of former President Yahya Jammeh's regime established a system of appointing un-vetted and unqualified judges and the unlawful termination of judges thereby eroding the independence and effectiveness of the judiciary.
479. The report highlighted numerous unlawful terminations of Judges and Magistrates leading to the prosecution of judicial officers such as Hon. Justice Amina Saho Ceesay, together with Hon. Justices Ngui Mboob Janneh and Saffiatou Njie.
480. In 2016, Justice Na Ceesay Sallah-Wadda's service was terminated as a Judge of the Court of Appeal following a meeting convened by the President of the Court of Appeal wherein, she expressed her opinion for granting bail regarding the case of Ousainou Darboe and UDP supporters given that the offences charged were bailable.
481. The evidence has shown numerous unlawful terminations of the services of Judges such as Hon. Chief Justice Chowan, Justice Raymond Sock and Hon. Justice Gibou Janneh.
482. Justice Ebrima Jaiteh and Magistrate Omar Jabang in presenting the judiciary's position paper told the Commission that the constitutional provisions on the appointment and termination of judges under Yayha Jammeh's regime were violated as judges were appointed and terminated without consultation of the Judicial Service Commission.

483. According to Justice Ebrima Jaiteh and Principal Magistrate Omar Jabang, they were arrested and detained at the Police Headquarters while executing their judicial responsibilities. On his part, Justice Ebrima Jaiteh was arrested for striking out a case of political interest for lack of jurisdiction whereas Principal Magistrate Omar Jabang was arrested for acquitting and discharging one Yusupha Saidu.
484. Cherno Marenah, former Solicitor General and Legal Secretary testified to the effect that Magistrates who refused to be intimidated by Yahya Jammeh will usually face punitive measures such as reprimand, arbitrary arrest and detention.
485. In his testimony, Borry Touray told the Commission that “Machinery Judges” appointed by Yahya Jammeh were delivering rulings against litigants in cases that were of interest to former President Yahya Jammeh.
486. The regime has used law enforcement agencies such as the Police as a tool of oppression through arbitrary arrest and denial of bail. In her testimony, Neneh Cham noted that it was a practice to detain political offenders, persons charged with treason, civil servants and cases that were of interest to Yahya Jammeh beyond the Constitutional limit of seventy-two (72) hours.
487. The evidence shows that the former President Yahya Jammeh interfered with the judiciary by giving directives to the Chief Justice on the desired outcomes of cases that were of interest to him and as a result of his (Yahya Jammeh) control of the judiciary Court Orders were defied by government officers under Jammeh’s command.
488. Fatou Jagne Senghore in her testimony in respect of the 10th and 11 April 2000 students’ protest told the Commission that the said period was a “defining moment” in her career. Following the killing of student protesters, the government passed the Indemnity Act to indemnify security officers who were identified for prosecution by a Commission.
489. The Commission found that the execution of the nine death row inmates in August 2012 was procedurally unlawful as it violated the provisions stipulated under the

Criminal Code. Consequently, the Commission found that the former Attorney General and Minister of Justice Lamin A.M.S. Jobarteh participated in organising the execution of the nine death row inmates without the due process of the law.

490. Further, the Commission found that the 1997 Constitution is flawed as it suffered a series of amendments and as such needs to be replaced with one that will meet the aspiration of the people.

491. In addition, the Commission found that during the 22 years of Yahya Jammeh's regime, journalists, human rights defenders were arbitrarily arrested for long periods without access to lawyers or the courts thereby subjecting them to gross human rights violations resulting in self-imposed exiles for some journalists and human rights defenders.

Recommendations from the TRRC and the position of the Government:

492. The Commission, having considered the totality of the evidence, made the following recommendations:

(1) Section 141 (2) (c) of the 1997 Constitution which grants power to the President to dismiss Judges should be repealed as this provision encourages interference by the executive in the Judiciary. This will also ensure that there is security of tenure for Judges.

493. **The Government accepts the recommendation of the Commission. The Judicial Service Commission is now the sole body charged with overseeing the affairs of judicial officers.**

(2) The Constitutional provisions on the qualification for appointment of Judges should be adhered to and an independent committee should be set up and supervised by the Judicial Service Commission to screen candidates for the appointment of Judges.

494. **The Government accepts the recommendation of the Commission. The Judicial Service Commission is now the sole body charged with overseeing the affairs of judicial officers.**

(3) Guidelines regulating the appointment of foreign judges should also be introduced.

495. **The Government accepts the recommendation of the Commission. Regulations for the appointment of judges including foreign judges are already in place.**

(4) The Government should undertake to at all times respect the Constitutional provisions on judicial independence and the principles of separation of powers as enshrined in the Constitution of The Gambia.

496. **The Government accepts the recommendation of the Commission. The Government strives to ensure its actions are in accordance with the Constitution and remains committed to upholding the rule of law and good governance in the country.**

(5) Justice Agim, Justice Fagbenle, Justice Wowo, Justice Paul, Justice Nkea, Justice Ikpala, Justice Amadi, Justice Abeke, Justice Kayodeh, Justice Alagbeh as they were then known and all judges who fall under the realms of 'mercenary judges' should be banned from holding any public office in The Gambia.

497. **The Government rejects the recommendation of the Commission. The characterisation of foreign judges as "mercenary Judges" is unfair, especially without giving them an opportunity to be heard regarding the allegations made against them, in line with the rules of natural justice. The Government is mindful of the need to maintain existing cordial bilateral relations it has with sister countries, some of which have provided and continue to provide The Gambia with needed Technical Assistance, in critical sectors such as education, health, the judiciary and the justice sectors.**

- (6) The government should review the law on refusal to obey court orders by public officials with a view to putting in place a more stringent regime that would ensure compliance.

498. **The Government accepts the recommendation of the Commission. The charge of contempt of court also applies to public officers for which they can be prosecuted; for failing to abide by the decisions of a court. As provided by the Civil Service rule conviction for an offence can lead to interdiction of the individual and eventual dismissal from the service.**

- (7) The government should study the implications of the fusion of the two positions of Attorney General and Minister of Justice and consider the potential benefits of separating the two functions for more effective administration of justice.

499. **The Government accepts the recommendation of the Commission. As part of the ongoing legislative reform the government will review the desirability or not of the fusion of both roles.**

- (8) In view of the conduct of the former Attorney General and Minister of Justice, Lamin A.M.S Jobarteh in the unlawful execution of the 9 Mile 2 death row inmates, the General Legal Council should petition Lamin A.M.S Jobarteh, interrogate his conduct and revoke his practising licence.

500. **The Government accepts the recommendation of the Commission. The recommendation will be referred to the General Legal Council (the body charged with regulating legal practitioners) to review and decide whether to institute disciplinary proceedings on the revocation of Mr Jobarteh's practising licence.**

- (9) The government should study the subsisting Decrees saved by Section 7 (c) of the 1997 Constitution with a view to repealing those Decrees that are antithetical to a democratic society.

501. **The Government accepts the recommendation of the Commission. As part of the constitutional review process, the government will charge the review of the desirability or not of retaining section 7 (c) of the 1997 Constitution.**

(10) The 1997 Constitution is deeply flawed due to the number of amendments that were made to the original and needs to be replaced with one that meets the aspirations of The Gambian people.

502. **The Government accepts the recommendation of the Commission. The process of introducing a new constitution is ongoing and the government remains committed to introducing a new constitution that adequately reflects the aspirations of all Gambians.**

(11) The retroactive effect of the Indemnity Act should be repealed.

503. **The Government accepts the recommendation of the Commission. Gambian courts in several decisions have shown that immunity is not available to public officers for certain actions performed during their duties.**

(12) The government should put in place institutional arrangements that would ensure greater access to justice by all citizens in the country especially those in the rural areas.

504. **The Government accepts the recommendation of the Commission. The process of ensuring greater access to justice for all individuals in the country is ongoing. On the Judiciary, additional High Courts have been established throughout the country with more Gambians appointed as judicial officers especially as judges to ease the backlog of cases. However, the judiciary will continue to be supported to ensure all individuals in The Gambia are able to access justice with ease and at minimal or no cost. Concerning the Ministry of Justice, the office has been hiring more Counsel to support its work and has increased its remuneration package and conditions of service to attract and retain more competent Counsel. The Ministry now also has permanent staff in Basse attending to all cases at the courts in Basse.**

(13) Justice Na Ceesay Salla-Wadda should be reinstated and her reinstatement be back dated to 2017. The reinstatement should substitute the reappointment. Reinstatement will be in line the rules of restitution and this is consistent with natural justice and fairness and taking into account her long-standing service in the justice sector both as State Counsel and Judge.

505. **The Government accepts the recommendation of the Commission. The recommendation will be referred to the Judicial Service Commission for review as the body charged with regulating the matters of judicial officers.**

Reparations

Background

506. Reparations form an important component of The Gambian Transitional Justice Process. Reparations seek to restore the dignity of victims through acknowledging the wrongdoing, the harm suffered and the state responsibility to promote, protect and fulfil human rights. It is therefore an important component of The Gambia's healing process.
507. The right to reparations for victims of gross violations of human rights is well founded in the TRRC Act 2017 which is informed by the AU Transitional Justice Policy and international law all of which make specific provisions on reparations. Section 20 of the Act provides for the grant of reparations to victims and for the Commission to develop regulations in furtherance of this objective. In compliance with these provisions and as per Section 18 of the TRRC Act and the Rules of Procedures of the Commission, a Reparations Committee was established consisting of five Commissioners. The Committee was supported by the Victim Support Unit (VSU) and the Legal Unit.
508. To guide the Commission's work on reparations in a transparent, accountable, equitable and gender sensitive manner a Reparations Policy and Regulations were developed and Gazetted by the Ministry of Justice in February 2021. Victims' organisations were involved at all the stages of developing these instruments. A User's Guide was also developed and widely disseminated to inform victims about the five forms of reparations including - compensation, satisfaction, restitution, rehabilitation and guarantees of non-repetition and how to access the final reparations.
509. In 2018, the Government set up a Medical Board to assist the TRRC in providing medical care to victims who were in urgent need of assistance as a result of the violation suffered. These included the elderly particularly those who were suffering from physical and mental conditions; children and youth who were

orphaned or disabled as a direct result of violations suffered, victims who did not have adequate material support to meet their immediate emotional and material needs, and women, particularly SGBV victims.

510. The Commission guided by the Medical Board supported in-country treatment for over one hundred and twenty-four (124) victims for various ailments. Through the Victim Participation Support Fund, victims were supported to a maximum of \$1000 per person for non-recurrent costs for their medical aids and interventions. The fund also supported costs associated with the protection of informants, victims, and witnesses, with safe and protected housing provided for at least three (3) victims.
511. Under the urgent medical treatment component, victims that could not be treated in country were sent abroad for medical treatment. Four (4) victims went to Turkey in December 2019 under the framework of a Bilateral Agreement between the Republic of Turkey and the Republic of The Gambia (2014) for their medical treatment with varying levels of success. Another three (3) had successful surgeries in Dakar, Senegal in October 2020.
512. The mass atrocities left deep psychological, emotional, and physical scars on victims. To reduce the negative impacts of re-traumatisation, psychosocial support was provided for both victims, perpetrators and their families throughout the duration of the public hearings with a total of three hundred and eighty-nine (389) individuals provided with psychosocial support. The psychosocial support staff also supported the pre-assessment of victims for the medical review process. Psycho-social education on trauma and its effects on individuals and communities was also provided during outreach activities of the TRRC.
513. The Commission supported sixty-nine (69) students to return to school ranging from the Lower Basic to Tertiary Level during its lifespan. Of these 44 (64%) are female and 25 (36%) are male. Other forms of educational support came from sponsors directly to the students. Livelihood support was also provided to two

victims whilst seventeen (17) women victims were supported with sustainable business initiatives including mentoring and training.

514. The Commission received funding for reparation from a number of sources. The Government of The Gambia through the Ministry of Justice disbursed an initial sum of D50,000,000 for Reparations in October 2019. In compliance with the Financial Provisions of the TRRC Act, Part 5, Section 27 (1) (b) which allows the Commission to access “donations from any lawful source not inconsistent with the functions of the Commission under this Act,” the Commission undertook a number of actions to raise funds for Reparations. The support to the TRRC Reparations Process continued after the engagement in 2019. A Fund-Raising Policy was developed and a Resource Mobilisation Committee set up to assist the process in a transparent and accountable manner. In 2019, the Commission’s Diaspora Engagement Mission provided an opportunity for the Commission to fundraise, and a total sum of D895, 141.32 was raised for Reparations from Gambians and friends of The Gambia in the Diaspora.
515. In granting final reparations a rigorous process was implemented adhering to the TRRC Regulations. On June 28, 2021, the Commission after considering the submission of the Committee on Reparations to grant final reparations to victims approved the list of victims presented by the Committee and also approved the grant of reparation as recommended. The TRRC received over one thousand five hundred (1500) statements out of which a total number of one thousand and nine (1009) victims including the West African migrants qualified for final reparations. These decisions were communicated to the Attorney General and Minister of Justice in a letter entitled, ‘Submission on Payment Plan for Final Reparations to Victims’ dated, 06 July 2021, Ref/TRRC/REPS/MOJ/06.
516. The funding gap in the granting of Reparations to victims was also communicated to the government. Pursuant to Section 15(5) of the TRRC Act, the Commission requested the government to pay the additional outstanding cost of the Final Reparations amounting to D168, 820,831 (One hundred and sixty eight million,

eight hundred and twenty thousand, eight hundred and thirty one Dalasi) out of a total Reparations bill of D205, 820,780 (Two hundred and five million, eight hundred and twenty thousand, seven hundred and eight Dalasi), to victims in order to complete the final reparations package for all the victims as soon as possible.

517. Out of the D50,000,000 that was given, the Commission paid approximately D13,000,000 (Thirteen million) for interim reparations for victims who needed urgent medical attention. In a decision made by the Commission on June 28, 2021 the balance of the D50 000 000 was allocated to 955 (Nine Hundred and Fifty-five) victims or their families. The Commission found that this was not enough to meet the total amount to be granted to victims as final reparations based on guidelines developed by the Commission for the granting of reparations to victims.
518. The Commission noted that although it had taken measures to protect the identity and privacy of victims, many victims especially victims of sexual and gender-based violence, people living with HIV/AIDS and persons accused of witchcraft did not submit a complaint to the Commission.

Recommendations from the TRRC and the position of the Government:

519. The Commission made the following recommendations:
- (1) Put in a place a mechanism to identify the burial sites of victims and conduct proper identification of their remains to be given to their families for proper burial.
520. **The Government accepts the recommendation of the Commission. The Government will work closely with partners to ensure adequate resources and expertise are available for the search and identification of burial sites, exhumations, and identification of remains to be given to their families for befitting burials.**

- (2) Post TRRC the new entity on Reparations should adopt all necessary measures to ensure the universal registration of victims in order to know the full extent of victimhood in the country and provide them with reparation.

521. **The Government accepts the recommendation of the Commission. The Government recognizes that victims have a right to reparations which it has a corresponding obligation to fulfil and is in the process of developing A Victim's Reparation Bill in consultations with stakeholders. The Government also takes note of the Commission's findings that many victims failed to register with it for a variety of reasons and may consequently be denied their right to reparations. The sentiments of victims who were not entirely satisfied with the process of granting reparations by the Commission are also well noted. The Government appreciates the need for a reparations programme that is not only transformative but also reconciles victims of past injustices and acknowledges their pain and suffering. The Government therefore commits to adopting necessary measures for the development of a comprehensive gender sensitive reparations program.**

- (3) Ensure that reparations for victims should continue beyond the conclusion of the work of the TRRC to ensure all victims are part of the reparations programme, even if they make a complaint at a later stage.

522. **The Government accepts the recommendation of the Commission. The Government is committed to the continuation of reparations for victims through an independent body to be created by statute to administer the reparations scheme. The Government further recognises the need to provide psychosocial services and support (PSS) to victims. The Government will also ensure that PSS is made widely available during the duration of prosecutions and other post-TRRC processes.**

- (4) As a result of the funding gap in the granting of Reparations to victims the Commission now herein with reference to Section 15(5) of the TRRC Act, requires the Government of The Gambia to pay the outstanding amounts as to complete the final reparations package for all the victims as soon as possible.

523. **The Government accepts the recommendation of the Commission and will take the necessary measures to pay the outstanding reparations. The Government further recognises the need for further assessments to be done as to the sufficiency of reparations payments made under the framework of the independent body to be created.**

- (5) Pay the outstanding cost of the pro-rata payments for final Reparations amounting to D168, 820,831 (One hundred and sixty-eight million, eight hundred and twenty thousand, eight hundred and thirty-one Dalasis) out of a total Reparations bill of which stands at D205, 820,780 (Two hundred and five million, eight hundred and twenty thousand, seven hundred and eight Dalasis),

524. **The Government accepts the recommendation of the Commission**

- (6) Pay the sum of D32, 400,000 (Thirty-two million, four hundred thousand Dalasis) to the West African Migrants and other non-Gambian nationals. This amount is not reflected in the outstanding payment outlined in the TRRC report. These reparations payments to these victims are to be paid through their respective governments as soon as possible.

525. **The Government accepts the recommendation of the Commission and will work with their survivors and governments, through the independent reparations body to be created.**

- (7) Recognise the supplementary list of victims provided and grant them reparations in line with the provided guidelines on reparations

526. **The Government accepts the recommendation of the Commission and notes that the list of victims provided by the Commission though elaborate is not exhaustive. The Government will ensure that the reparations body to be created has the mandate to assess and approve victims who might not have come forward or been identified by the Commission. The Government will further work with stakeholders to create a comprehensive database of victims.**

(8) Victims who are permanently incapacitated and are suffering from physical and mental conditions should be provided with free medical care in public facilities for the rest of their lives.

527. **The Government accepts the recommendation of the Commission and will integrate the recommendations with national development programmes. The Government further notes that this is consistent with its position that reparations should go beyond monetary compensation to other forms of transformative reparations.**

(9) Scholarship schemes should be provided for students who have had their schooling interrupted to enable them complete their education and become productive and self-reliant members of society.

528. **The Government accepts the recommendation of the Commission. Working with MoBSE and MOHERST, the government will explore the mean in which such individuals can be supported to complete their education.**

(10) The Gambia National Army should grant honourable discharges to those officers who were unlawfully dismissed from the army.

529. **The Government takes note of the recommendation of the Commission and will refer the matter to the Gambia Armed Forces for further action.**

- (11) The personnel management office should look into the cases of those civil servants who were unlawfully dismissed and denied their pensions and make arrangements so that they get their pension benefits.
530. **The Government accepts the recommendation of the Commission. A Committee was set up by the Personnel Management Office for this purpose and has completed the implementation of this recommendation.**
- (12) Renaming of Arch 22 to Memorial Arch: The government should rename Arch 22 to Memorial Arch and give the NCAC overall responsibility for the management and execution of the project.
531. **The Government accepts this recommendation and directs that the Arch be renamed NEVER AGAIN MEMORIAL ARCH. The Government intends renovate the Arch and erect a wall on which will be inscribed the names of victims. The Government notes further that the NCAC is already in charge of managing the Arch.**
- (13) Engage with the international community to seek technical assistance in providing support to accelerate the identification of new mass graves and provide the necessary equipment to detect their location, as in several areas the identification of mass graves was not possible.
532. **The Government accepts the recommendation of the Commission and will seek support from development partners and institutions for technical assistance to provide the necessary equipment and expertise for the search and identification of mass graves.**
- (14) Seek support to provide capacity building and develop technical and human resources on forensic investigations. This capacity-building should include training and certification for personnel on forensic anthropology, in accordance with international standards.

533. The Government accepts the recommendation of the Commission and will seek to collaborate with and galvanise support from development partners and institutions for capacity-building for personnel on forensic anthropology, in accordance with international standards.

Reconciliation

Background

534. Section 13 (a), (i) of the Truth, Reconciliation and Reparations Commission Act 2017 mandates the Commission to “*promote healing and reconciliation.*” The Commission is also mandated by Section 13 (a), iv to “*prevent a repeat of the violations and abuses suffered by making recommendations for the establishment of appropriate preventive mechanisms including institutional and legal reforms.*” In line with its mandate, a Reconciliation Committee consisting of 6 commissioners was established to foster social cohesion and national healing in order to achieve reconciliation. A Reconciliation Unit provided technical support and backstopping to the Reconciliation Committee to lay a foundation for development, peace, and security through a transitional justice framework.

535. The Commission developed a framework to guide its work in this area by:

- (i) Ensuring a nationwide understanding of reconciliation within the TRRC’s reconciliation process for public ownership.
- (ii) Engaging with different stakeholders and amplifying the “Never Again” Campaign.
- (iii) Raising public awareness about the mandate of the TRRC to promote social cohesion and healing as well as to clear misconceptions about the reconciliation process.
- (iv) Disseminating the aims and objectives of the work of the Commission on reconciliation to a wide audience.

536. The Reconciliation Committee with technical support of the Reconciliation Unit carried out the following activities in furtherance of its objectives:

- (i) Interpersonal reconciliation between victims and perpetrators.

- (ii) Community reconciliation initiatives in communities that were divided as a result of the human rights violations that took place in those communities.
- (iii) Engaging with Faith-Based Organisations to promote reconciliation.
- (iv) A Politics and Reconciliation meeting between the leadership of political parties.
- (v) Capacity building of the Commissioners and staff on peace building and social cohesion.
- (vi) Social cohesion interventions for national unity and peace-building.
- (vii) Partnerships and networking.

537. Key stakeholders for the Reconciliation Committee were victims and perpetrators, Government and non-governmental organisations, political, religious, and traditional leaders, influential individuals, victims' groups, civil society organisations (CSOs), community-based organisations (CBOs), children, youth and women's groups, Gambians in the Diaspora and international organisations.

538. The Commission found that there were misconceptions about the concept of reconciliation by many Gambians including victims. For many, reconciliation was seen as synonymous with forgiveness - that perpetrators seek forgiveness from victims after committing atrocities. The Commission however noted that even if an apology is offered and accepted the state still has an obligation to fulfil its obligations. The Commission held that reconciliation is both a process and an outcome. It applies not just to victims and perpetrators but to everyone and requires multiple interventions. No single intervention is likely to solve all problems but collectively diverse approaches could help build reconciliation.

539. The Commission also found that the truth-seeking processes contributed to the national reconciliation agenda by acknowledging the wrongs of the past and the

suffering of victims, and through its Never Again agenda prevent past human rights violation from recurring.

540. The Commission also found that ethnicity, religion, family, and gender considerations influenced many witnesses not to participate in the TRRC processes. Misplaced loyalty, fear of reprisals, stigmatisation and discrimination as well as perceived family honour also prevented both men and women from testifying before the TRRC even though systems were in place to protect their identities.
541. The Commission found that the decline of social networks in rural Gambia is a challenge to promoting national reconciliation and social cohesion. Rural communities which were previously bound together by shared values and identities and a sense of belonging have to a greater extent been broken down into separate units. Consequently, building relationships in such spaces will be a daunting task but not insurmountable. The Commission however found that positive traditional practices can promote reconciliation. Joking relationships for example, still play an important role in averting conflict and maintaining peace and can promote reconciliation. The power of joking relationships emerged during the public hearings and in the banter, that went on between Commissioners, staff, legal team and witnesses and perpetrators. This mechanism is understood by Gambians and is an important tool that can be used in reconciliation initiatives.
542. The Commission noted with concern that only men participated in the individual reconciliation activities facilitated by the TRRC. There were no reconciliation activities between perpetrators and women or children although these two groups make up a large number of victims that suffered from numerous human rights violations.
543. Finally, the Commission noted that lustration can be an alternative or supplement to retributive justice by disqualifying agents or officials of the former regime responsible for the human rights violations by excluding them from public service and disqualifying them from holding political office.

Recommendations from the TRRC and the position of the Government:

544. Commission made the following recommendations:

- (1) The Government should establish a Peace and Reconciliation Commission with a clear mandate to promote peace, reconciliation and healing and foster social cohesion. The Commission should have structures at the decentralised level to ensure that all parts of the country are involved.

545. **The Government accepts the recommendation of the Commission. The government is aware that the legacy of violence and oppression does not go away unless it is addressed. It also recognises that national reconciliation is a multi-dimensional and a long-term process that requires dedicated structures and procedures across the country for sustaining peace, especially for communities that were alienated by sustained and widespread violence. The Government in collaboration with stakeholders will develop a comprehensive national reconciliation strategy to guide the national reconciliation process. In setting up the Peace and Reconciliation Commission the Government will ensure that it is gender sensitive and has decentralised structures for effective engagement at the grassroots level.**

- (2) The institutional reforms proposed by the TRRC should be implemented as they are an important component in the reconciliation processes of the country.

546. **The Government accepts the recommendation of the Commission. As well as the demands for justice from victims, the Government recognizes that one of the main components of national reconciliation is the restoration of trust between the State and society. This trust can only be achieved when the State upholds its legal and institutional obligations. The Government reaffirms its commitment to prioritising the institutional reform process in**

line with the overall findings of the Commission and ending impunity through justice and accountability mechanisms.

- (3) The National Center for Arts and Culture (NCAC) and the National Council for Civic Education (NCCE) should work together to revitalise the joking relationships culture to enhance indigenous knowledge of shared norms and values that are central to peace making and to averting conflict.

547. The Government accepts the recommendation of the Commission. The Government is of the view that achieving national reconciliation is a deep and long-term process that demands institutional changes as well as changes in our norms, values, attitudes, beliefs, aspirations and sentiments. The National Council for Arts and Culture (NCAC) and the National Council for Civic Education (NCCE) are strategic institutions that respectively preserve, promote and develop Gambian culture and create and sustain awareness of constitutional democracy for the achievement of political, economic and social stability through civic education. These two institutions are therefore well positioned to play an important role in national reconciliation through social reconstruction whilst keeping alive our collective resolve of Never Again.

- (4) The faith-based organisations should play a frontline role in promoting healing and reconciliation in The Gambia.

548. The Government accepts the recommendation of the Commission. The effects of decades of violence and abuse still remain alive in the lives of victims and communities. For sustainable peace to be achieved, the government recognises that a broad range of actors needs to continue to come together to develop holistic strategies to support individuals and communities that experienced grievous human rights violations. Gambians recognize that traditional and faith-based organisations offer wisdom and inspire healing and renewing relationships. Similarly, women in The Gambia

have demonstrated great skills in recognising the pain and fears within and between families and communities and often are amongst the first to start dialogues to promote peace in communities. The Government will therefore engage and empower these groups to play a significant role in the national peacebuilding agenda.

- (5) Partners who have signed MoU's with the TRRC need to respect the agreements in their respective MoU to ensure that the gains made are not lost and that the country heals and reconciles.

549. The Government notes the recommendation of the Commission and recognizes the important role non-government and civil society organisations have played and continue to play in the transitional justice process. Cognizance of this, the Government will continue to support and collaborate with these organisations in moving from a divided past to a shared future.

- (6) The National Youth Council should promote national healing and reconciliation through its peace organisations and networks.

550. The Government notes the recommendation of the Commission and recognizes the important role the National Youth Council (NYC) through its dynamic networks played and continues to play in the transitional justice process. Cognizance of this, the Government will continue to support and collaborate with the NYC to promote national healing and reconciliation through its peace organisations and networks.

- (7) Gambian organisations in the Diaspora need to follow-up on agreements and recommendations emanating out of the 2019 Diaspora engagement.

551. The Government notes the recommendation of the Commission and appreciates the important role Gambian organisations in the Diaspora played and continue to play in the transitional justice process. Cognizance

of this, the Government will continue to engage Gambians in the diaspora in national development processes.

- (8) The United Nations system in the country and the international community who have invested so much in the TRRC processes have an important monitoring role to ensure that post-TRRC agreements and mechanisms are implemented in society.

552. The Government notes the recommendation of the Commission. The support of the United Nations system in the country and the international community in the transitional justice process cannot be overemphasised. The Government will continue to collaborate with them to realise its objectives of fully restoring good governance, democracy, and respect for human rights in The Gambia.

Memorialisation

Background

553. In the context of transitional justice, memorialization is used to honour victims of human rights abuses. Memorialisation is a key feature of the National Strategy for Transitional Justice in The Gambia and formed part of the TRRCs Reparations mandate as it contributes to the acknowledgment of victims and documenting of past human rights violations. As a symbolic reparation, memorialisation can play a pivotal role in driving societies towards reconciliation and transformation by providing opportunities for dialogue. In its final report, the Commission noted that it was unable to fulfil this essential component of its mandate.

554. The Commission had started the process of renaming Arch 22 as a way of honouring victims of human rights abuses and to serve as a constant reminder to all persons passing under the Arch of the gross human rights violations that occurred in the country and motivate them to commit to non-recurrence. The Commission worked extensively with the NCAC in the planning of the Project. However, the Commission initiative did not materialise. Consequently, the National Council for Arts and Culture (NCAC) was identified to finalise the implementation of the activity.

Recommendations from the TRRC and the position of the Government:

555. The Commission made the following recommendations:

- (1) Rename Arch 22 to Memorial Arch and (i) erect a permanent plaque on the Arch with the names of victims who lost their lives and (ii) set up exhibitions of relevant themes covered by the TRRC for continuous sensitisation and awareness creation.

556. **The Government accepts the recommendation of the Commission. The Government's plans for the renaming of the Arch are covered elsewhere in**

this report. The Government recognises the importance of memorialisation as a way of acknowledging and remembering all victims of human rights violations. The Government will consult with victims and victim led organisations on the development and implementation of a comprehensive national memorialisation framework that represents all victim groups.

- (2) The NCAC be given overall responsibility for the management and execution of the Project.

557. The Government notes the recommendation of the Commission and notes that that the NCAC has statutory responsibility for memorialisation and shall continue to play a leading role in national memorialisation initiatives.

- (3) The NCAC to request the Ministry of Tourism and Culture to set up a subsidiary board for the Memorial Arch project. The Board will help the NCAC in the management of the Memorial Arch by setting policies and monitoring their implementation and ensuring the appropriate use of local assets and resources and mitigating potential problems by being actively involved in the decision-making processes.

558. The Government notes the recommendation of the Commission and notes further the NCAC already has a Board. The NCAC will therefore utilise its existing structures in leading national memorialisation initiatives and the management of the NEVER AGAIN MEMORIAL ARCH in close collaboration with victims and other relevant stakeholders.

The National Human Rights Commission (NHRC)

Background

559. In December 2017, the Government of The Gambia enacted a series of laws setting up a Constitutional Review Commission (CRC), a Truth, Reconciliation and Reparations Commission (TRRC) as well as a National Human Rights Commission (NHRC). These instruments and institutions form the broader framework of the Transitional Justice Process intended to enable the country to transition from the Jammeh dictatorship – during which Gambians suffered gross violations of human rights to a democratic dispensation.
560. The TRRC had a limited time span to carry out its mandate of investigating and establishing an impartial historical record of the nature, causes and extent of violations and abuses of human rights committed during the period of July 1994 to January 2017 and to consider the granting of reparations to victims and for connected matters.
561. The NHRC however is a permanent independent body with a mandate to promote and protect human rights and fundamental freedoms through monitoring, receiving, investigating and considering human rights violations in The Gambia as well as assisting the Government in formulating appropriate policies with respect to human rights. Due to the complementary mandates of the two commissions, the NHRC is well positioned to monitor implementation of the TRRC recommendations.
562. In the process of implementing its mandate the TRRC has accumulated a wealth of material which can contribute not only to building the impartial historical record of what happened in The Gambia during the period July 1994 to January 2017 but can also be used for research by academia and for other countries to learn from The Gambia experience.

Recommendations from the TRRC and the position of the Government:

563. The Commission made the following recommendations:

- (1) That the NHRC be given the responsibility of monitoring the implementation of the TRRC recommendations and in that capacity reports on the status of implementation and provides an annual report to the National Assembly.

564. **The Government accepts the recommendation of the Commission. The NHRC is an independent body with the statutory mandate to promote and protect human rights. The NHRC is therefore well placed to monitor the implementation of the Report and make recommendations to Government on better implementation as well as report to the National Assembly annually on the status of implementation.**

- (2) That the NHRC be responsible for the archiving and digitalisation of documents, information and materials emanating from the TRRC to help in the preservation of the impartial historical record of human rights violation that the TRRC was mandated to establish.

565. **The Government notes the recommendation of the Commission. The Government holds the view that the documents and materials emanating from the Commission are of national interest and should be widely available to the public. The Gambia National Library has been the statutory archive of printed material, documents and visual materials of historical significance in the country. Noting the limited resources available to the National Library historically, the Government intends to use this opportunity to improve and strengthen the library's infrastructure and overall capacity and in particular its digital and archiving capacity to promote greater public accessibility to the materials and documents. The Government shall secure the services of archiving specialists to assist with the classification of the archives.**

Amnesty

Background

566. The TRRC Act gave the commission the power to recommend the granting of Amnesty to persons in appropriate cases upon application for Amnesty. An Amnesty Committee was therefore established to coordinate the amnesty process and make recommendations to the Commission for approval.
567. The Commission developed amnesty guidelines which included the procedure for making an application, the eligibility criteria and the evaluation process. The predominant criteria were whether the application complies with section 19(1) of the TRRC Act 2017, whether the applicant has made full and truthful disclosure of all relevant facts of his or her involvement in human rights violations and if the applicant has expressed remorse.
568. The Commission made a call for applications on the 4th of January 2022 and set the deadline for submission to January 21st 2022. The Commission received 25 applications from the following individuals:

- (1) Pa Alieu Gomez
- (2) Wassa Camara
- (3) Basiru Sey
- (4) Omar Cham
- (5) Ebrima Drammeh
- (6) Lamin Bo Baaji
- (7) Baboucarr Sowe
- (8) Tijan Bah
- (9) DSP Lamin Cham
- (10) Yusupha Sanneh

- (11) Amadou Bojang
- (12) Harry P. F. Sambou
- (13) Dr Isatou Njie Saidy
- (14) John Charles B Mendy
- (15) Baboucarr Njie
- (16) Edward Dennis Singhatey
- (17) Peter Singhatey
- (18) Lt. Malick Jatta
- (19) Omar A. Jallow
- (20) Pa Ousman Sanneh
- (21) Baboucarr Mboob
- (22) Major Baboucarr Bah
- (23) Sanna Bairo Sabally
- (24) Zakaria Darboe
- (25) Alagie Kanyi

569. Out of the 25 applications received, 6 had “Without Prejudice” written on the application letter and 7 were not signed by the applicants but by their lawyers. The Commission wrote to them to remove the “Without Prejudice” endorsement and to and to sign the applications themselves.

570. The committee reviewed all twenty-five applications and made determinations on each one. It submitted its report for approval which was obtained on the 28th of February, 2022. Of all the applications received, 11 were dismissed, 8 were denied, 5 were approved and 1 was referred to the Attorney General for finalisation of granting of immunity.

Recommendations from the TRRC and the position of the Government:

571. The Commission having considered the all the applications for amnesty made the following Recommendations;

- (1) The Commission recommended the dismissal of the application by Pa Alieu Gomez on the basis that it was not an application for Amnesty but rather a rebuttal of witness testimony.

572. **The Government accepts the Commission's recommendation with regards to Pa Alieu Gomez.**

- (2) The Commission recommended the dismissal of the application by Wassa Camara on the basis that there was no recommendation for prosecution made against him as he is not one of those who bear the greatest responsibility.

573. **The Government accepts the Commission's recommendation with regards to Wassa Camara.**

- (3) The Commission recommended the dismissal of the application by Basiru Sey on the basis that he was recommended to be reprimanded administratively and not to be prosecuted. He showed remorse and participated in reconciliation with his victims.

574. **The Government accepts the Commission's recommendation with regards to Basiru Sey.**

- (4) The Commission recommended the dismissal of the application by Omar Cham on the basis that while a finding was made against him, no recommendation was made for him to be prosecuted as he showed remorse and participated in reconciliation with his victims.

575. **The Government accepts the Commission's recommendation with regards to Omar Cham.**

- (5) The Commission recommended the dismissal of the application by Ebrima Drammeh as he was banned from holding public office for 10

years and not recommended for prosecution. He did not therefore qualify for Amnesty.

576. The Government accepts the Commission's recommendation with regards to Ebrima Drammeh.

(6) The Commission recommended the dismissal of the application by Lamin Bo Baaji as he was banned from holding public office and not recommended for prosecution. He did not therefore qualify for Amnesty.

577. The Government accepts the Commission's recommendation with regards to Lamin Bo Baaji.

(7) The Commission recommended the dismissal of the application by Baboucarr Sowe as he was banned from holding public office and not recommended for prosecution. He did not therefore qualify for Amnesty.

578. The Government accepts the Commission's recommendation with regards to Baboucarr Sowe.

(8) The Commission recommended the dismissal of the application by Tijan Bah as he was banned from holding public office and not recommended for prosecution. He did not therefore qualify for Amnesty.

579. The Government accepts the Commission's recommendation with regards to Tijan Bah.

(9) The Commission recommended the dismissal of the application by DSP Lamin Cham on the basis that he is not recommended for prosecution.

580. The Government accepts the Commission's recommendation with regards to DSP Lamin Cham.

(10) The Commission recommended the dismissal of the application by Yusupha Sanneh on the basis that it was a case of mistaken identity. The Commission's report should have referred to Mustapha Sanneh

instead. The Commission resolved to write to the Attorney General to inform him of the mistake, to apologise to Yusupha Sanneh and inform Mustapha Sanneh of his recommendation for prosecution as well as inform him he could apply for amnesty if he so desired.

581. The Government accepts this recommendation. The government notes further from the Commission's report that no application for Amnesty was made by Mustapha Sanneh.

(11) The Commission recommended the dismissal of the application by Amadou Bojang as he was recommended to be reprimanded and not for prosecution.

582. The Government accepts the recommendation of the Commission with regards to Amadou Bojang.

(12) The Commission recommended the dismissal of the application by Harry P. F. Sambou on the grounds that he was only recommended for banning from public officer with regards to the torture, inhumane and degrading treatment of Yaya Drammeh and Ballo Kanteh. His application was further recommended for denial on the grounds that he tried to evade responsibility and showed no remorse for the concealment of the unlawful killing of Daba Marena and 6 others.

583. The Government accepts the recommendation of the Commission with regards to Harry P. F. Sambou.

(13) The Commission recommend the denial of the Application of Dr. Isatou Njie Saidy on the grounds that she did not give a full and truthful disclosure to the Commission. Furthermore, she described her role as passive even though the Commission found that during the 10th and 11th April 2000 student protests, pursuant to the instructions from ex-president Jammeh she instructed Baboucarr

Jatta to deploy the army. She failed to take responsibility and is one of the people who bear the greatest responsibility for that incident.

584. The Government accepts the recommendation of the Commission with regards to Dr. Isatou Njie Saidy.

(14) The Commission recommended the denial of the application of John Charles B. Mendy on the basis that he did resend a signed application, but he did not give full disclosure, was not truthful and did not show remorse.

585. The Government accepts the recommendation of the Commission with regards to John Charles B. Mendy.

(15) The Commission recommended the denial of the application by Baboucarr Njie on the basis that he did not give full disclosure, he did not tell the truth and he did not show remorse.

586. The Government accepts the recommendation of the Commission with regards to Baboucarr Njie.

(16) The Commission recommended for the denial of the application by Edward Dennis Singhatey on the basis that his application contradicted the process for applying for Amnesty by not being endorsed by him but rather by his lawyer. The Commission went further to state that even if it was signed by him, he had not given full disclosure as he was untruthful in his testimony. Furthermore, he showed no remorse except for his human rights violations towards Sanna B. Sabally. The Commission considered him amongst one of the people who bear the greatest responsibility for the human rights violations that took place during the November 11th unlawful killings and tortures, the death of Ousman Koro Ceesay and the torture of Sanna B Sabally, Sadibou Hydara and Baboucarr Sanyang.

587. The Government accepts the recommendation of the Commission with regards to Edward Dennis Singhatey.

(17) The Commission recommended for the denial of the application of Peter Singhatey Singhatey on the basis that his application contradicted the process for applying for Amnesty by not being endorsed by him but rather by his lawyer. The Commission went further to state that the Applicant did not testify before the Commission, did not submit a written statement and did not give full disclosure of his participation in the crimes he was found to have participated in his Amnesty application. The Commission found Peter amongst one of the people who bear the greatest responsibility for the human rights violations that took place.

588. The Government accepts the recommendation of the Commission with regards Peter Singhatey.

(18) The Commission recommended for the denial of the Application by Lt. Malick Jatta on the basis that although he gave full disclosure, showed remorse, and helped the Commission in its investigation his acts form crimes against humanity. The Commission further recommended that the State could grant him immunity should it wish to use him as a witness.

589. The Government accepts this recommendation and will evaluate Lt. Malick Jatta's utility as a witness in line with its prosecution strategy.

(19) The Commission recommended for the denial of the Application by Omar A. Jallow on the basis that although he gave full disclosure, showed remorse, and helped the Commission in its investigation his acts form crimes against humanity. The Commission further recommended that the State could grant him immunity should it wish to use him as a witness.

590. **The Government accepts this recommendation and will evaluate Omar A Jallow’s utility as a witness in line with its Prosecution Strategy.**

(20) The Commission recommended for the denial of the Application by Pa Ousman Sanneh on the basis that although he gave full disclosure, showed remorse, and helped the Commission in its investigation his acts form crimes against humanity. The Commission further recommended that the State could grant him immunity should it wish to use him as a witness.

591. **The Government accepts this recommendation and will evaluate Pa Ousman Sanneh’s utility as a witness in line with its Prosecution Strategy.**

(21) The Commission recommended the granting of Amnesty to Baboucarr Mboob on the basis that he was truthful in his testimony, gave a full disclosure and showed remorse.

592. **The Government accepts this recommendation with regards to Baboucarr Mboob subject to his provision of witness evidence as may be required in line with the Prosecution Strategy.**

(22) The Commission recommended the granting of Amnesty to Major Bubacarr Bah on the basis that he gave full disclosure, accepted responsibility and showed remorse. He further participated in a reconciliation activity with the victim.

593. **The Government accepts this recommendation with regards to Major Bubacarr Bah subject to his provision of witness evidence as may be required in line with the Prosecution Strategy.**

(23) The Commission recommended the granting of Amnesty to Sanna Bairo Sabally on the basis that he served time in prison for false crimes levied against him. The Commission further noted that he gave full disclosure, showed remorse and initiated and participated

in reconciliation with a perpetrator. The Commission finally noted that Sanna's crimes precede the Rome Statute and cannot be applied retroactively. The Commission recommended him for community service.

594. **The Government rejects the recommendation of the Commission as pertains to Sanna Sabally and notes that although he might have made full disclosure and showed remorse, Sanna is one of the individuals that bears the highest responsibility for gross human rights abuses and violations in the early days of the Jammeh regime, particularly the extrajudicial killing of many soldiers on November 11th, 1994.**

(24) The Commission recommended the granting of Amnesty to Zakaria Darboe on the basis that he showed remorse, gave a full disclosure in his statement and was truthful in his application.

595. **The Government accepts the recommendation of the Commission with regards to Zakaria Darboe, subject to his provision of witness evidence in line with the Prosecution Strategy.**

(25) The Commission recommended immunity for Alagie Kanyi based on an immunity deal entered into with state. The Commission referred his case to the Attorney General for completion of the process.

596. **The Government notes the recommendation of the Commission with regards to Alagie Kanyi and further notes that his testimony was crucial in unveiling the truth behind the murder of Ousman Koro Ceesay as well in securing the conviction of Yankuba Touray for this murder. While noting that there might be a need for some legislative enactments to cater for the grant of immunity the Government will work towards finalising the immunity arrangement for Alagie Kanyi.**

597. The Government notes further that although the TRRC Act gives the Commission the power to make recommendations for Amnesty there is no explicit legal framework for the grant of immunity under our laws. The Government, through

the Ministry of Justice will therefore work towards drafting legislation which amongst other things will make provision for the granting of Amnesty.

Conclusion

598. The White Paper broadly sets out Government's roadmap for the implementation of the TRRC Report. The Government notes that the success of the implementation process is anchored in proper planning and efficient resource mobilisation. The Government will in due course develop a detailed Implementation Logical Framework that will set out specific activities for implementation, overall objectives, key actors, clear timelines as well as key indicators of success.
599. The Government notes the need to make information on the implementation process widely available in order to ensure broad participation. The Government intends to implement a robust communication strategy that will close the information gap, enhance access to information and ensure the popularisation of the TRRC Report and Government White Paper to the grassroots.
600. Finally, the Government reiterate its unwavering commitment to the implementation of the TRRC Report as set out in this White Paper, with a view to ensuring reconciliation and national healing, accountability and justice for victims of gross human rights abuses and violations, the provision of reparation for victims, broad institutional reforms and ensuring non-reoccurrence.