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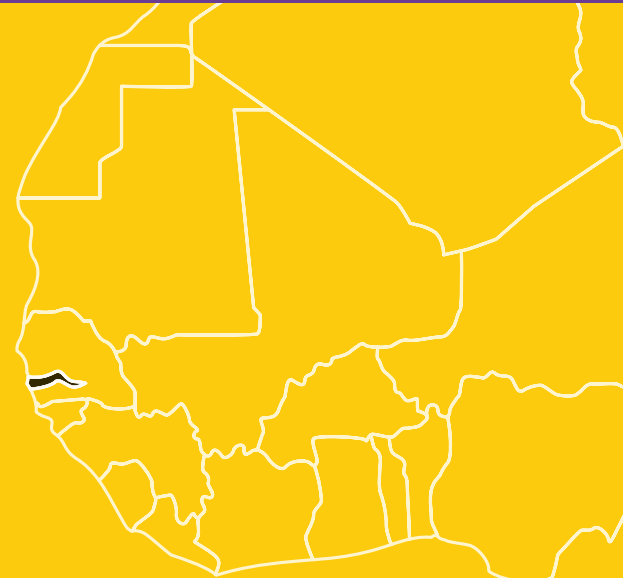


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A GLOBAL FUND FOR SURVIVORS OF
CONFLICT-RELATED SEXUAL VIOLENCE

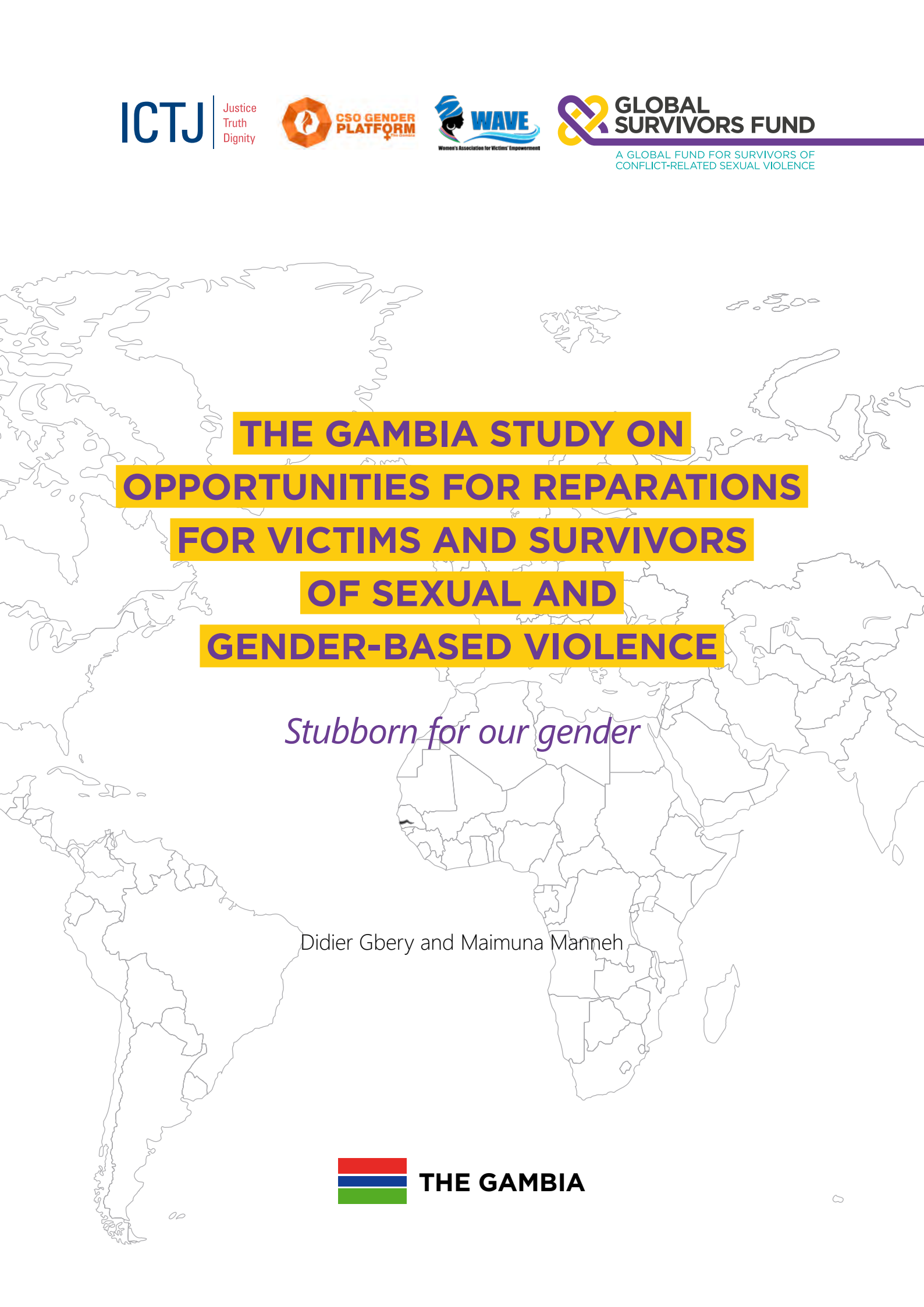
THE GAMBIA STUDY ON OPPORTUNITIES FOR REPARATIONS FOR VICTIMS AND SURVIVORS OF SEXUAL AND GENDER-BASED VIOLENCE

Stubborn for our gender



THE GAMBIA





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Didier Gbery and Maimuna Manneh



THE GAMBIA

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Training of community women and victims on reparations and gender, Essau, September 2021
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EXECUTIVE SUMMARY

During more than two decades (1994 – 2016), The Gambia was led by former dictator Yahya Jammeh, whose administration committed number of horrendous crimes and human rights abuses. Yahya Jammeh’s government harassed and abused voices of dissent. According to the Truth Reparations and Reconciliation Commission’s (TRRC) final report, his regime is responsible for the death, torture, arrest, detention, enforced disappearance and sexual violations against an unknown number of citizens. The commission unveiled that widespread and systematic sexual abuse and rape was pervasive in State institutions and the security apparatus. However, sexual and gender-based violence (SGBV) is often excluded from victim mobilization and civil society demands for truth and justice. A climate of fear extended beyond the media and political opponents, as thousands of citizens were detained and were forced to undergo experimental HIV “treatments”, sexualized torture, and assaults. Jammeh left a legacy of corruption and is estimated to have stolen upwards of \$50 million from the State. In the December 2016 elections, Jammeh was defeated, and his departure from power in January 2017 provides an opportunity to pursue justice and accountability, through the establishment of transitional justice commissions, including TRRC.

Jammeh’s regime was characterized by gross human rights violations, including torture, enforced disappearances, unlawful detentions, extrajudicial killings, rape, sexual assaults, abuse, and exploitation. These violations were largely committed against human rights activists, political opponents, and the media by State officials, mainly defence and security forces. Jammeh deliberately targeted Human Immune Virus (HIV) patients, and rural communities accused of witchcraft who were detained, tortured, and forced to drink poisonous remedies. SGBV was underreported, due to a culture of impunity, shame and stigmatization, lack of awareness of rights, limited access to services, and discriminatory attitudes towards survivors.

Victims’ views and priorities on necessary reparations modalities included: i) acknowledgement of responsibility and formal apologies by the President on behalf of the State to restore their dignity, justice and accountability; ii) compensation and financial assistance in the form of a lump sum or regular allowances

for elderly survivors, access to basic social services (food and first aid kits, health care, education, and shelter), individual, family and community psychosocial support and healing programmes (establishment of psychosocial support centres). Several SGBV survivors also requested educational assistance for them and their children in the form of scholarships or free access to primary and secondary education, or technical and vocational schools; iii) and measures to guarantee non-repetition through the revision of the legal framework, law enforcement as well as public outreach to promote reconciliation and fight survivors’ stigmatization.

In 2017, the new government initiated a transitional justice process which included: i) The Janneh Commission, a commission of inquiry into the financial activities of the former president; ii) a Constitutional Review Commission; iii) a National Human Rights Commission; and iv) the Truth, Reconciliation and Reparations Commission mandated to investigate and establish an impartial historical record of the nature, causes, and extent of human rights violations and abuses as well as to make recommendations and grant reparations to victims. Even though the TRRC urged the prioritization of reparations to SGBV survivors, due to lack of financial resources, only some of them have received partial financial compensation (the Government needs to increase its initial disbursement of \$1 million to a total of \$4 million).

Survivors expressed how their access to reparations was hindered by the following challenges: minimal participation in the reparations planning process; fears of stigmatization and publicity of hearings within the TRRC; procedures and transportation fees; lack of accountability and trust in the judiciary; absence of a victim protection law and definition of the victim status in the constitution and criminal code procedure as well as the fact that victims are not actors of criminal proceedings but need to participate as witnesses and confront the accused individuals throughout trial. Rural communities’ access to reparations is constrained due to: i) requirements to present identity or voting cards they don’t have; ii) poor regional coverage of banks assigned to cash cheques; and iii) minimal availability of health care services and infrastructure paired with insufficient trained health care providers and unavailability of

specialized gender-sensitive services. Women face further societal and cultural challenges as the whole household is considered to be wronged when a woman is raped, and the men in the family believe they should be the beneficiaries of reparations. The lack of both a holistic reparations framework and programme for SGBV survivors and sufficient financial resources are causing delays in the provision of reparations. Political interference and the new political landscape with the prevailing influence of former President Jammeh’s party might curtail further reparations efforts in the future.

| Recommendations

FOR GENDER-SENSITIVE AND GENDER-RESPONSIVE IMPLEMENTATION OF REPARATIONS

- Reparations is a right entitled by human rights violations victims. Prompt implementation of reparations is essential to help the SGBV survivors to overcome the consequences of the violations meted to them, particularly since COVID-19 has worsened the situation of survivors, exacerbated by conditions of persistent poverty, entrenched discrimination, and structural challenges to their access to basic social services.
- A comprehensive policy, with a combination of symbolic and material measures, and clear implementation strategy, including through gender mainstreaming should be developed, ensuring meaningful and informed participation of SGBV survivors, considering specific needs of women and children, guaranteeing their confidentiality to promote their access to reparations.
- Modalities of reparations should include compensation or regular allowance, that could not be below the 2021 precedent of D150,000 (\$2,800) for survivors of SGBV; free access to health care, psychosocial and mental health support; scholarship and educational assistance for the children of SGBV survivors; and symbolic acknowledgment through memorials and public apology.

TO THE GOVERNMENT OF THE GAMBIA

- Reaffirm political support for and commitment to victims’ rights through the rapid provision of holistic reparations to victims, including survivors of SGBV.

- Establish an independent mechanism with political and financial capacity to coordinate relevant ministries in implementing reparations, strengthening transparency and accountability.
- Disburse sufficient funds for the prompt, adequate and effective provision of reparations to survivors ensuring their participation in decision-making processes and disseminating information about available remedies to promote their wide accessibility. This further entails the protection of the safety and confidentiality of survivors.
- Promulgate a victim and witness protection law to ensure their safe participation in criminal proceedings, particularly in SGBV cases; reform the criminal procedure code to provide compensation for SGBV survivors as part of the criminal proceedings and effectively enforce the Domestic Violence Act, the Sexual Offence Act as well as the broad protective legal framework.

TO CIVIL SOCIETY ORGANISATIONS

- Advocate for the development of a gender-sensitive and holistic reparations policy and programme with the consultation and participation of survivors’ and women organisations and communities.
- Monitor and evaluate the reparation process, including through a memorandum of understanding to partner with the follow up mechanism.
- Raise awareness about SGBV sensitive reparations e.g. through training programmes, outreach activities; as well as facilitating access to and exchanges with communities.

TO THE INTERNATIONAL COMMUNITY

- Urge the government to respect its international commitments and provide prompt gender-sensitive reparations.
- Provide technical and financial assistance to the implementation of reparations, monitoring and evaluating the implementation of adequate reparations to SGBV survivors.
- Provide technical and financial support to civil society organisations to carry out awareness raising activities on women’s rights and SGBV.



ACRONYMS

AIDS	Acquired Immune Deficiency Syndrome	LGBTQ	Lesbian, gay, bisexual, transgender, and queer
ANEKED	African Network against Extra-judicial Killings and Enforced Disappearances	MoJ	Ministry of Justice
AFPRC	Armed Forces Provisional Ruling Council	MoWCSW	Ministry of Gender, Children and Social Welfare
APRC	Alliance for Patriotic Reorientation and Construction	NIA	National Intelligence Agency
AU	The African Union	NGO	Non-Governmental Organisations
AUTJP	African Union Transitional Justice Policy	NHRC	National Human Rights Commission
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women	NPP	National People's Party
CRC	Constitutional Review Commission	NRP	National Reconciliation Party
CRSV	Conflict-related sexual violence	OHCHR	UN Human Rights Office
CSVR	Center for Study of Violence and Reconciliation	PATP	Presidential Alternative Treatment Program
CSO	Civil Society Organisation	PIU	Police Intervention Unit
DVA	Domestic Violence Act	SGBV	Sexual and Gender Based Violence
ECOWAS	Economic Commission of West African States	SOA	Sexual Offences Act
FGD	Focus group discussion	SSR	Security and Sector Reforms
FGM	Female genital mutilation	TRRC	Truth Reconciliation and Reparations Commission
GMD	Gambian Dalasi	UDP	United Democratic Party
GIJTR	Global Initiative for Justice, Truth and Reconciliation	UN	The United Nations
GPTJ	Gender Platform for Transitional Justice	UNDP	United Nations Development Programme
GSF	Global Survivors Fund	WAVE	Women Association for Victim Empowerment
HIV	Human Immune Virus	WILL	Women in Liberation and Leadership
ICTJ	International Center for Transitional Justice		



Workshop with CSOs and policy makers, Kannifing municipality council, May 2021

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I. BACKGROUND AND METHODOLOGY

1. About the project, project partners and acknowledgements

1.1. About the project

As part of a Global Reparations Study, the International Center for Transitional Justice (ICTJ), Women Association for Victims Empowerment (WAVE) and the Gender Platform for Transitional Justice (GPTJ), in collaboration with the Global Survivors Fund (GSF), have conducted a study to identify the reparations' needs of survivors of SGBV in The Gambia, as well as the opportunities for delivering reparations to survivors through judicial and administrative processes. Although the Global Reparations Study is focused on instances of conflict-related sexual violence (CRSV), SGBV terminology is used in The Gambia Study because of the particularity of the local context where no actual conflict took place.

This Study presents and analyses survivors' perceptions, and expectations for reparations, and offers practical, concrete and context specific recommendations to policy makers and other relevant actors at national and global levels to inform the design and delivery of survivor-centred reparations in The Gambia. The Gambia Study also seeks to establish whether survivors of SGBV have already received any form of assistance and/or reparation through government programmes or from civil society initiatives, and if so, what lessons can be learned from those experiences, to inform the design and delivery of comprehensive reparations in the future, including the potential delivery of interim reparative measures by GSF. As an objective in itself, The Gambia Study process further aimed to increase the understanding and awareness of survivors' rights to reparations and to create further momentum for the delivery of meaningful survivor-centred reparations to SGBV survivors in The Gambia.

The Gambia Study is part of a global study on reparations (the "Global Reparations Study") launched by GSF in 2020, which focusses on the status of and

opportunities for reparations for survivors of CRSV in over 20 countries. The Global Reparations Study is a multi-actor effort led by GSF in collaboration with over 40 local and international partners, including survivors' networks and groups. It seeks to make recommendations for further action based on survivors' needs and aspirations and to identify potential support available among key actors and concrete action to enhance access to reparations for CRSV survivors around the world.

1.2. About the project partners



ICTJ works across society and borders to challenge the causes and address the consequences of massive human rights violations. We affirm dignity, fight impunity, and promote responsive institutions in societies emerging from repressive rule or armed conflict, as well as in established democracies where historical injustices or systemic abuse remain unresolved. ICTJ envisions a world where societies break the cycle of massive human rights violations and lay the foundations for peace, justice, and inclusion. For more information, visit www.ictj.org.



GPTJ was formed within the framework of the transitional justice programme in December 2017, by a group of women rights advocates with the support and collaboration of United Nations Development Programme (UNDP) and office of the High Commission for Human rights (OHCHR) in an effort for popularization and domestication of the United Nations convention on the Elimination of all Forms of discrimination against Women, the Maputo Protocol, and inclusion of women in the transitional justice process of the Gambia by 25 members from non-State actors. It is a civil society advocacy group for the promotion and protection of the rights of men, women, and girls.



WAVE promotes and supports women to be agents of change in the areas of healing, reconciliation, reparations, accountability, and justice. As a new organisation, WAVE is building its presence in several regions. WAVE holds discussions with women to identify the barriers and gaps in their meaningful participation in the public space which included the need to engage with gender-oriented programmes and conduct advocacy to promote their views and opinions effectively and be heard. WAVE engages in awareness raising and sensitization programmes and supports women victims in different areas including facilitating their access to humanitarian as well as legal and psychosocial services and support. For more information, visit <https://www.wave-gambia.org/>.



GSF was launched in October 2019 by Dr Denis Mukwege and Ms Nadia Murad, Nobel Peace Prize laureates 2018. Its mission is to enhance access to reparations for survivors of conflict-related sexual violence around the globe, thus seeking to fill a gap long identified by survivors. GSF acts to provide interim reparative measures in situations where States or other parties are unable or unwilling to meet their responsibilities. GSF advocates also for duty bearers, as well as the international community, to develop reparations programmes, and provides expertise and technical support to guide States and civil society in the design of reparations programmes. GSF's survivor-centric approach is the cornerstone of its work. For more information, visit www.globalsurvivorsfund.org.

1.3. About the authors

Didier Gbery is ICTJ's Head of Program in The Gambia. He joined ICTJ in 2013 as a Program Officer in Côte d'Ivoire where he led the Children and Youth program, before moving to The Gambia in 2019. In Côte d'Ivoire and The Gambia, Didier has supported local civil society organisations and victims' groups to build their capacity and leadership to voice their demands and advance their right to reparations. TRRC in the Gambia honored ICTJ with an award in

2021, in recognition of Didier's support around the inclusion of women and reparations. Prior to joining ICTJ, Didier served as the Deputy Reporting and Program Development Officer for the Agence d'Aide à la Coopération Technique et au Développement (ACTED). He has also worked for CARE International and Save the Children in Côte d'Ivoire. Didier holds a master's degree in Criminology from the University of Abidjan-Cocody and certificates in Transitional Justice and Children Protection from the United Nations Peacekeeping School in Bamako.

Maimuna Manneh was the National Gender Consultant and Program Assistant at the ICTJ from 2020-2022. Through her interactions with diverse victim communities, she has been inspired to be a human rights advocate and to continue using her voice to fight for vulnerable groups, specifically women and girls in the fight against sexual violence. Before joining the ICTJ, she served as the Secretary General of the Power of Freedom youth movement, a youth-led organisation that promotes peace, justice and accountability, since 2016. Maimuna earned an undergraduate degree in Political Science (Hons) from the University of The Gambia.

1.4. Acknowledgements

ICTJ would like to thank all the survivors who agreed to participate in the Study and share their opinions about reparations for survivors of SGBV in The Gambia. Without their availability and patience, the Study and the report would not have been possible.

We also want to thank the civil society organisations involved, particularly our partners WAVE and GPTJ, whose contributions and advice helped to shape the Study and its implementation; and the local women groups, particularly in Sintet, Essau, Sabach Njien, Brikama Ba and Basse for their assistance in the logistical organisation and mobilisation of the survivors.

We finally want to thank the state institutions that supported the Study, notably the Ministry of Justice (MoJ); the Ministry of Gender, Children and Social Welfare; and the TRRC, and acknowledge their valuable contributions to and moral support for the Study.

| 2. Methodology

2.1. Aim of The Gambia Reparations Study

To identify what current avenues are available in The Gambia for accessing reparations for CRSV, what gaps between access and survivors' needs exist and how such gaps can be mitigated to ensure timely access to reparations for all survivors of CRSV.

2.2. Specific objectives of the Country Study

1. Document to the extent possible the scope and extent of sexual violence committed during or related to the conflict period.
2. Identify and assess legal and administrative remedies in place for awarding reparations to survivors of CRSV.
3. Identify and analyse survivors' perspectives, needs and expectations in relation to reparation and interim reparative measures.
4. Identify gaps between current access to reparations and survivors' needs, and determine opportunities for, as well as possible challenges, to access to reparations in The Gambia.
5. Provide contextual recommendations for ensuring that reparations and interim reparative measures are provided to survivors of CRSV in The Gambia.

2.3. Study methods

The project in The Gambia entailed a mixed-methods study involving both participatory approach and documentary analysis of the situation of SGBV survivors committed during Yahya Jammeh's 22-year dictatorship.

The research was grounded in participatory and victim-centred approaches focused on the principle

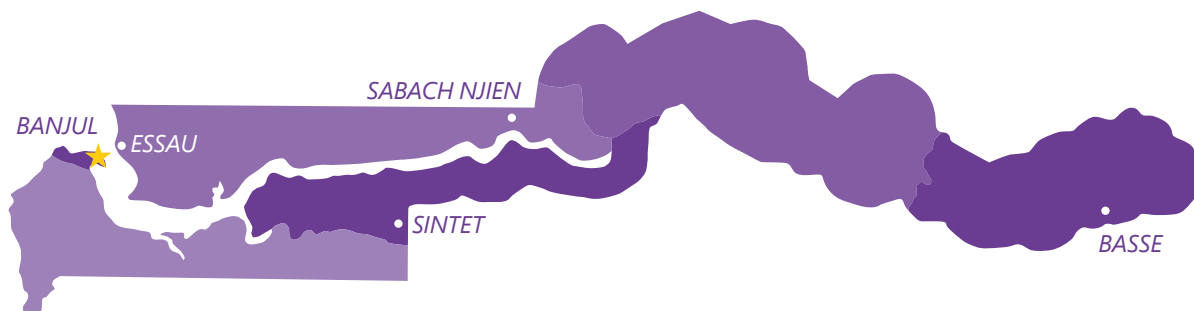
of 'Do No Harm', taking all necessary measures to protect and ensure the security (physical, emotional, and mental), well-being and respect the best interest of our beneficiaries during our activities. As SGBV issues are taboo in Gambian society, we had to ensure that our intervention respected some ethical and security considerations by guaranteeing the confidentiality, anonymity, and safety of participants. A coding system was used for the identification of participants.

The project was made possible through the collaboration of local organisations GPTJ and WAVE that have been very active in the transitional justice process in The Gambia, particularly in promoting gender justice and the effective participation of women survivors, both at the policymaking level and with victim communities. These two partners were instrumental in identifying survivors, facilitating focus-group discussions (FGDs), and conducting interviews, by providing some members of their organisations who are survivors or relatives of victims.

ICTJ also worked with and involved local women's groups, mainly grassroots women's associations including women's support groups and members of School Mothers' Clubs¹ based in the project's target regions. Indeed, at the inception of the project, victims' representatives, and civil society organisations (CSOs) were informed about the project goal and activities then consulted during the tools' development process. Civil society participated by taking part in all the consultative workshops held before undertaking the research with survivors. Their contributions also helped the researchers on how to go about the Study. Some CSOs, such as the Gambian Center for Victims of Human Rights Violations (Victims' Center),² identified and provided names of survivors who took part in the Study. The development of the survey tools and the actual field research were done with consultations of these stakeholders, primarily during review and validation workshops. They were consulted during the tools drafting process which they validated during a workshop. Also, after the initial analysis of the information collected and the report drafted, we consulted a second time all survivors who participated in the FGDs to confirm or complement the information and analysis.

¹ Local associations of women promoting and supporting their children's education.

² The Gambia Center for Victims of Human Rights Violations is a Gambian non-profit organisation that provides psychological support to the victims, medical treatment and educational support and channels their grievances for onward advocacy, engagement, and possible redress.



On 23 April 2021, ICTJ, WAVE and GPTJ organised a workshop to validate the Study tools and methodology. The workshop was attended by 30 participants, including 20 SGBV survivors (10 from the regions) and 10 representatives of CSOs. During the meeting, we reviewed the tools developed for conducting the FGDs and interviews with survivors, including the consent form and the interview schedule consisting of the semi-structured questionnaire. We also encouraged the CSOs present to support the process of identifying additional survivors who could take part in the Study. During this process, both survivors and CSOs recommended the use of FGDs as the primary methodology for gathering information and reserving one-to-one interviews only when necessary. They considered that this approach, which embeds a group support structure, would help mitigate the risk of a retraumatisation for victim interview participants. Moreover, they underlined that such an approach would help avoid raising unrealistic expectations from the Study, since most survivors already gave their individual statements to the TRRC and the Victims’ Center but are yet to receive reparations. Finally, FGDs also served as a form of group therapy by establishing a space for victims to express themselves and receive peer support.

PARTICIPANTS AT THE VALIDATION WORKSHOP ON STUDY TOOLS



On 19 May 2021, the team held an initial workshop with civil society representatives and policymakers to begin mapping the current context of possibilities and challenges related to reparations in The Gambia. Twenty-four participants, including representatives of six State institutions and 18 civil society representatives attended the workshop to discuss and analyse opportunities for reparations for SGBV survivors, identify challenges that survivors may face in receiving reparations, and develop strategies to overcome these challenges. Participants assessed the legal, administrative, and institutional opportunities, challenges and threats related to the provision of reparations to victims in general and SGBV survivors in particular.

INSTITUTIONS PARTICIPANTS TO THE WORKSHOP ON REPARATIONS



The assessment with survivors took place from 31 May to 8 June 2021, in six localities of the five regions of the country: Upper River Region (Basse), Central River Region (Brikama-Ba), North Bank Region (Essau and Sabach-Njien), West Coast Region (Sintet), Greater Banjul Area (Kombo). Seventy-seven survivors of various forms of SGBV, including 65 women and 12 men, attended the FGDs, with the objective of collecting and confirming their demographic profiles, getting a better sense of the types of violations they have suffered and the consequences of those violations on their lives, and finally, collecting their opinions, needs, and expectations regarding reparations. A team comprising three ICTJ staff members (two females and

one male), and two representatives of the partner organisations conducted the FGDs. Prior to starting the discussions, the participants were informed about the objectives and approaches of the Study and then given code numbers to protect their identity. A consent form was presented and signed by each participant to get confirmation that they agreed to take part in the Study. During the focus groups, open-ended questions were favoured to facilitate exploration and encourage discussion among the participants, but also to collect as much detailed information as possible. The team of ICTJ staff and representatives from WAVE and GPJT audio-recorded all the discussions in addition to taking notes during the session. Both participants and the interviewers were encouraged to take breaks as often as necessary. Following the consultations, the qualitative data collected was analysed, and this analysis forms the basis of findings presented in this report.

One of the major challenges encountered was related to language barriers. Given the level of education of most of the participants, they preferred

to use vernacular languages. The focus groups were therefore conducted in the different languages of the country, notably Wolof, Mandinka, and Fula, depending on the region visited. The interview notes were then transcribed into English for analysis.

COVID-19 guidelines, including physical distancing and wearing of masks during the focus groups, were adhered to. Handwashing facilities, sanitary gels, and face masks were provided for all participants.

The ICTJ team compiled the information in a draft report, then returned to each community from August 15 to 20, 2021, to convene workshops to present and validate the findings of the Study. The validation workshops provided survivors with an opportunity to add missing information and make additional recommendations. The report highlights facts, types and impact of violations, sociodemographic profiles of survivors and perpetrators, as well as survivors' long and short-term needs, expectations, and recommendations.

GENDER OF SURVIVORS PARTICIPANTS AT THE FOCUS GROUP DISCUSSIONS





Training of community women and victims on reparations and gender, Sabach Njien, September 2021
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II. INTRODUCTION

Survivors of sexual and gender-based violence (SGBV) have an undeniable right to remedy and reparation. The Gambia's history during the last two decades is marked by widespread violations committed by the dictatorial regime of the former president Yahya Jammeh (April 1994 – January 2017) against several hundred victims. The regime meted out identical violations against men and women, such as unlawful arrests and detention, beatings, and inhumane and humiliating treatment, which had differentiated consequences on their lives according to their gender. Moreover, many women were deliberately targeted and became victims of specific violations such as rape, sexual assault, abuse, exploitation, and torture. Many women survivors felt some semblance of hope when Jammeh left the country after his electoral defeat in January 2017. Yet, almost five years into The Gambia's transition, women survivors of SGBV are still demanding and waiting for justice and fair reparations.

This report includes the opinions and views of 77 survivors (65 women and 12 men) who experienced various forms of SGBV during the Jammeh regime. It compiles their experiences, including the scope and forms of violations they suffered; describes their sociodemographic profile; and portrays the characteristics of their perpetrators. The report also

discusses the impact of the violations and derived needs in their lives, including their expectations regarding the type and forms of reparative justice they envision for themselves, their communities, and their families to feel satisfied. The report also analyses the local opportunities and threats regarding reparations for survivors of SGBV in the country, including contextual-based conditions to consider before addressing their needs to guarantee their security and well-being. Despite the past dictatorship, The Gambia is marked by a legal framework that includes several pieces of legislation protecting women, although enforcement of these laws was and remains a challenge for survivors of SGBV seeking to access fair and adequate reparations and make women's right to protection a reality. Finally, the Study also presents recommendations proposed by the victims consulted, addressed to different stakeholders, including the government, civil society organisations, and the international community.

Survivors' expectations are high, but not unrealistic. They believe that with real will and commitment from the political leadership, fair, holistic, and adequate reparations could be provided to them as a form of recognition and acknowledgment of the myriad harms done to them.



Training of community women and victims on reparations and gender, Essau, September 2021

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III. SEXUAL AND GENDER-BASED VIOLENCE DURING THE GAMBIAN DICTATORSHIP

| 1. Context

This report covers acts of SGBV committed from July 1994 to January 2017. Since these violations occurred during a context of an authoritarian regime, the forms of SGBV presented here differ somewhat from typical patterns of conflict-related sexual violence. Violations in The Gambia was more about domination, asserting power, and keeping certain groups subservient and under control, rather than sowing abject terror and violence, as is more common during armed conflicts.

In July 1994, a bloodless military coup d'état removed from power The Gambia's first president, Dawda Jawara (1970-1994). The coup was conducted by a group of young soldiers led by then-Lieutenant Yahya Jammeh. Jammeh later established the Armed Forces Provisional Ruling Council (AFPRC) and ruled the country as a dictator for two years, suspending the constitution, banning political parties, and imposing a curfew. In 1996, a new constitution was written, and in December of that year, Jammeh was elected president.

In December 2016, after more than two decades of ruling with an iron fist, Jammeh lost the presidential election to Adama Barrow. In January 2017, he was forced into exile following regional and international political and military pressure after he attempted to reject the election results. The new government initiated a transition with the establishment of several transitional justice mechanisms including a commission of inquiry into the financial activities of former president Jammeh; a Constitutional Review Commission (CRC); and the TRRC. The TRRC was set up in 2018 for a two-year term. After a brief extension of its official mandate and the end of its public activities, up to 30 September 2021, the TRRC submitted its final report and recommendations to President Adama Barrow

on 25 November 2021. They were made public by the Minister of Justice on 24 December 2021. The TRRC was mandated to investigate and establish an impartial historical record of the nature, causes, and extent of violations and abuses of human rights committed during the period from July 1994 to January 2017. It was also mandated to make recommendations for and actually grant reparations to victims.³ The commission began to capture the attention of the nation and the diaspora when it commenced with its public hearings in January 2019. It was through these hearings that Gambians began to learn about the full extent of the violations committed by the State and their fellow Gambians under Jammeh's 22-year regime.

During Jammeh's rule, the opposition was heavily persecuted, and harassed by the police force. Jammeh is also accused of human rights abuses, especially towards human rights activists, civil society organisations, political opponents, and the media. Many had to go into exile to avoid being arbitrarily imprisoned or murdered. Several cases of enforced disappearances were also documented.⁴ Violent episodes that are emblematic of his rule include a student massacre at a protest in 2000, the murder of journalist Deyda Hydara in 2004, public threats to kill human rights defenders and a witch hunt campaign against villagers in 2009, and public threats towards lesbian, gay, bisexual, transgender, and queer (LGBTQ) communities in 2013.

Former President Jammeh's authoritarian legacy was characterised by total disregard for the rights of women, girls, men, and boys, including members of minority groups. The commission of acts of SGBV by senior government officials, including former President Yahya Jammeh himself, is widely documented, as is the scope of the violence committed under the guise

³ Truth, Reconciliation and Reparations Commission Act, 2017, The Gambia Gazette (13 December 2017) <https://www.lawhubgambia.com/truth-reconciliation-reparations-commission> accessed 7 January 2022.

⁴ UN Human Rights Council, 'Report of the Working Group on Enforced or Involuntary Disappearances on its mission to the Gambia: comments by the State', Thirty-ninth session, 10-28 September 2018, A/HRC/39/46/Add.3 (4 September 2018) <https://digitallibrary.un.org/record/1640935?ln=en> accessed 7 January 2022.

of various State apparatuses and by members of State security agents.⁵ The pattern of violence during Jammeh's era encompassed, among other things, forced nudity, rape (including instances of gang rape), use of sexual torture to coerce confessions whilst in detention, forced labour, especially for women, denial of resources or access to services. As is often the case, acts of sexual violence have had longstanding effects on survivors that continue to the present day.

Following the death of his aunt in 2009, former President Jammeh also launched a campaign to get rid of 'witches' and 'wizards' in The Gambia as he believed witchcraft had been involved in her death. He brought 'witch doctors' from neighbouring Guinea who, aided by military men and a group of young people called the "green boys and girls", rounded up villagers suspected of witchcraft, mainly old women and men. The 'witch doctors' forced the villagers to drink hallucinogenic liquid and dirty water concoctions and confess to killing people, including their own family members.⁶ During periods of forceful detention under the government-sanctioned witch hunt campaigns, men and women were forcibly stripped naked and made to bathe together. Many women were raped by men young enough to be their children.⁷

In another effort by Jammeh to present himself as all-powerful, he claimed to have the cure for HIV/ Acquired Immune Deficiency Syndrome (AIDS) and forcibly subjected men and women to humiliating and invasive 'treatments' on national television. This included coercing patients to cease taking antiretroviral drugs, which posed grave threats to their health, and to instead drink herbal concoctions that often made them violently ill. The 'treatment' also included applying the concoctions on the victims' partially nude bodies, with select sessions broadcast on Gambian television without people's consent, some of whom had not yet informed

friends or family of their HIV status. The purported HIV/ AIDS treatment was institutionalised and called the Presidential Alternative Treatment Program with the participation of local licenced doctors.⁸

In 2015, former President Jammeh used the campaign "*grow what you eat, eat what you grow*" to force many Gambians, particularly women, to work on his large farms in Kanilai and elsewhere, without pay and in very difficult conditions. Spending days there, they were also subjected to sexual harassment and exploitation by security forces.⁹ Many Gambians were subjected to forced labour under the previous regime in a so-called quest to improve the country's agricultural sector.

Unequal gender hierarchies, social inequalities and oppression are often characteristics of societies that are prone to elevated levels of sexual violence. This is true for The Gambia, which operates under a patriarchal system with deep-rooted socio-cultural norms and practices where women are perceived as beings under male guardianship. This further exacerbates the society's privileging of masculinity and influences the patterns of violations. Religious misinterpretation has worsened the situation as scholars interpret the Quran and Bible to reinforce this hierarchy between men and women. In addition, low literacy, limited vocational opportunities, and women's overall lack of economic empowerment also keep many women trapped in cycles of poverty. This in turn deepens the economic and social gap between men and women, reinforcing the notion that women are supposed to be owned and provided for.¹⁰

Because SGBV is particularly sensitive to address in The Gambia, survivors have faced real challenges in trying to speak up, and it is thus very likely that the numbers of documented cases of sexual violence crimes are very low compared to the reality. A combination of

5 Simon Allison, 'Former Gambian dictator Jammeh was a "serial sexual predator"' *The Continent* (26 June 2019) <https://mg.co.za/article/2019-06-26-00-former-gambian-dictator-jammeh-was-a-serial-sexual-predator/> accessed 7 January 2022.

6 Sally Hayden, 'Gambia's dictator ordered a witch hunt. This village is still haunted by it' *The Washington Post* (28 May 2018) www.washingtonpost.com/world/africa/gambias-dictator-ordered-a-witch-hunt-this-village-is-still-haunted-by-it/2018/05/27/bb8a4fc2-32a9-11e8-b6bd-0084a1666987_story.html accessed 7 January 2022.

7 'Amnesty International Report 2010 - The State of the World's Human Rights' (Amnesty International, May 2010) www.ecci.net/en/document/1219624.html accessed 7 January 2022.

8 'Survivors of Jammeh's Fake AIDS "Cure" Demand Action Against Two Doctors Who Directed the "Treatment"' (Aids-Free World, 19 September 2019) <https://aidsfreeworld.org/statements/2019/9/18/survivors-of-jammehs-fake-aids-cure-demand-action-against-two-doctors-who-directed-the-treatment> accessed 7 January 2022.

9 ICTJ, 'Women's experiences of the dictatorship in The Gambia. A Submission by Women from Sintet, Janjanbureh, and Basse to the Truth, Reconciliation and Reparations Commission' (December 2019) www.ictj.org/publication/women%E2%80%99s-experiences-dictatorship-gambia accessed 7 January 2022.

10 Delawit Amelga, Gisela Geisler and Heidi Skramstadt, 'The Gambia Country Gender Profile' (African Development Bank Group, October 2011) www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/GAMBIA%20Gender%20Profile%20final%20%282%29.pdf accessed January 2022.



systemic and cultural factors – fear, a lack of awareness of rights, a culture of intimidation against women, a culture of impunity that normalizes violations against women, and a patriarchal and religious society that gives little space to women including in the public sphere – have converged to create a wall of shame and silence around violations against women, in particular sexual violence. Victims seeking to come forward after an incident often faced harassment, intimidation, and threats. Many survivors of SGBV were too afraid to speak up for fear of being blamed by their families and communities and given the few support structures in place to help them. Even in instances where women were willing to report sexual violence, their families often discouraged them from doing so to protect the family’s reputation or out of fear that the authorities would not protect them adequately. Moreover, in a context where an elected leader is considered to have been “*put by God*” and any opposition to him violently repressed, it was very hard for women to speak up about what they suffered, especially because of the high-profile identity of several of the perpetrators. Instead, the dominant social and cultural belief system present in The Gambia forced them to accept their unjust treatment. And indeed, impunity for crimes was rife throughout the dictatorship, allowing for the continued perpetration of acts of SGBV in the home, community, and by State actors.

The extent of all violations committed by Jammeh, but especially SGBV, was not necessarily widely known prior to the work of the TRRC and, in particular, its

public hearings. Over the course of 22 sessions, 392 individuals, including both victims and perpetrators, described their experiences or role in arbitrary arrests, unlawful detention and killings, torture, enforced disappearances, various forms of sexual and gender-based violence, inhuman and degrading treatment, witch hunts, fake HIV/AIDS treatment, and abuse of public office committed between 1994 and 2016.¹¹ Survivors’ testimonies during these hearings, along with human rights reports and numerous press articles, demonstrated serious and repeated SGBV occurring under Jammeh’s rule.

However, the stigma about sexual violence did not end with the dictatorship and the onset of the transitional justice process. For example, even during the TRRC proceedings, including the public hearings, the commission officials generally referred to sexual violence as “alleged”, casting doubt on the veracity of the survivors’ testimonies. This is troubling considering that the TRRC wielded great influence over the government’s decision to grant reparations. Despite all the challenges associated with coming forward, several cases of SGBV were documented by the TRRC, giving an indication of the widespread phenomenon. Overall, for most survivors who have not come out in public hearings with their stories, current mechanisms provide little or no recourse for them to obtain justice. Notwithstanding, a clarion cry for justice remains a notable element for those who have managed to break their silence and are now speaking out.

¹¹ Truth, Reconciliation and Reparations Commissions Sitting ‘Protocol officer testimony’ (28 October 2019) www.youtube.com/watch?v=SHqJADADxIY&ab_channel=EYEAFRICATV accessed 7 January 2022.

2. Nature and scope of sexual and gender-based violence during the dictatorship

2.1. Scale, scope, forms and pattern of crimes

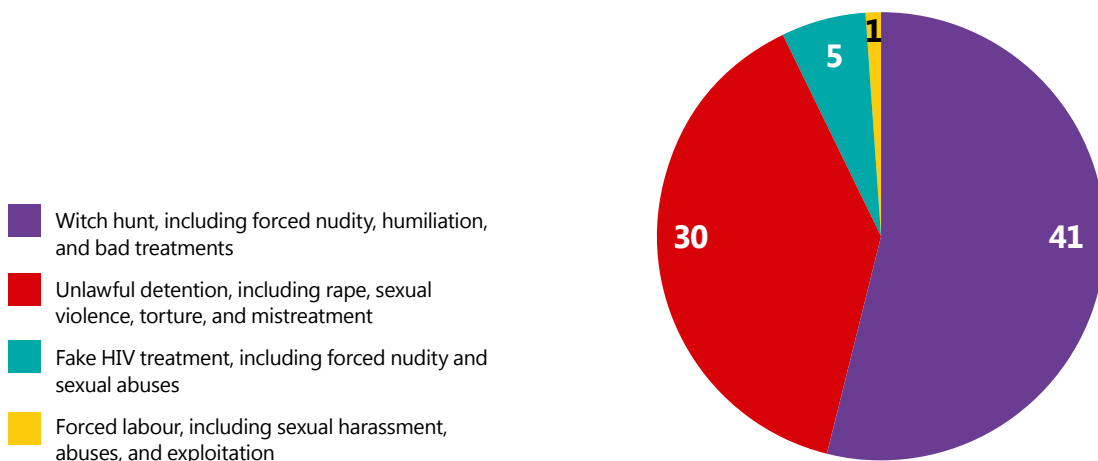
Women across The Gambia experienced gross human rights violations during the Jammeh regime, including various forms of SGBV. They lived in fear of being arrested, detained, or tortured for either going against the directives of the former president or for simply not supporting him. The main violations that came up in the consultations conducted for the Study were sexual violence, including sexual violence committed in tandem with other violations such as arbitrary detention, forced labour, and fake HIV treatment.

Reflecting this general pattern, the most common forms of SGBV suffered by the 77 survivors interviewed for this Study were meted out to them during episodes of other human rights abuses, including the witch hunt campaign (54%), the period of widespread unlawful arrests and detentions (39%), and the fake HIV treatment campaign (6%). The types of SGBV included mistreatment, torture, rape, exploitation, and sexual violence.

The table below summarizes the distribution of the survivors consulted according to the forms of violations.

In The Gambia, SGBV took place in families and communities, as well as in public institutions such as prisons and detention centres, most notably at Farafenni police station (Sabach Njien), National intelligence Agency (NIA), Police Intervention Unit (PIU), Miles 2 Prison (Greater Banjul Area), and the Police Station in Basse. These violations became a pattern of the Jammeh regime from around 2013 to the end of his rule.¹² Indicative of a context where controlling women is already a structural and cultural reality, there was a mandatory head tie and a strict dress code for women civil servants during the periods of time when women were at highest risk of sexual violence. The imposition of these strict regulations on women and girls reinforced the cultural norms, beliefs, and practices that contributed to the ostracisation of and sense of control over women. Other violations such as female genital mutilation (FGM) and child marriage were particularly acute during that time, and former president Jammeh even publicly declared that he could not guarantee the safety of activists who were campaigning against FGM.¹³

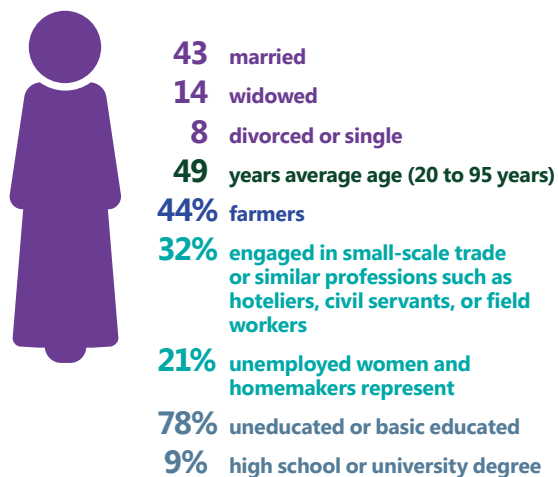
DISTRIBUTION OF THE SURVIVORS CONSULTED ACCORDING TO THE FORMS OF VIOLATIONS



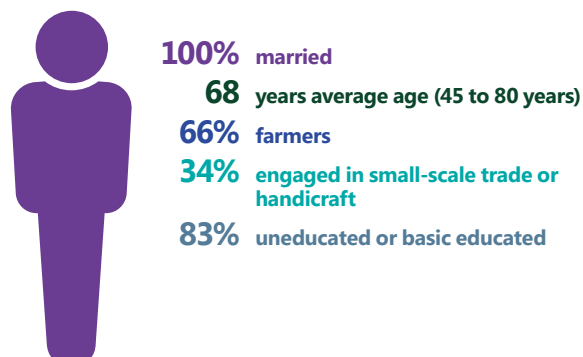
¹² On 15 October 2019, a gender expert with over 30 years’ experience providing support to survivors of sexual and gender-based violence, testified at the TRRC on SGBV in The Gambia. She paints a bleak picture, citing the rampant nature of sexual and gender-based violence cutting through all layers of Gambian society- from Gambian homes to the highest offices.

¹³ Coalition for Human Rights in the Gambia, Press Release, ‘Two Prominent Gender and Human Rights Defenders detained in The Gambia: Dr. Isatou Touray And Amie Bojang Sissoho’ (African Feminist Forum, 13 October 2010) www.africanfeministforum.com/two-prominent-gender-and-human-rights-defenders-detained-in-the-gambia-dr-isatou-touray-and-amie-bojang-sissoho/ accessed 7 January 2022.

2.2. Profile and mapping of victims



TOTAL WOMEN = 65



TOTAL MEN = 12

The survivors who took part in the Study were diverse in demographic profile. Both women and men were victims of the same violations, such as arbitrary arrests, detention without trial, and witch hunts. However, women were more vulnerable to sexual abuse and sexual violence during these incidents.

Of the 65 women survivors who participated in the Study, 43 are married, 14 are widowed, and 8 are divorced or single. The average age of the women participants is 49 years (20 to 95 years). In terms of their socioeconomic activities, most of them are farmers (44%) or engaged in small-scale trade or similar professions such as hoteliers, civil servants, or field workers (32%). Unemployed women and homemakers represent 21%. The data also shows that the majority are uneducated or received only a basic education (78%). Only 9% of them have a high school or university degree (the youngest).

The male survivors who participated are all married, and their average age is 68 years old (45 to 80 years). They all have an informal income-generating activity, with a majority (66%) working as farmers. Other activities include small-scale trade and handicraft. Like the women, the majority are uneducated (83%).

In the Gambian experience, it is difficult to establish regularities or commonalities among the factors that led to their victim status. Still, certain factors do seem to have influenced the type of violation experienced. For example, victims of arbitrary arrest, who also suffered rape, sexual violence, beatings, and torture, were often targeted because of their political affiliations and because of their gender. As one focus group participant in Sabach Njien stated,

“The issue is all about political reasons, we were all NRP¹⁴ supporters, they came for us and seized our rights because we refused to be publicly associated with APRC¹⁵.”

In some cases, women testified that they were physically abused because they were accused of supporting the opposition and engaging in politics, which is considered an activity for men only. Another female participant in Sabach Njien testified that:

“[police officers] made us sit outside for three days without eating nor allowed my people feed us. Some of the policemen insulted us for being more stubborn than our husbands. From that day onwards, I have developed fear and trauma whenever I see men in uniform.”

¹⁴ National Reconciliation Party, Opposition.

¹⁵ Alliance for Patriotic Reorientation and Construction, former ruling party established by Yahya Jammeh.

The deeply rooted patriarchal social and cultural system in The Gambia constructs and influences the perception and consideration of women, encouraging men to do what they want with them. In public life, this translated to men attempting to control and restrict their political participation. As another participant from Sabach Njien testified:

“While in the [police]car heading to the station one of the police officers said, ‘today we will do unto some of you what your husbands could not do and even those that are not married will know what it means to be with a man.’”

Another victim from the Greater Banjul Area testified about her rape:

“They said we were enemies of the State and also very stubborn for our gender.”¹⁶

The witch hunt campaign involved arbitrary arrests, torture, forced nudity and degrading treatment. Some explained that Jammeh was using people, especially the elderly, as guinea pigs to experiment with the drug “Kubeyjarra”, a plant that makes one drunk and hallucinate when taken. Women consulted by ICTJ in 2019 stated that the soldiers targeted elderly or adult people, mostly women, because Jammeh accused this demographic of

killing his aunt through witchcraft.¹⁷ All victims of the witch hunt campaign interviewed for this Study were over 40 years old at the time of the incident. The rest of participants, mainly young, testified on behalf of their deceased relatives or those unable to attend the focus groups.

Survivors of the fake HIV treatment were targeted based on their health status. The president used their illness as an opportunity to demonstrate extra skills he claimed he had in a bid to hold onto power. In 2007, former President Jammeh boasted to the world that he had developed a “cure” for AIDS, and he was eager to tell the international community and Gambian citizens about his “miraculous abilities.”¹⁸ With the complicity of his Minister of Health, Jammeh launched a so-called Presidential Alternative Treatment Program (PATP) and forcibly recruited Gambians who were HIV positive. He housed patients at his treatment centre for several months under the pretext that he was curing them. One victim known as Aisha*¹⁹ testified:

“We were summoned by the President Yahya Jammeh to come to the State in Banjul. We had an organisation called Santa Yallah Support Society which comprised of persons living with HIV/AIDS in The Gambia. The president knew about this support society, and he invited us to the State house, and we answered to his call.”

Geography also gave some indication of the potential types of violations, as seen in the following table:

¹⁶ Pseudonym.

¹⁷ ICTJ, ‘Women’s experiences of the dictatorship in The Gambia’ (n 9).

¹⁸ Peter Duffy, ‘We Honor the Survivors of the Bogus AIDS ‘Cure’ Who Took on Their Dictator’ (Aids-Free World, May 2012) <https://aidsfreeworld.org/statements/2021/5/27/qmk1y830080mrhpumlsm3ibzyqyq7i> accessed 7 January 2022.

¹⁹ All names marked with an asterisk are pseudonyms.

GEOGRAPHIC BREAKDOWN AND TYPE OF VIOLATIONS COMMITTED AGAINST THE PARTICIPANTS OF THE STUDY

Localities	Types of violations	Factors	Number of victims			
			Female	Male	TOTAL	
Essau	Witch hunt	Political affiliation	20	02	22	
Sintet			11	08	19	
Sabach Njien	Unlawful arrest and detention	- Political affiliation - Gendered bias	19	00	19	
Greater Banjul Area			- Unlawful arrest and detention - Fake HIV treatment	07	02	09
Basse			- Unlawful arrest - Forced labour	08	00	08
TOTAL			65	12	77	

Source: GSF Study

2.3. Profile of perpetrators

In most cases, the perpetrators were State agents, including defence and security forces or police, working under the direct orders of their superiors.²⁰ Arbitrary arrests were carried out by either the NIA agents or by police officers who were ordered to disrupt demonstrations during which they sometimes went beyond what is legally allowed, such as arresting victims from their homes for punitive purposes.²¹ According to one participant known as Musu*,

“In 2016, I was arrested around Burn Road and I was taken to the Police Intervention Unit (PIU) headquarters and detained for 24 hours and we were later released. While I was at the detention, I was raped by two Paramilitary men, and I was beaten [slapped] by one of them.”

The witch hunt campaign involved not only security agents, but also civilians, including members of the youth group supporting the former president, known as the Green Boys.²² The public hearings conducted by the TRRC shed light on and confirmed the victims’ accusations, through the chilling testimony of some of the perpetrators, who confessed to the serious crimes and violations they committed. In some cases, they acknowledged that they received orders from Jammeh himself.²³

20 Mustapha K. Darboe, ‘Gambia Truth Commission: Darboe, The Faithful Silent Agent of the NIA’ *Justice Info Net* (9 February 2021) www.justiceinfo.net/en/73502-gambia-truth-commission-darboe-faithful-silent-agent-nia.html accessed 7 January 2022.

21 Truth, Reconciliation & Reparations Commission (TRRC) Digest, Edition 7 (ANEKED).

22 Mustapha K. Darboe, ‘Gambia’s Truth Commission and Yahya Jammeh’s Witch Hunters’ *Justice Info Net* (22 November 2019) www.justiceinfo.net/en/43018-gambia-s-truth-commission-and-yahya-jammeh-s-witch-hunters.html accessed 7 January 2022.

23 Truth, Reconciliation & Reparations Commission (TRRC) Digest, Edition 6 (ANEKED).



IV. SURVIVORS' PERCEPTIONS, NEEDS, PRIORITIES AND RISKS

1. Impact of sexual and gender-based violence on survivors, families and communities

The consequences of SGBV committed during the dictatorship vary and affect different aspects of survivors' lives. In this section, we have organised the consequences reported by survivors according to the regions in which they live. As noted above, the nature of gender-based violence in The Gambia varies widely depending on where survivors lived, hence the classification of consequences by region.

1.1. Essau & Sintet

In Essau and Sintet, witch hunt victims reported psychological, social, economic, and physical suffering because of the hunts, which entailed various forms of abuse including sexual violence, inhumane treatment, and forced nudity. The long-lasting effects of these social, mental, and psychological harms, as well as the shame associated with the false accusations, continues to haunt victims to this day. The long-lasting and multi-varied effects have led many to self-isolate within their communities. Ridicule and stigmatisation by members of their communities have created an environment of discomfort, precluding engagement and participation in communal activities. Their dignity has been deeply affected by the violations because they no longer feel respected by members of their communities. These psychosocial consequences are felt within their families, whose relationships are disrupted because the survivors are perceived as the reason for the family's stigma or loss of esteem. The shame and frustration are compounded by the fact that they and their families have not been given a platform to share their feelings and by the lack of rehabilitation programs.

Witch hunt survivors live with a constant sense of injustice – the State has not only violated their rights and dignity, but it is now unable (or unwilling) to restore their rights and protect them. Some of the survivors have even claimed to have had suicidal thoughts because of the trauma they suffered. Fatu* explained her situation like this:

“The most embarrassing thing is the stigma and discrimination I face in the society, which is an unbearable pain, honestly. There are certain pains that an individual might go through and you even prefer to die than the shame. This has made my life different.”

In Sintet, survivors said that their family members also feel these psychosocial consequences, some of whom continue to be stigmatised. Even their children continue to suffer stigmatisation because of the violation. Saly* spoke of her experience:

“My last born has been taken to a boarding school in Farafenni and he is being bullied by his mates that his father was a witch, and he should not associate with some of the kids.”

At the physical level, the ingestion of concoctions of unknown composition caused abdominal pains and urinary difficulties. These concoctions were also often sprayed into survivors' eyes, causing problems with their vision as well. Essau participant Mariama* stated:

“Since I drank that concoction, I developed high blood pressure because when I was going, I was very fine, nothing was paining me but now I am with a high blood pressure and every month I will be at the Kanifing hospital. I also developed an eye problem; my stomach also disturbs me internally under my navel cord.”

Some of them were beaten at the time of their arrest, which resulted in injuries and body pains that they still feel today due to the severity of the beatings. Their precarious health no longer allows them to work, which leads to serious economic consequences, including impoverishment and the inability to meet the needs of their families Musa* said:

“I can no longer do my work due to my poor health.”

Also, the expenses associated with the medical care necessary to restore or treat their health problems have contributed to their impoverishment and exhausted the family solidarity. Some have even sold their houses or lands to be able to treat their health conditions and are now living in uncomfortable settings. This is the case for Modou*, who shared:

“As we speak, I do not have a place to live because I sold my compound to be able to pay for my treatment, therefore shelter is one of my most pressing needs.”

1.2. Basse, Greater Banjul Area & Sabach Njien

In Basse, Sabach Njien, and the Greater Banjul Area, victims suffered mainly from arbitrary arrests and detentions (during which some were raped and sexually assaulted), fake HIV treatment, and forced labour.

In the context of arbitrary arrests and detention, the consequences are both physical and psychological. At the physical level, the victims suffered injuries as a result of the mistreatment and beatings. All the

survivors testified that they were beaten, slapped, and hit with batons on the head and other body parts. More serious consequences such as miscarriages were also recorded, as Fatu* testified:

“[...] I was four months pregnant and eventually lost the pregnancy due to fear and panic. I started bleeding at the police station and was denied the chance to go to the hospital.”

Most survivors' physical wounds are now healed but the psychological trauma associated with this painful experience is still vivid. The fear, personal insults, assaults, death threats and sometimes the separation of mothers from their children, have left painful memories in survivors' minds. Their dignity as women was violated during these tragic events where they experienced humiliation and degradation. All of this still affects their social lives today. Alima* recounted some of her memories:

“I walked towards the place we were gathered. The [police] van got full and some of us were ordered to run behind the van till we reach the main road, and we did as instructed.”

Women were not spared from inhumane treatments and humiliation by the security forces, and because of their gender, these violations have affected their dignity and honour in their communities in the aftermath.

Survivors of fake HIV treatment live with the humiliation and stigma of this life-altering event daily. In this case too, the consequences are both physical and psychological. During and after the treatment, their medical situation worsened, and some actually died (31 deaths were officially recorded as a result of the fake treatments).²⁴ As Landing* testified:

“I am an HIV positive man. When I heard about the treatment, I was happy about it because I [was tired of] drinking the HIV medicine two times a day. They called me to go and start taking the local medicine. I used to take it three times a day, this lasted for three months, and I stopped taking my conventional medicine. When I started drinking the local medicine, my health started to deteriorate. I became very sick, up to a point that I could not even swallow anything.”

Amina* added:

“This fake treatment program has damaged many of our lives and most of those who came after us died during the treatment and others died right after they got released. I lost my job as a HIV counsellor at the hospital.”

The current consequences are mainly social and psychological: the shame, humiliation, and loss of dignity has had a persistent impact on survivors’ daily

lives and their community involvement, especially because of their public exposure at a time when the disease was highly stigmatized. As Amina* attests:

“I was shown on TV and that was not with my consent. Everyone that saw me on TV were telling me and my children that they saw me on TV. This has brought my HIV status public.”

Several other survivors shared similar perspectives, noting that since they suffered these violations, they feel people do not accord them the respect and honour they deserve.

The children of the survivors also suffered similar treatment, putting their health and their lives at risk. Fanta* explained her situation:

“I went with my two-year-old son because I did not have anywhere to leave him. He, too, was an asthmatic patient which the president also declared that he was going to cure asthma.”

In addition to making their health more fragile, the fake HIV treatment affected the social and economic situation of the survivors. Some of them lost their jobs or stopped their economic activities during the treatment period, which lasted nearly nine months.

2. Survivors’ current needs

Survivors needs depend on the type of violations they suffered and the consequences of the violation(s) on their lives. While some consequences were immediate and eased with time, others are still persistent and affect them daily, particularly in the case of elderly survivors.

Survivors of the witch hunt campaign and fake HIV treatments declare that their needs are mainly related to their health conditions. As noted above, the witch hunt survivors were forced to drink unknown concoctions that were also poured into their eyes, leading to visual problems, abdominal pains, miscarriages, urination problems, high blood pressure and other health issues, even though the formal connection between these

²⁴ Truth, Reconciliation & Reparations Commission (TRRC) Digest, Edition 16 (ANEKED).

health.care financial needs education

pains and the violation is not established. Some, with the support of their families, were able to do minimal eye treatments, however, with limited success. Most of those complaining about sight problems are still struggling and are dependent on their relatives for assistance. The weak health infrastructures in the country and the poverty of rural survivors can explain why they were not able to get quality medical care. Many of the survivors of the witch hunts had pre-existing health conditions, as did the survivors of the fake HIV treatment, and these conditions were worsened by the violations experienced. Some of them need regular check-ups at the hospital due to their age and fragile health. They also need access to medicines, including conventional HIV medication and counselling in the case of survivors of fake HIV treatments.

The survivors also mentioned that their health care needs have created a huge financial burden because of the costs of numerous hospital visits, medicines, and lost income due to the inability to work. These financial needs affect their family budgets. The Study showed that 45% of the witch hunt survivors have no income generating activity due to their age,²⁵ while survivors of the fake HIV treatment all have unsustainable small-scale businesses. They therefore mostly rely on family solidarity to survive and take care of their needs. This dependence contributes to pressure on already scarce finances of their families and increases their poverty.

To deal with their health conditions, some have sold their properties, land, and sometimes even

their houses and need shelter. In some cases, their houses fell into ruin or were otherwise lost, as testified by the 70-year-old widow Aminata*: *"I need urgent help on shelter because the house I live in has recently collapsed and I'm now living in my in-law's house."*

These financial needs subsequently affect their family subsistence and their capacity to provide for their children and ensure their basic education needs. They struggle to afford school kits, school fees, and uniforms, which are compulsory for primary to secondary school students. Consequently, most of them have had to withdraw their children from school.

Victims of unlawful arrests and the subsequent sexual and gender-based violence also have great economic needs and require support for their daily subsistence. The unlawful arrests and long detention they suffered affected their livelihood, as it prevented them from harvesting that year (2011). Since then, they have not been able to resume their agricultural activities and find it difficult to meet their families' needs.

All victims also have psychosocial and community integration challenges, especially survivors of the witch hunt and fake HIV treatments. They still face stigmatisation from people in their communities who still believe that they are witches and wizards. Even their children suffer from this stigmatisation and find it difficult to integrate or feel comfortable in their community, to continue their education in peace, and lead a normal life.

²⁵ The average age of the survivors concerned is 71 years old.

Sainabou* testified:

"My children are bullied by people in streets, and I advised them to ignore their comments because I was not a witch and fighting back could mean that they are right."

They need to be acknowledged and respected as human beings, especially considering that the witch hunt and HIV treatments were publicised, affecting survivors' dignity and confidentiality, and exposing them to shame and stigmatisation.

3. Survivors' perceptions on reparations

The participants in this Study had a fairly basic understanding of reparations. About 76% of the survivors interviewed reported having a basic to moderate knowledge of reparations. They generally define reparations as a variety of measures provided to individuals with the goal of achieving reconciliation and improving survivors' lives. However, many do not consider reparations as a form of justice, but rather a moral action. Fatoumata* explained her perception like this:

"Reparation and justice are not related because reparation is a form of help and justice is to prosecute the perpetrator."

For several participants, their definition of reparations is rooted in faith, as one victim in Essau explained: *"I put everything in the hands of the Almighty he knows best and can-do best [to improve my situation]."* Another set of SGBV survivors who participated understand reparations as humanitarian assistance or philanthropic "help" to improve their living conditions. Satang* said:

"Reparations to me is simply help."

Some even perceive reparations as a gift or a donation. Maimuna* from North Bank described them as

"Special gifts in cash or kind to compensate the person (victim)."

Many survivors believe that reparations are meant to contribute to reconciliation while improving their living conditions.

They do link the measures to some violations or offences committed, but approximately 74% of survivors consulted do not connect reparations to rights and do not perceive them as an obligation that should be provided to them for what they have suffered in the hands of the State. This general perception of reparations as voluntary assistance, rather than a right to which survivors are entitled, partly explains why most survivors did not take any steps to seek reparations. Instead, they expect the perpetrators or others such as CSOs to initiate the process. Bafu* summed it up like this:

"Reparations to me means a form of saying sorry to someone you offended."

The lack of knowledge about the concept of reparations can be explained by the fact that only 35% of the SGBV survivors interviewed are affiliated with CSOs or have attended a workshop with a civil society organisation on reparations. The Study also shows that only 26% of the survivors consulted have a relatively good understanding of the concept of reparations. Their knowledge on reparations can be explained by their level of education.²⁶ Most with a higher level of understanding have more education and are affiliated with CSOs or associations working on reparations, so they had previously attended some activities related to the topic.²⁷ For those with better knowledge of this concept,²⁸ they are able to establish a link between reparations, human rights violations, victims' restoration, and state obligation. They consider reparations as an action or set of measures to be taken in response to the violation of someone's rights, in order to provide satisfaction and compensation for the harm suffered. They indicate that reparations can take different forms, including financial and other forms (psychosocial, medical, or non-cash financial support), noting that reparation is more than monetary compensation.

²⁶ 60% of this category have at least secondary school education, university level is the highest.

²⁷ 60% of this category are affiliated to one CSO.

²⁸ 26% of the participants in the Study.



Focus group discussion, Essau, June 2021
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“Reparations for me goes beyond financial support, a lot of people misconstrue reparations to mean just financial support but reparations goes beyond this and it could mean providing psychosocial support, providing employment opportunity for those that lost their sources of livelihood as a result of their experiences.”

Lala*, survivor.



Focus group discussions in Sabach Njien
© ICTJ The Gambia

Reparations are important for survivors to improve their living conditions, reinforce their resilience, and affirm their dignity. However, there is a need to increase survivors' understanding of the concept of reparations, not only to promote their rights but to ensure their informed participation in advocacy initiatives and help guarantee that reparations are provided to them and that they receive some sort of moral and material satisfaction. The fact that some survivors are already aware of the concept of reparations is an advantage that could be leveraged. They could be trained as trainers who could in turn help build the capacity of their peers.

4. Survivors' views on forms and modalities of reparations

Although survivors' technical knowledge about reparations as a concept is limited, they do have a clear idea of what should be provided to them. **The reparative measures they recommend are largely individual in nature, although they also demand some collective, symbolic steps.** They mentioned diverse forms of reparations depending on their needs. **These measures include financial compensation, material support (health care, psychosocial support, education for their children, livelihood), and symbolic measures (acknowledgement and apologies).** In addition to material forms of reparations, justice and accountability will help survivors get satisfaction. They also insist on the need for the government to take necessary measures to guarantee non-

repetition of the violations through law/enforcement protecting the people.

Regarding the institution responsible for reparations, survivors think that the government (specifically, the TRRC and the Ministry of Justice) and perpetrators should be responsible to provide reparations to all victims. However, as noted above, they do not actually consider reparations as an obligation of the State, and some even expect philanthropists to support their access to reparations. Musa* believes that *"the government and other philanthropic organisations can also contribute to reparation."* Survivors also suggest that international organisations such as the UN, international Non-Governmental Organisations (NGOs), and local NGOs could take steps to provide reparations for the victims in case the government fails to do so. It even appears that SGBV survivors are relying more on those organisations to provide satisfactory reparations than the State.

Regarding perpetrators paying reparations, survivors acknowledge that this would be possible but only when they are known and convicted. This seems to show that in the opinion of survivors, reparations by perpetrators are linked to court adjudication and would be provided only when justice is served. If not convicted, then the provision of reparations would mainly depend on perpetrators' good will to reconcile with the survivors or on their financial capacity. In a country like The Gambia, survivors can find it difficult to access the courts, due to their low literacy, financial capacity, and lack of trust in the system.

Survivors were clear in their recommendations for holistic forms of material assistance to help them alleviate the physical, psychological, social, and economic consequences by reinforcing their incomes

and access to basic social services. This can take the forms of livelihood or monetary support to purchase food, and other essential goods, including health treatment and pay for their children's education.

Violations	Measures recommended
Forced nudity, beatings, acts of torture and humiliation during the witch hunt campaigns	<ul style="list-style-type: none"> - Health support, - Acknowledgement and apology by the State – psychosocial support to restore their dignity in their communities - Economic support to provide livelihood, education to their children and afford health care - Housing support
Forced nudity, touching, damage to one's reputation, denial of the right to health care during the fake HIV treatment	<ul style="list-style-type: none"> - Compensation, - Free access to health care, - Education assistance for their children - Apology by the State
Rape, sexual harassment, sexual assault during unlawful arrest and detention	<ul style="list-style-type: none"> - Compensation - Economic support to resume/reinforce an income-generating activity - Education assistance for their children - Housing support

In terms of **health support**, survivors recommend measures such as access to free health care until full recovery, notably for those who suffer from sight problems. Other victims who suffer from chronic diseases because of the violation experienced request free access to health care for life. The victims seeking this most urgently are amongst the elderly in the Study demographics, and who go to the hospital regularly due to their health conditions.

Compensation is expected by all categories of victims due to the economic impacts of the violations on their lives and the consecutive poverty they have experienced. To fit with the severity of their situation, they recommend regular instalments instead of a lump-sum or one-time payment. For the compensation to meaningfully impact their lives, they expect regular payments that will help them to face their daily basic needs and those of their families. However, it is important to analyse the parameters and conditions that would ensure that such payments actually reach survivors, especially women, and whether such payments should be made via money transfer,

given directly to the survivors, or provided in some other way. Low levels of literacy, risks of corruption or embezzlement, fraud, or even confiscation of the money by some husbands or male relatives are factors to be considered. Some victims suggested funding in the form of a loan or investment funds to resume or reinforce their income-generating activity.

Access to education is also requested by all categories of victims. The Study reveals that SGBV survivors have an average of four children below 18 years old. While primary education is officially free in The Gambia, the poorest families face difficulties in affording school fees, education kits, uniforms, and transportation (most notable in the Greater Banjul area).

SGBV survivors also underlined their need for **psychosocial support**. Here it is important to underline that they are not referring to a western approach to psychosocial assistance that is mainly psychological. Instead, psychosocial assistance should consider two aspects in particular:

- i. the management of community stigmatisation and the trauma some survivors continue to face (especially those of the fake HIV treatment and witch hunt).
- ii. the psychological impact of survivors' inability to provide for their loved ones.

Considering these aspects, the psychosocial assistance requested by the survivors should include outreach actions to promote their rights, increase public empathy, and restore or reaffirm their dignity in the eyes of their communities, and offer assistance to support their social and family responsibilities. Social services and CSOs should work with communities or victim groups to organise community outreach activities to restore the image and affirm the dignity of survivors, create an empathetic society for the survivors, and acknowledge the unjust accusations and violations of the Jammeh regime. This support should also include activities that help empower survivors and support their ability to fulfil their family responsibilities and provide for their beloveds' basic needs.

Symbolic forms of reparations are also important to appease survivors' social ordeals and affirm their dignity. Measures aimed at providing acknowledgement and building empathy, such as public apologies by the perpetrators when they are known and by the State, would be essential in this regard. Sainabou* stated:

"To me reparation is to first apologize to the victim for the harm caused. To also recognize the victim as someone who has his or her rights violated."

Official apologies can and should also come from political leadership and heads of State institutions that were involved in the perpetration of the violations. Apologies on behalf of their agents could contribute

considerably to affirming survivors' dignity and encouraging empathy.

URGENT/INTERIM MEASURES

Survivors highlighted the importance of certain urgent measures that would help them meet their daily needs, including those that would come in the form of interim reparations. They would welcome the provision of interim assistance packages that could comprise food items and first aid kits. They also indicated that some monetary payment would be a relief and would help them to meet their various and personalised needs.

However, interim measures should not replace the provision of real, meaningful reparations, and survivors favour transformative and holistic measures that would improve their lives on a long-term basis. In the words of Fatou*: *"Reparations is important to me because if I receive it, I will change my family situation and settle many things."*

Reparations to be provided to SGBV survivors should not be a single or unique action but something that can improve their lives over time. As underlined by Sali*, a victim from Basse:

"Reparation is important for us, we were breadwinners and main providers for our families, and this incident affected our means of survival and livelihood."

The importance of reparations for survivors is undeniable, as they could help them alleviate the pain caused by the violations and the subsequent physical, moral, social, and economic impacts of the violation.



V. AVENUES FOR JUSTICE AND REPARATIONS

1. International human rights obligations, legal and policy frameworks for SGBV

In terms of the legal framework, the country is party to several international human rights conventions that protect women from gender-based violence. These instruments also guarantee women's access to fair and adequate reparations. In 1978, The Gambia signed the International Covenant on Economic, Social and Cultural Rights, and ratified it one year later in 1979. The same year the country ratified the International Covenant on Civil and Political Rights. In July 1980, The Gambia signed the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), and the convention was ratified in April 1993 without reservation. It also ratified the International Convention on the Rights of the Child in August 1990. More recently, in September 2018, it ratified the International Convention Against Torture.

Regarding African regional conventions for the protection of human rights, The Gambia ratified the African Charter on Human and Peoples' Rights in June 1983. The Gambia also signed the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa with reservations concerning marriage and the passing on of nationality. Lastly, on 14 December 2000, The Gambia ratified the African Charter on the Rights and Welfare of the Child.

Despite adherence to these instruments, it is well known that the implementation and enforcement of these legal frameworks remain the country's Achilles heel, thus further weakening the protection of women and other survivors of SGBV. Therefore, it is to be expected that the situation will be the same regarding reparations for survivors of SGBV. One option to consider, however, could be the potential prosecution of President Yahya Jammeh, following the report and recommendations of the TRRC.

2. Domestic legal and policy frameworks relevant to SGBV in The Gambia

Various provisions in the Constitution protect victims of sexual violence. Rape and sexual assault are criminalized under the laws of The Gambia. However, spousal rape is not acknowledged by the law.

The Gambia implemented and domesticated the CEDAW into the Women's Act in 2010. The Women's Act remains the primary legislative framework for the protection of women's rights in The Gambia. Section 30 of the Women's Act 2010 states that *"every woman has the right to enjoy reproductive rights including the right to medical abortion, where the continued pregnancy endangers the life of the mother or the life of the foetus."* The Women's Act falls short of the comprehensiveness of the Maputo Protocol as the grounds for abortion do not include rape, sexual assault, or incest. The Women's Act also gave effect to the Protocol to the African Charter on Human and Peoples' Rights of Women in Africa.

The legal framework provides notable recognition of the nature of the violations suffered and affords a level of protection for victims. Section 14 (3) of the Women's Act imposes an obligation on the government to put institutions and policies in place to address, among other things, violence against women and to take practical steps to redress it.

Despite the additional adoption in 2013 of the Sexual Offences Act (SOA) and the Domestic Violence Act (DVA), sexual violence against women remains prevalent. Provisions in the DVA are unclear, particularly relating to the definition of aggravated domestic violence and the allowance of out of court settlements, which in most cases do not take women's best interest into account. However, some measures are in place to ensure consistency between The Gambia's national laws and its regional and international human rights

obligations. The SOA, for example, amends the law and procedures relating to the trial of rape and other sexual offences, addressing some of the barriers that have impeded their trial in the past.

In addition, the SOA and the Women's Act make sweeping amendments which offer widescale protection for victims. Section 6 of the Women's Act provides that: "(i) Every woman shall be protected against every form of physical, sexual, psychological, or economic harm, suffering, or violence whether occurring in public or private life. (ii) any form of violence against women is hereby prohibited." Moreover, the Women's Act protects the girl child from any form of sexual harassment in schools and other educational institutions. Section 47 mandates that the government respect and ensure respect for the rules of International Humanitarian Law applicable in armed conflict situations, especially those that affect women. The government is also expected to protect women from all forms of sexual exploitation during armed conflicts and to ensure that perpetrators are brought to justice before a competent criminal jurisdiction. Section 20 of the Constitution of the Republic of The Gambia states: "No person shall be held in slavery or servitude and no person shall be required to perform forced labour." Under Section 21 "No person shall be subject to torture or inhumane degrading punishment or other treatment."

The SOA and the DVA were enacted to safeguard the dignity, integrity, liberty, and security of women. The SOA criminalises every form of sexual assault, exploitation, and harassment. This legislation amends the law and procedure relating to the trial of rape and other sexual offences. The Act addresses some of the barriers that have impeded the trial of rape and other sexual offences in the past. This Act expands the definition of sexual assault and other coercive acts to include circumstances where the victim is coerced into the sexual acts and incorporates perpetrators who would have escaped punishment prior to the amendments of this legislation.

There have been significant improvements in the protection and respect for this right. Until special mechanisms are set up as part of the transitional justice process, the Ministry of Justice's SGBV Unit will be the main body through which cases will be channelled. Several other organisations²⁹ that were set up after the Jammeh regime seek to provide support to survivors to access to justice for the atrocity crimes. Although various judicial avenues are being utilised in general, many survivors have little faith in the system because it has failed many others before them. Despite the serious nature of sexual violence, it still has some important gaps, explicitly excluding for example marital rape.³⁰ It also considers that it is a sufficient defence to prove before the court that the accused person had reasonable cause to believe and did in fact believe that the girl was of or above the age of eighteen. Furthermore, in instances where the perpetrators are men wielding a lot of influence in society or who are part of the State apparatus, the wheels of justice turn very slowly, if at all. Moreover, historically, society tends to blame the victim instead of the perpetrators. Most survivors are still hiding their ordeal due to the stigma that is placed on them. A culture of silence whereby victims are told by family members to keep their stories a secret is very prevalent in Gambian households. This occurs because huge importance is placed on the so-called virtue of women before marriage, and some men refuse to marry women who have "lost their virtue."

3. The Truth, Reconciliation and Reparations Commission

As indicated above, since the ouster of Yahya Jammeh, the country has made several strides toward seeking truth, justice, and redress for victims. The TRRC represents the most tangible step thus far, and unlike many truth commissions that have come before it, it had the power to actually grant reparations to victims of Yahya Jammeh's regime.³¹ As early as January 2019, the commission started its public hearings, and one session

29 Female Lawyers Association in Gambia (FLAG), Institute for Human Rights and Development in Africa (IHRDA).

30 Sexual Offences Act, The Gambia Gazette (30 December 2013) Chapter 3(3) <https://static1.squarespace.com/static/5a7c2ca18a02c7a46149331c/t/5d1d654749d9a70001826156/1562207562046/Sexual+Offences+Act+2013.pdf> accessed 7 January 2022.

31 The TRRC Act provides for the establishment of a 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 for the consideration of granting reparation to survivors.

was dedicated to survivors of sexual violence in October 2019. Since the TRRC took statements from survivors of SGBV and publicly heard from some of them, it has also included them in its interim reparation measures

for this category of victims. However, there are some concerning indications that the current plans for reparations for SGBV survivors are not going to be sufficient or responsive to victims' full demands.

THE MAIN OBJECTIVES OF THE TRRC

The Government set up the TRRC in 2017 by an Act of Parliament. The main objectives of the TRRC, pursuant to Section 13 of the Act,³² are 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; d) and grant reparations to victims in appropriate cases".³³

Nationwide consultations were held prior to the TRRC's establishment. Although communities were widely consulted, several survivors of SGBV had been living within the culture of silence and were not empowered to effectively contribute to the design of the mechanisms. Fear of stigma, due in part to societal norms, prevented survivors from talking about SGBV. Subsequent interactions with some survivors further indicated that some were not even aware that the 'encounters' they narrated amounted to severe acts of sexual violence for which they were not responsible. These points proved to be challenges when the TRRC was setting up. Subsequent developments paved the way for several survivors to narrate their experiences and stand to benefit from interim reparations measures provided by the TRRC.

During TRRC mandate, organisations such as ICTJ and WAVE presented reports on women's perspectives to the TRRC, with findings from consultations with women victims, some of whom are victims of SGBV. However, since its establishment, the TRRC had limited direct consultations with the victims regarding reparations. Thus, some criticised the operationalisation of measures by the TRRC for the lack of consultation with victims about what a reparations framework should entail and the resultant failure to implement the types of support the victims would have preferred (interim measures).

Moreover, this lack of consultation during the TRRC process, means certain patterns and trends were not considered. For example, documented cases point to forced abortions in cases where rapes resulted in pregnancy. However, not much is known about children born out of rape perpetrated by state actors. As a result, there are no specific reparations measures for these children in the context of the SGBV violations and abuses perpetrated by Jammeh's state and security apparatus. Another example is the cultural and religious beliefs that consider that men in women's lives should be awarded the reparations for the violation suffered by women, representing a serious threat for the recognition of the wronged party and the for the women survivors to benefit from reparations.

4. Other steps towards justice, relief, and reparation for SGBV survivors

The Ministry of Justice has set up a specialised unit to investigate and prosecute cases of SGBV through local courts. In paragraph 313 of the Government White Paper on the Report of the TRRC, released on 25 May 2022, the government stated that "(...) 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

32 Truth, Reconciliation, and Reparations Commission Act, The Gambia Gazette (13 December 2017) www.lawhubgambia.com/truth-reconciliation-reparations-commission accessed 7 January 2022.

33 A National Human Rights Commission was also created by an Act of Parliament in 2017 with the mandate to ensure the promotion and protection of all human rights for all people.

and prosecute cases from the TRRC.” In addition to provisions under different legal frameworks spotlighted above, the TRRC’s Reparations Regulations applied solely to those victims who fall under its mandate. Furthermore, only victims (including victims of SGBV) who registered with the TRRC were eligible to benefit from reparations under the Policy.

A security sector reform (SSR) process has been underway since September 2017, with the objective of creating an effective, professional, and responsible security sector. CSOs, including many women’s groups, have been part of consultative processes. However, there is no explicit provision for survivors’ participation in the different SSR processes. On the contrary, the SSR strategy (2020–2024) does not make any specific provisions for inputs on SGBV.

In addition to the TRRC, some CSOs, including WAVE and the Victims’ Center, have provided some assistance to several survivors to alleviate their ordeals. WAVE helped to economically empower some

women survivors, giving them clothes to sell in order to help themselves and their families. WAVE also provided some survivors with soap and other forms of detergents to resell and earn profits from the income. The Victims’ Center supported some survivors with livelihood support, namely, rice, cooking oil, sugar, milk, detergents, and soap for their use. The Victims’ Centre also gave some survivors a one-time education support for their children’s school fees.

Considering this very limited response and lack of a comprehensive reparations program, survivors of SGBV continue to suffer the enduring impact of these violations, especially during the outbreak of COVID-19. Survivors have stated how the pandemic added to their suffering. Some have disclosed that the pandemic made life more difficult for them because their only source of income was through petty trading, which came to a standstill due to some laws put in place by the authorities such as the early closing for business owners and the limitations put on both vendors and customers. The pandemic also saw a rise in various forms of SGBV cases in many communities.



Workshop with CSOs and policy makers meeting, Kanninging municipality council, May 2021

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VI. STATUS OF IMPLEMENTATION OF REPARATIONS TO DATE

1. Access to reparations through administrative procedures

Regarding reparations in general, the government initially showed great interest in launching the transitional justice process with the establishment of the truth commission, which was mandated to provide reparations to survivors. **Beginning in 2019, the government signalled its commitment to reparations for survivors by providing a \$1 million fund to the TRRC for reparations with the promise to disburse an additional fund of the same value, one year later.** These funds were derived from the sale of the former president's assets, seized following the report of the commission of inquiry into the management of public funds by the Jammeh administration. Unfortunately, by the end of the TRRC's mandate and the presentation of the government's White Paper on 25 May 2022, the funds have not been disbursed. The government, however, has announced that 150 million dala (2,700,000 USD) will be allocated to the MoJ budget to complete the reparations programme.³⁴

The TRRC, on the other hand, struggled to carry out its reparations mandate and established the reparations regulations (validated rather belatedly by the government).³⁵ In July 2021, moreover, the TRRC vice chair and chair of the reparations committee, Ms. Adelaide Sosseh, said that **the commission needed an additional amount of \$ 3,265,000 (GMD 168 million) from the government to be able to issue reparations to all qualified victims, out of a total of \$ 4,000,000 (GMD 205,820,780) reparations to be paid.**³⁶

Anyway, the primary mechanism for reparations, including interim reparations, is provided by the law establishing the TRRC: yet, the Ministry of Justice is

drafting a victims' reparations bill that should give victims legal access to reparations.

The public hearings initiated by the TRRC back in January 2019 brought to light the serious human rights violations committed by the Yahya Jammeh regime, including SGBV. The president of the commission, Dr. Sise Lamin, has repeatedly emphasised and acknowledged the extent of the violations committed against women and other survivors of SGBV. Ms. Adelaide Sosseh, has repeatedly stressed the need for the commission to prioritise survivors of SGBV, along with summary executions, enforced disappearances, and torture, among those who should receive reparations first. In paragraph 308 of the Government White Paper, it recognized *"that [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"*.

In fact, the legal framework for the reparations program, approved by the government in December 2020, provides for reparations for survivors of SGBV. Yet, they are limited to rehabilitative measures, including the provision of medical, psychosocial, and legal services aimed at restoring the physical and psychological conditions of survivors. The regulation

³⁴ 'Government Launched White Paper on TRRC Report' Attorney General's Chambers and Ministry of Justice (31 May 2022) <https://www.moj.gm/news/893eb520-e0b7-11ec-8f4f-025103a708b7> accessed August 4 2022.

³⁵ Draft regulations were validated by TRRC in January 2020, but the regulations were validated by the government only in December 2020.

³⁶ Yusef Taylor, 'TRRC Reparations in Numbers: Income from Government and Expenditure' GAINAKO – Guardianship & Independence (23 July 2021) <https://gainako.com/trrc-reparations-in-numbers-income-from-government-and-expenditure/> accessed 7 January 2022.

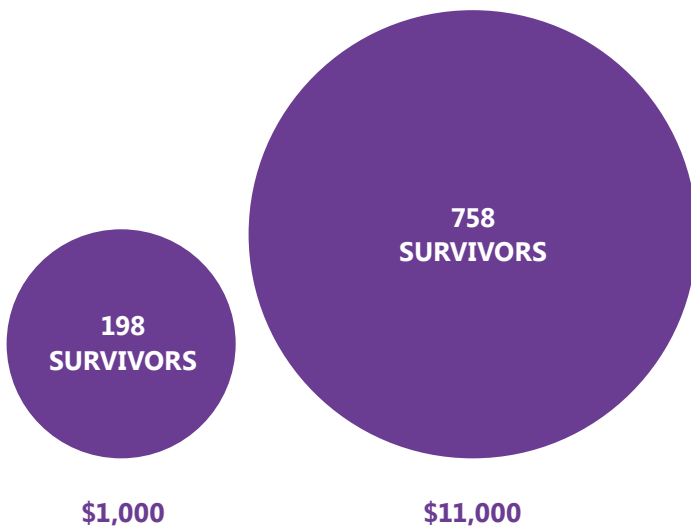
details the service to be provided to survivors of SGBV in these terms: “Specific support to victims and survivors of sexual and gender-based violence, such as measures that address societal structures and conditions that permit such violations (for example, creating shelters and telephone helplines).”³⁷ The measures remain unclear and broad, and they seem more applicable as an immediate response or for the prevention of SGBV and, therefore, more tailored as a measure to guarantee non-recurrence in the future.

Prior to the commencement of the full reparations program, the TRRC issued some interim reparations, including health care for victims in urgent situations, based on the provision of the TRRC Act indicating that “[t]he criteria for granting interim reparation orders shall be based on the need for urgent intervention in order to avert greater or irreparable damage or deterioration to the victim’s health or situation.”³⁸ The TRRC identified a number of the most urgent cases for intermediate reparations based on its mandate. For example, four victims who suffered serious human rights violations and were in urgent medical need received physical therapy and surgery in Turkey and Senegal,³⁹ as they could not be treated in The Gambia because of the poor medical facilities in the country. An unknown number of others have received educational support for their children.

Other victims have received financial support to pay their house rents for several months. Also, the TRRC Women’s Affairs and Victims Support Units facilitated reparations support to survivors of SGBV, including through psychosocial support and counselling and the award of interim reparations measures. Over 40 victims benefitted from the food aid support under the Victim Participation Support Fund. It is not clear from the information available whether the victims who received educational support and those who benefitted from the food aid include survivors of SGBV. The FGDs conducted by the ICTJ and its partners revealed that some SGBV survivors have benefitted from assistance provided by the TRRC as part of the response to COVID-19. Some survivors were provided with livelihood support, including a bag of rice, cooking oil, a bag of sugar, washing detergents, soaps, and milk. Others had their rents paid by the TRRC and some underwent surgery which was paid for by the TRRC. ICTJ was told that these forms of support were deducted from the individual’s final sum to be given as reparations. Therefore, it appears this was framed as a form of reparations by the TRRC, but it is not clear whether that was understood by the victims who received the benefits.

The distribution of regular reparations by the TRRC began in July 2021, shortly before the official end of the commission’s mandate, and continued to do so

COMPENSATION GRANTED BY THE TRRC



AMOUNT OF COMPENSATION FOR CRSVS



37 TRRC Reparations Regulations.

38 TRRC Regulations Part II – Administration of Reparations, Chapter 8 (5).

39 TRRC Interim Report, iii) Committee on Reparations, 15.

through the end of the TRRC's mandate extension on 30 September 2021. The chair of the TRRC's reparations committee, Commissioner Sosseh, framed the reparations process in these terms: *"we cannot bring back a life and there is no payment on this earth that can bring back a life. Or reduce the pain in the heart. So, reparations are strictly SYMBOLIC."*⁴⁰

Implementation thus far remains limited to monetary compensation, even though the regulations call for a holistic approach. Survivors have received monetary compensation in two instalments. The first came from the TRRC before it closed operations in September 2021, and the second is to be distributed by the government after the closing of the TRRC and the presentation of the government's White Paper, but without a clear timeframe. One thousand survivors have received from the TRRC one-time payments of compensation in amounts ranging **from \$1,000 (GMD 50,000) or less (198 survivors involved) to \$11,000 (GMD 600,000) for 758 survivors. Under this programme, survivors of rape are entitled to approximately \$6,000 (GMD 300,000), and survivors of other forms of sexual violence under the repressive regime are entitled to receive roughly \$3,000 (GMD 100,000).** The question about how the TRRC decided the hierarchization and determination of the SGBV survivor's amounts remains unanswered.

Unfortunately, the information shared by the commission is not detailed enough to know how many SGBV survivors are affected by these measures, although Ms. Sosseh indicated that they were among the categories to be prioritised. Additionally, no payment schedule was presented by the TRRC to indicate the details of this compensation.

The TRRC shut down on 30 September 2021, and closed the distribution of reparations, while completing its final report, that was made public in December 2021. Thus, other forms of reparations (material and symbolic reparations) included in the regulations have not yet been distributed. However, these forms of reparations have been recommended to the government in the final TRRC report. In paragraph 523 to 526 of the Government

White Paper, it expressed that the necessary measures to pay the outstanding reparations will be taken and that it is committed to create an independent body by statute to administer the reparations scheme, to assess and approve victims who might not have come forward or been identified by the TRRC and to expand its existing database of victims. The government is now in the process of developing a Victims' Reparation Bill. The Ministry of Justice has made a call for position papers from all relevant stakeholders and is conducting national and regional consultations, bringing together a mix of civil society, victim-led organisations and survivors, on the proposed Victims' Reparation Bill.

2. Access to reparations through judicial proceedings

Gambian criminal law allows "the prosecutor" or "a witness" to be compensated, if the latter "has suffered material loss or personal injury in consequence of the offence committed or and that substantial compensation is, in the opinion of the court, recoverable by that person by civil suit, the court may, in its discretion and in addition to any other lawful punishment, order the convicted person to pay to that other person such compensation as the court deems fair and reasonable."⁴¹ The law does not refer to the victim but to the "prosecutor" or "a witness" to be entitled to reparations. Therefore, a victim can be awarded compensation before a Gambian jurisdiction only if he or she participates in the trial as a witness. In that case, it is up to the court to decide to grant the compensation upon conviction of the accused person, taking into consideration the ability of the convicted to pay.

A few prosecutorial procedures related to crimes other than SGBV committed by State agents during the dictatorship are underway, including trials of nine members of Yahya Jammeh's death squad, known as the jungulars, who were arrested after he went into exile. There is also a trial of one of the leaders of the former junta led by Yahya Jammeh, Yankuba Touray, who was accused and convicted by the Gambia High Court for the murder of former Finance Minister Ousman Koro Ceesay.⁴² He filed an appeal file in the Court of Appeal.

⁴⁰ Speech of TRRC Vice Chair, Adelaide Sosseh, during the Final Report Presentation to the Public. See Taylor (n 36).

⁴¹ Criminal Procedure Code 1933, Part IV (145).

⁴² Mustapha K. Darboe, 'Yankuba Touray Sentenced to death in The Gambia' Justice Info Net (16 July 2021) www.justiceinfo.net/en/79933-yankuba-touray-sentenced-to-death-in-gambia.html accessed 7 January 2022.



VII. KEY CHALLENGES AND OBSTACLES FACED IN ACCESSING REMEDIES

The Gambia's experience with victims' reparations is relatively recent, and it is thus difficult to ascertain the totality of the difficulties survivors have faced so far in accessing reparations. However, based on what is known so far, and on an analysis of the country's context and legal framework, it is fair to say survivors are already facing challenges in obtaining reparations via both judicial and non-judicial avenues.

1. Challenges to accessing judicial remedies

As noted above, the victim is not formally defined as an actor in the criminal proceedings at the judicial level. To take part in the process and have any hope of obtaining reparations, a victim must participate in the proceedings as a witness. However, the taboo nature of SGBV and the risks of stigmatisation associated with this type of violations deter survivors from reporting and participating in these proceedings, even as witnesses. As the experience of the TRRC's public hearings has shown, survivors of SGBV are reluctant to testify in public. Often, they have been discouraged from doing so by their relatives to "avoid tarnishing the family name" or "the victim's reputation." Indeed, many of the 15 survivors who participated in the October 2019 public hearings on SGBV were publicly blamed or ridiculed, confirming such fears. Not only were most of them blamed for what happened, their testimonies were also contested by the public on social media.⁴³

However, when cases do proceed, the general practice has been that the prosecutor applies for the victim (now considered a witness) to give their statement in the chambers (office of the judge or magistrate) to afford them privacy. In these scenarios, the judge or magistrate, necessary court officials, prosecutor, victim, defence lawyer, and accused

person are the only ones present. Although helpful in that it removes the victim from public glare, this also puts the victim face to face with the perpetrator, which can have an extremely negative effect on the victim when testifying. In the absence of a victim protection law, safe and meaningful victim participation in trials thus remains a major challenge.

For these reasons, trials for acts of sexual violence have often been dismissed for lack of evidence or testimony from the victim. This not only results in a lack of criminal accountability; it also means the victim is thus unable to obtain any kind of compensation through the court. Even in cases where victims do subject themselves to the process, the decision to sentence the perpetrator to pay compensation is purely at the discretion of the court. The lack of definition of the status of victim, both in the constitution and in the code of criminal procedure, is an obstacle to victims' access to reparations in the criminal justice system. Finally, another obstacle is related to the difficult access to justice generally experienced by victims. Judicial institutions instil fear and apprehension among citizens, especially the less educated, who may therefore be unlikely to seek any sort of criminal accountability or remedy through the courts. In addition, the costs associated with these procedures (transportation and other expenses) can also be prohibitive. Overall, the legal framework does not appear to be very favourable for survivors of SGBV to obtain reparations.

2. Risks to non-judicial avenues for redress

The TRRC regulations that defined the legal framework for non-judicial reparations filled a gap in law regarding the definition of victim and the direct receipt of reparations by the victim. However, these mechanisms do not clearly define the modalities

⁴³ Yankuba Jallow, 'Gambia: TRRC Express Concern Over Re-Victimization of Victims of Sexual Violence' *All Africa* (22 October 2019) <https://allafrica.com/stories/201910240251.html> accessed 7 January 2022.

for victims to access the reparations to which they are entitled. In the absence of a clear reparations' framework, it is difficult to determine the type of measures to which SGBV survivors are entitled and the mechanisms put in place to access them.

The provision of reparations for SGBV survivors is still an open question. The measures planned for this category are not clearly established in the regulations, apart from the financial compensation for survivors of certain categories (rape, HIV treatment, witch hunt). Since SGBV includes a wide range of violations, in the absence of a clear reparation/compensation programme, it is difficult to guarantee that all SGBV survivors will be considered. Moreover, even though TRRC started the compensation programme, it remains difficult to imagine when holistic and full reparations will be provided to survivors. Survivors received first payment lump sums and token amounts, which will not be sufficient to address all the needs caused by the violations.

In addition, the end of the TRRC's mandate, coupled with the current lack of resources and the presidential elections held in December 2021, also posed a significant threat to victims' redress in general.

Survivors express great concern that major delays in the reparations process will increase their shame and frustration in their communities. Most people in their communities believe that reparations will never take place, and survivors anticipate continued mockery and ongoing harm if the process is delayed. The timely provision of reparations is essential to impact survivors' lives and contribute to the acknowledgement of the wrong done to them so that their dignity can be affirmed amongst their fellow citizens. These fears about timing and delays are already playing out. As Wurie* put it:

“The delay in the whole process does not favour us, thus we recommend for these reparations the [sooner the] better for most victims because of the victims are gradually dying and that alone, it's a form of risk.”

Another threat to the full implementation of reparations is posed by former President Yahya Jammeh's party, the APRC. This party and its supporters have been the main critic of the entire transitional justice process in The Gambia, particularly the truth-seeking process, which they see as a “charade” orchestrated by the government to undermine the APRC and its leader.⁴⁴ The survivors' testimonies were challenged by supporters of the former president, who questioned the veracity of their statements and their status as victims of the regime. They particularly attacked survivors of rape who publicly accused the former president before the TRRC. The TRRC was even prevented from conducting activities in Kanilai, the former president's stronghold, and some survivors who live there refused to take part in TRRC activities. More recently, the APRC led a march a few days before the original date for the submission of the TRRC report (30 July 2021), to publicly call on President Barrow not to consider the TRRC report or its recommendations.⁴⁵ With such a position, the APRC will not look favourably on reparations for victims, as this would be an official recognition of the wrongs committed by the Yahya Jammeh regime. During the 2021 presidential election, an alliance was formed between the ruling NPP and the APRC to run the elections, and they won. This coalition is now perceived as a threat to the delivery of reparations to victims, particularly survivors of sexual violence.⁴⁶

44 Adama Makasuba, 'APRC says it has no confidence in the TRRC' *Gambiana* (7 July 2019) <http://gambiana.com/aprc-says-it-has-no-confidence-in-the-trrc/> accessed 7 January 2022.

45 Adama Tine, 'APRC urges Barrow to reject TRRC report' *MAMOS Media* (28 July 2021) www.mamostv.tv/aprc-urges-barrow-to-reject-trrc-report/ accessed 7 January 2022.

46 The National People's Party is a Gambian political party founded in December 2019 by incumbent President of the Gambia, Adama Barrow.

These threats are purely political and require the involvement of all actors interested in reparations, including survivors and civil society, to keep reparations on the government's political agenda. In particular, the pre-election period should be used to bring this issue forward in the political debate so that the political parties involved take it into account in their electoral programs and manifesto. It is also important for the actors to recall the responsibility of the State to concretise the promises of the transitional justice process, through the effective implementation of the recommendations of the TRRC and the delivery of consequent reparations to the survivors, particularly the survivors of SGBV. In the words of Musu*,

“Unless the international organisations take part in the reparation process, the whole transitional justice process has been politicised, so politics is a major risk to victims getting reparation.”

Even if the reparations programme is implemented, survivors fear that political interference, corruption, and discrimination could affect the distribution of reparations and/or their access to benefits. In a context with scarce resources and where some victims were politically targeted, some survivors expressed concern that government officials might decide to prioritise certain victims and divert reparations for the sole profit of those who support them politically. Fatoumata* shared her opinions on this:

“In my view, those working for government can stand between the victims and what they are supposed to get because many of the women victims are either opposition members or their husbands are opposition supporters. TRRC should make sure that the reparation goes as it should and do not involve politics with it.”

In the same vein, Bafou* explained:

“Political affiliation of those conducting the reparation process might also affect the whole purpose.”

Another risk to consider is the exposure of survivors to stigma when providing reparations. It is likely that the publication of lists of victims with details of the violations they have suffered and details by which they can be identified may expose them to stigmatisation within their community and completely reverse the intended reparative effect. It is important that mechanisms are put into place to protect survivors when they seek reparations, not only by raising awareness about empathy and respect for their dignity but with protection and confidentiality mechanisms. Somewhat relatedly, the deep-rooted patriarchal norms in the country pose a threat to women survivors' access to reparations. They stressed that if compensation is to be paid, some of them might not get what they are entitled to as their husbands or other male relatives could seize the payments. As indicated in the previous section, this is linked to cultural and religious beliefs that men should be awarded for violations suffered by women in the family.⁴⁷ Zeinab* said:

“Patriarchy is a major challenge for women especially when soliciting support that can be a challenge for reparation of women affiliated groups or victims.”

An overarching risk that may be contributing to the others is the lack of victim participation thus far. It became clear throughout the FGDs and interviews that most victims have not taken any steps to demand or seek out reparations, though some have received CSO assistance and, in a few cases, interim reparations from the TRRC. Victims' participation in the reparation design process in The Gambia has also been minimal. ICTJ, in partnership with the Victims' Center, invited the TRRC to take part in a series of victim consultations in October 2019, and then, in partnership with the TRRC, organised a conference to review and validate the reparations regulations in January 2020 with survivors and civil society organisations.

⁴⁷ See Section V. Avenues for justice and reparations.

While initiatives such as these are important, it must be recognised that they have not been sufficient to bring the voice of victims into the decision-making processes about reparations. Instead, the regulations were drafted by international and national experts without sufficient consultation with victims.

Subsequently, very few meetings between survivors' representatives (notably the Victims' Center) and the TRRC were held on the issue of reparations, which were entirely devolved to the TRRC's reparations committee. This affected the information flow between the TRRC and the Victims' Center, as the two entities were unable to share ideas, opinions, experiences, and thoughts. The exclusion of victims is problematic. As Satang* put it:

“I think the government alone can't make decisions about reparation without our awareness because we are the victims, we know what we have suffered more than anyone.”

The SGBV survivors consulted for this Study confirm the need for sufficient victim participation at all levels. They do not feel there has been adequate opportunity for this so far, apart from the numerous outreach activities organized by the Victims' Center and other local CSOs, and the 2019 consultations conducted by ICTJ. Better outreach and the creation of meaningful, official channels for victim participation would give them the opportunity to weigh in on challenges such as those outlined above and give more insight into strategies for overcoming them.

3. Possible challenges to implementing reparations in a gender-sensitive way

Beyond the general difficulties SGBV survivors are likely to face in seeking compensation and reparation at both the judicial and administrative levels, there are additional challenges that must be considered in terms of the implementation of specific forms of reparations, particularly those forms recommended by the survivors who participated in the Study.

COMPENSATION

The TRRC had communicated the conditions for obtaining reparations, including holding an identity card or voting card. As justified as this measure may seem, it is still contingent on the possession or ability of survivors to obtain this document. As of July 1, 2020, only 232,000 Gambians (including only 91,327 women) had been issued a biometric identity card, which became mandatory in October 2018.⁴⁸ The cost of producing the card (about \$90) could explain the lack of interest among the population, and among women in particular, in obtaining an identity card. The extension of the measure to the voter registration card could help overcome this obstacle, as the campaign is free. During the recent voter registration and voter card distribution campaign, the independent electoral commission gave the cards to 856,719 voters, including 488,416 women, which may increase the number of survivors likely to receive compensation.⁴⁹ The other requirement is that survivors must go to a specific bank to cash the cheques that were issued to them and most of them did not have access to banks in their settlements. Again, this is a significant barrier for survivors of SGBV, especially those living in remote areas. Women in The Gambia have limited access to formal financial services. They mostly rely on informal channels to access financial services because of greater flexibility and convenience. In addition, their low level of education does not make it easy for them to use these services, which often require a minimum level of education to be understood and used. The poorest women in particular, or those with very low-income economic activities, cannot use financial services. Also, the poor regional coverage of banks is another obstacle, as many beneficiaries would be forced to move from one region to another in order to access a bank.

48 Momodou Jarju, 'Gambia: Over 232,000 Gambians Issued Biometric ID Cards Since 2018' AllAfrica (1 July 2020) <https://allafrica.com/stories/202007020389.html> accessed 7 January 2022.

49 'Gambia: IEC Registers More Than 856,000 Voters' All Africa (7 July 2021) <https://allafrica.com/stories/202107070740.html> accessed 7 January 2022.

HEALTH CARE

Regarding healthcare, the major obstacle is the minimal availability of health care services and the country's poor coverage in terms of health infrastructure.⁵⁰ A low number of trained health professionals and an acute shortage of medical equipment and supplies present a serious barrier to accessing quality health care, particularly for survivors of the witch hunt or others who may have health complications because of torture. Because of this lack of quality healthcare in the country, the TRRC had to transfer some of the most severely injured to Turkey and Senegal for treatment, but this is an unsustainable approach for all survivors, especially given the COVID-19 pandemic and related travel restrictions. Providing free care to victims can be an additional strain on a weak, underfunded, and under-equipped health care system. It might also represent an empty promise if the health system is not structurally able to afford it. But it can also be an opportunity for the country to improve access to health care. Also, the availability of specialised and gender-sensitive services is an element to consider to guarantee the confidentiality and safety of survivors. As for psychological care, one potential challenge is the provision of care that is based on a Western approach that is not adapted to African realities, which generally discourages survivors from seeking it out.

EDUCATIONAL SUPPORT

Educational support requires a certain amount of organisation and coordination given the diversity of children's needs (considering their different school levels), the availability of school infrastructure to accommodate them (schools and classrooms, furniture), and, in cases where children have previously dropped out, the need for reinforcement or remedial instruction before re-entering the classroom. Also, the establishment of a monitoring mechanism for assistance over several years is necessary to ensure that this assistance is not limited to a single year but instead that it covers the children's schooling up to an acceptable level. The regulations for reparations are silent on this issue. And The Gambia is a poor country where access to quality education is very limited.

⁵⁰ UN Human Rights Council, 'Compilation on the Gambia: Report of the Office of the High Commissioner for Human Rights', Working Group on the Universal Periodic Review, Thirty-Fourth Session 4-15 November 2019, A/HRC/WG.6/34/GMB/2 (23 August 2019) <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2FWG.6%2F34%2FGMB%2F2&Language=E&DeviceType=Desktop&LangRequested=False> accessed 13 May 2022.



VIII. ANALYSIS OF OPPORTUNITIES AND MITIGATING MEASURES FOR ENSURING THE MEANINGFUL IMPLEMENTATION OF REPARATIONS

| 1. Mapping of key stakeholders

Various stakeholders have been involved in the discussion on reparations in The Gambia to date. Many of them will also have an important role in the implementation of comprehensive reparations. The following section provides an overview of those key stakeholders at the level of government, civil society, and internationally.

1.1. Government level

The **Ministry of Justice (MoJ)** is directly involved in the transitional justice process in general and the reparation process in particular. As the main

coordinator of the process and a member of the government, it holds a significant level of power over the decision-making about reparations. The MoJ's approach to gender and SGBV reduction is generally positive. For example, it instituted a Sexual Violence Cell to deal with all complaints of sexual violence expeditiously. The Sexual Violence Act, the Women's Act, and the constitution are all policies that strengthen the framework for protection against SGBV, although they do not define mechanisms for redress for survivors. The MoJ may ultimately be responsible for governmental oversight of the implementation of the TRRC recommendations, including criminal prosecutions. This would also position it as a major player in reparations for survivors of SGBV.



Workshop with CSOs and policy makers meeting, Kanninging municipality council, May 2021
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The **Ministry of Gender, Children, and Social Welfare**, on the other hand, oversees all gender-related initiatives, including the reduction of gender-based violence. As a government entity, it has a significant level of authority over the validation and funding of policies targeting gender-based violence, including reparations for survivors. During advocacy meetings and the consultation workshop with policy makers and civil society organised by ICTJ in March 2021, representatives of this ministry reiterated their willingness to contribute to the improvement of the situation of women survivors of SGBV, particularly through the implementation of the reparations program. However, since the government has not yet provided the additional remaining amount for full reparations, the capacity/will of the overall government to provide full reparations to the survivors remains questionable.

At the level of the **Ministry of Health**, there is certainly a need to strengthen the implementation of services, protection measures and other gender-sensitive mechanisms to enable survivors to benefit from health services, while preserving their safety, health, and confidentiality. As a governmental actor, the Ministry of Health is critical of the implementation of medical reparations. However, the ministry's interest is not very evident and should be generated or strengthened.

The **Gambian judiciary**: This arm of government has an important role to play in fighting impunity and promoting the rights of SGBV survivors. In recent years, efforts have been made to improve the practice of administering justice for SGBV survivors, to encourage survivors to report violence and participate in the proceedings. These reforms or practical adjustments can help strengthen survivors' access to reparations/compensation in criminal trials. However, further reforms to the procedural code and domestic law in general should be considered essential to ensure better compliance with the country's international commitments on gender.

1.2. Institutional level

The **TRRC**, as the institution primarily responsible for the development and implementation of reparations policy, demonstrated some interest in reparations

for survivors, in compliance with its mandate. It has adopted an internal gender-sensitive policy, particularly in its composition and conduct of activities. However, at the level of reparations, the gender focus has not been very strong in the registration of survivors nor in the definition of access measures and mechanisms. As an implementing body, the TRRC (and its successor institution to be established at the end of its mandate) had a critical role to play in achieving just and adequate reparations for survivors of SGBV. However, given that the institution was temporary by definition, and this poses the question of its succession since it was not able to implement full reparation at the end of its mandate.

The **National Human Rights Commission (NHRC)**: The NHRC's mandate is to oversee the country human rights situation and advise the government. It, therefore, represents a redress mechanism, especially since it monitors the human rights situation in the country and is expected to be named as the body mandated to follow up and monitor the implementation of the TRRC's recommendations. The commission has demonstrated some commitment to gender issues, and its recent report on harassment (in the workplace) and earlier press statements criticising the high level of sexual violence in The Gambia illustrate its interest in the issue. While the commission remains a consultative body and thus has a lower level of decision-making power, its impact in terms of advocating for improved policy and legal frameworks could prove instrumental in providing reparations to survivors of SGBV.

1.3. Civil society level

Local CSOs: There is a large community of women's organisations promoting women's rights and fighting against gender-based violence. The GPTJ is a coalition of organisations that has been set up to work specifically on transitional justice issues. It is involved in high-level advocacy initiatives (State, National Assembly), but its involvement on the issue of reparations for survivors is still somewhat limited and needs to be strengthened. Nevertheless, its involvement in advocacy for the improvement of women's civil and political rights could help reduce gender discrimination in the long-run and give weight to reparations for SGBV survivors. The local CSO

platform known as TANGO⁵¹ is also expected to be an important actor for advocacy on behalf of SGBV survivors. However, this coalition lacks capacity and has not shown sufficient interest in the issue of SGBV.

Other civil society organisations such as WAVE, Women in Liberation and Leadership (WILL), and Think Young Women, to name a few, provide direct assistance to women survivors of SGBV and are important actors in advocating for reparations (advocacy, assistance, accompaniment, implementation, monitoring) for SGBV survivors. The Victims' Center remains the most important victims' organisation in terms of structure, actions, and support. It also claims to have the largest number of survivors registered with it and is one of the government's privileged interlocutors on transitional justice. However, the Victims' Center's involvement with SGBV, remains limited to *ad hoc* declarations in response to current events. Its involvement on the issue of reparations in general and reparations for survivors of SGBV, in particular, deserves to be strengthened and improved.

International CSOs: Very few are involved on the issue of reparations in The Gambia. The Global Initiative for Justice, Truth and Reconciliation (GIJTR), the Center for Study of Violence and Reconciliation (CSV) and the ICTJ remain the main international CSOs working on gender issues in the transitional justice process, through technical support to the TRRC and capacity building for survivors, women living in rural areas in particular, and female led organisations. ICTJ supported these women to develop and submit a report to the TRRC on their experiences during the dictatorship in 2019 and conducted numerous consultations in 2020-2021, which culminated in an advocacy campaign for a gender sensitive TRRC report and recommendations, including for reparations. This advocacy effort brought together rural women survivors and representatives of civil society organisations. These initiatives, combined with gender sensitisation activities, demonstrate ICTJ's interest in gender issues in general and reparations for SGBV survivors in particular.

1.4. Regional and international level

The United Nations (UN) system: The UN system has been one of the main supporters of the State in the transitional justice process, both financially and technically, through the implementation of the United Nations Transitional Justice Project.⁵² The involvement of various agencies, particularly the UNDP and the OHCHR, has encouraged the consideration and participation of the most vulnerable populations, in particular women and people living with disabilities. The promotion of gender and the fight against/redressal of gender-based violence is part of its mandate. The system has no decision-making power, but at the diplomatic level, as well as at the level of financial and technical support, it can help create a framework and mechanisms favourable to the reparation of survivors of SGBV. Also, by supporting civil society in these activities to support the reparations process, the UN system can contribute to the adequate consideration of SGBV survivors at all levels (health, economic, social, educational).

African Union (AU)/ Economic Commission of West African States (ECOWAS): The AU adopted the African Union Transitional Justice Policy (AUTJP) in February 2019. This policy, which defines the principles and mechanisms to be considered in the context of transitional justice in Africa, insists on sufficient consideration of gender issues. It represents an important guide for Member States implementing national transitional justice processes to use and provides 11 indicative elements including reparations, memorialization, justice and accountability and reconciliation. In each of these elements, the policy mainstreams gender and has a standalone focus on gender as a cross-cutting issue. The policy states: "*Member States should adopt holistic approaches to reparations for harm inflicted by sexual and gender-based violence which address the societal structures and conditions that permit such violations.*" The policy is an important advocacy tool, but one that is not sufficiently used by actors, particularly because it is not well known, popularized, or understood.

51 It is the umbrella organisation for NGOs operating in The Gambia. The Association's primary obligation is to promote and enhance NGO operations through capacity building and serve as a mouthpiece and advocate on behalf of NGOs operating in The Gambia.

52 Cooperation agreement between the UN system and the government in the implementation of the transitional justice process in The Gambia.



Training of community women and victims on reparations and gender, Basse, September 2021

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2. Initiatives and mitigation measures to improve the reparation process

The advent of the transitional justice process in The Gambia, and the establishment of a truth commission with a mandate to deliver reparations as part of that process, should represent a more than favourable context for granting reparations to SGBV survivors. As noted in previous sections, the TRRC developed and had the government validate a reparations policy that defines the parameters for distributing reparations. However, the absence of implementation of the reparations programme makes it difficult to assess the degree of consideration for SGBV survivors, as the measures for this category have not been clearly defined. For the time being, the commission is proceeding with compensation for the beneficiaries of the deceased or disappeared, survivors of torture and SGBV.

Other measures such as health care and school support will require the establishment of another commission by the government, which should be part of the TRRC's recommendations. The establishment of this post-TRRC entity by the government could represent an opportunity for SGBV reparations, with the consideration of all measures required for holistic reparations. It is important that civil society organisations conduct advocacy to ensure the implementation of the TRRC recommendations.

One of the challenges facing the current victim compensation process is funding. The Commission of Inquiry into the Financial Activities of Public Bodies, Enterprises and Offices as regards their Dealings with former President Yahya A.J.J. Jammeh and connected matters (Janneh Commission 2017-2019) had recommended that he be required to pay \$7,367,426 to the government of The Gambia, while an economic operator associated with him is

expected to pay \$2,367,426, plus interest at 5 percent per annum, from June 30, 2004, to March 29, 2019.⁵³ However, Jammeh's associate, using constitutional law to challenge the commission's recommendations, appealed it and the government's decision to seize his property. After numerous legal twists and turns, the Supreme Court eventually upheld the Janneh Commission's recommendation and the government's decision to order the accused to pay back the money or risk having their property seized.⁵⁴ This Supreme Court decision represents a breath of fresh air for reparations funding and may provide an anchor for advocacy efforts.

As mentioned before, cultural and social norms, such as the patriarchal nature of Gambian society, are likely to create obstacles when female survivors are to receive compensation. In this case, there is a high risk that the money will be taken away by the male partner, in a society where men usually decide for women and sometimes even have the power to manage their property. Protecting women in this context can be achieved by clearly identifying women as direct beneficiaries of the measures. In that way, no intermediary should be allowed to get the money on behalf of the victim. Another way is to preserve the confidentiality of the compensation and the identity of the survivors by using cash transfers. These transfers allow the victim to withdraw the money without the family or community being publicly informed.

However, such a process requires the availability of appropriate technical means, an operator offering this service, and the possession of cell phones by survivors and their ability to use them. Another possibility is to collaborate with reputable local organisations to carry out the distribution. Holistic measures such as the provision of material goods in the form of a regular package, free access to health care including for children, schooling support, are reparation measures that provide for the needs of women and their children without the risks of the financial payment. In that sense, it is important to think about camouflage measures than can avoid the exposure of SGBV survivors, both in terms of

the very definition of reparation measures and the implementation procedure (including the ways of identification, registration, and the forms of delivery). Here, the participation and consultation with the victims are key in the design, implementation, and monitoring of the reparation programme that they ought to be beneficiaries. Protecting women can also be achieved by increased and persistent community sensitisation and provision of community forms of reparations (community projects for women empowerment, improvement of women access to basic social services).

To mitigate the political risks associated with the distribution of reparations, the principles of transparency and accountability should be promoted within the reparations program. A full outreach programme with materials and activities to build direct channels of communication with the affected communities, victims, and survivors to raise awareness of the process and promote understanding and ownership will be key. Sufficient communication is needed to inform about the criteria that led to decide which forms of reparations for which categories of victims, the mechanisms, and procedures for accessing reparations, while at the same time providing safeguards to protect victims from fraud. Communication is an excellent means of preventing risks associated with the reparations programme because it ensures transparency of the process, reassures victims, and facilitates their access to reparations. It also keeps the public informed about the process in general.

If one of the overarching risks is the lack of victim participation, facilitating victims' work and opportunities to come together is an important mitigation measure. The survivors interviewed for this Study believe that it is important to work in unison and to speak with one voice and advocate together, regardless of their differences, and then to raise awareness of their situations and strengthen their participation in the reparations program. To do this, it is important to create or strengthen meeting spaces; organise consultations and trainings for their benefit; to improve their understanding of the concept of reparation, but

53 Lamin Cham, 'Supreme Court overturns Court of Appeal's ruling on MA Kharafi' *The Standard Newspaper* (28 July 2021) <https://www.gambia.com/supreme-court-overturns-court-of-appeals-ruling-on-ma-kharafi/#:~:text=By%20Lamin%20Cham&text=In%20June%202020%2C%20The%20Gambia.or%20order%20of%20a%20court> accessed 7 January 2022.

54 Ibid.

also the options, opportunities, and alternatives they have; and to bring their demands to the government to make them a reality. The Victims' Center does work to bring together many of the country's survivors and to mobilise the survivors' community. However, it has failed to do this work in a gender-sensitive way that includes women and addresses the unique concerns of SGBV survivors. Other organisations such as WAVE and WILL have a focus on female survivors of the former regime, particularly those in the regions, and have helped to bridge the gap but the inclusion and participation of these groups and other SGBV survivors needs to be strengthened. As expressed by Maimuna*:

“The survivors coming together and speaking in a unified voice as well as creating awareness in the communities, will reinforce their presence in the process.”

Another approach to prevent the risks is to encourage the involvement of civil society, international organisations, and international partners, which can strengthen the credibility, transparency, and effectiveness of the process. CSOs, with the support of partners, can conduct evaluation and monitoring of the reparations process through regular briefings with the responsible authorities, publication of monitoring reports outlining the status of the process and highlighting the limitations as well as the successes and participation of SGBV survivors. It is thus important to build bridges between victims, civil society organisations, and government institutions to facilitate interactions and dialogues between survivors and policy makers, to increase their chances of participation in decision-making processes. Survivors' participation should be effective at the time of defining reparations, during the process of registering and verifying victims' status, and during the process of distributing reparations. Their representatives must also be able to help inform all survivors about the progress of the work, the planned operations and their dates, the mechanisms in place, and the recourse available in case of problems. To achieve

this, the involvement of civil society organisations and international organisations is essential, both for technical and financial support, but also through important advocacy work, as indicated by Musu*:

“The only way that we can contribute is if we have people like you [ICTJ, CSOs] to connect us with the government.”

3. Existing reparations advocacy initiatives to bolster and support

As noted above, very few actors are engaged in advocacy initiatives for reparations in general. The number is even smaller when it comes to reparations for SGBV survivors. The issue of reparations for SGBV survivors, while important, is still marginal, and few resources are available to support the engagement of local actors. Women's organisations such as the GPTJ, WAVE, WILL, Think Young Women, and the Victims' Center have contributed to the inclusion of women and SGBV survivors in the truth-seeking and victim identification process. They have also participated in ICTJ's advocacy initiatives for gender-sensitive and SGBV-sensitive TRRC recommendations. ICTJ also collaborated with local journalists to disseminate press articles on the issue of intermediate reparations and their impact, including on women, raising awareness of the *de facto* consideration of SGBV survivors in the overall reparations program. The Victims' Center, ANEKED, and WAVE held a briefing with the TRRC reparations committee on the reparations/compensation distribution process. The initiative is commendable and should be followed up with further actions, especially since the issue of reparations for SGBV survivors was not addressed during this first meeting.

More attention has been paid to SGBV in terms of criminal accountability, and organisations such as the Toufah Foundation⁵⁵ and others have led numerous initiatives to fight impunity and pursue accountability for acts of sexual and gender-based violence. The foundation was the first to spark a

⁵⁵ The foundation was created by a victim of Yahya Jammeh, Fatou Jallow, who was raped by the dictator after winning a national beauty pageant in 2014. The foundation was created to expose and bring to justice perpetrators of sexual assault in The Gambia.



Training of community women and victims on reparation and gender, Basse, September 2021
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“Me Too” movement in The Gambia in June of 2019 where hundreds of people, including victims, CSOs, sympathizers and activists marched in solidarity of all SGBV survivors in the country. This work has been important in raising the profile of the need to address SGBV and led to articles published in national and international media, documentaries, and meetings with policy makers. However, it is focused primarily on limited cases of SGBV that occurred at the centre of Jammeh’s government, in particular how he used the beauty pageants as a way to gain access to young women. This involves a small group of women, mainly based in the capital, and therefore does not cover other types of SGBV that impacted women in the rural regions of the country. Connecting this campaign to the broader range of SGBV could help raise awareness and mobilize support for comprehensive reparations.

In terms of documenting victims’ experiences, ICTJ, WILL, WAVE, and the Victims’ Center have published shadow reports on the diverse experiences of victims; the ongoing impact of the violence on them, their families, and communities; and their needs in terms of reparations. These reports followed a series of consultations with victims from different regions of the country about their experiences, needs, and demands for reparations, through focus groups and individual interviews. The current Study, conducted by ICTJ in collaboration with WAVE and the GPTJ, also represents a significant contribution to advocacy efforts for SGBV survivors. All of these complementary initiatives are resources that the TRRC, the body that will implement reparations at the end of the TRRC’s mandate, and other State agencies could use to provide adequate and just reparations to SGBV survivors.



IX. RECOMMENDATIONS

The focus group discussions with SGBV survivors and the analysis of the findings led to several recommendations related to modalities of reparations to consider while distributing the various forms of reparations, including gender-sensitive approaches for their implementation. The recommendations proposed by the survivors are addressed to important stakeholders, including the government, CSOs and the donor/international community.

Recommended modalities for reparations for SGBV survivors

Compensation or regular allowance

Given the precedent of the reparations programme implemented between July and September 2021, the payment of a minimum amount of D150,000 (\$2,800) for survivors of SGBV is a standard that cannot be reduced. The compensation can be paid in the form of a single payment for survivors of SGBV who have the capacity to manage an income-generating activity. Regular allowances should be prioritised for elderly survivors whose health conditions do not permit them to work or manage a business. This can take the form of a monthly allowance of D5,000 (100\$) that could be paid regularly, depending on the final amount they are entitled to, for a duration ranging from 30 months (2 years and a half) to 60 months (5 years). The proposed amount of the allowance is modest enough not to be a heavy burden on the State budget. Finally, compared with a one-time cash payment, an allowance offers better guarantees that survivors will not be defrauded or have their funds extorted by relatives or friends. It can also prevent the misuse and waste of funds by survivors. It also better protects survivors from falling into extreme poverty after promised income-generating projects may have failed.

Free access to health care and psychosocial support

The government and its international partners should improve the service of hospitals and health care centres in the country, particularly in areas where there are high numbers of survivors of SGBV but limited access to healthcare. They should provide any additional equipment and medicines needed to deliver care to survivors. An additional budget to cover these expenses should be supplied to health care centres with a high density of survivors. Women interviewed by ICTJ complained about the lack of specialised medical services available to them, particularly midwives and gynaecological services, and the low number of female medical staff. Further, they reported that medical specialisations are rare in health centres and hospitals. To facilitate survivors' access to health care, one approach may be to provide survivors with a specific document that identifies them as entitled to the services offered in the rehabilitation health care policy, although it should be carefully assessed to avoid exposure to further stigma and ostracism.

The provision of health care support by the TRRC during the interim urgent reparation program is a good precedent and should be sustained and extended to more survivors. They should also receive specialised health care and psychosocial support via community healthcare and the creation of psychosocial support centres.

The provision of holistic mental health support to survivors through trauma counselling (individual, family, and group therapy, and/or community and individual healing programs) is fundamental for SGBV victims but psychosocial needs of survivors vary significantly. Consideration of the victims' social and cultural contexts should inform and guide the design and delivery of mental health care, for it to be

meaningful for the victims themselves. For instance, accompaniment and support from trusted people might be more significant than a western approach of psychotherapy or medication. A concrete proposal may be to establish psychosocial activities based on a community approach that includes the involvement of survivors and their organisations in the provision of some forms of care, assistance, and accompaniment. Setting up this kind of community-led framework for psychosocial support could be based on the experiences of victim support groups in other countries. This community-based approach also serves to ensure continuity in the provision of services, considering rates of staff turnover and other logistical challenges.

Scholarship and educational assistance

Education for children of SGBV survivors is an important form of reparation and acknowledgement. Access to primary and secondary school education, including technical and vocational school, for the children of victims of witch hunt, fake HIV treatment, female survivors of unlawful arrest should be totally free of cost until they culminate their schooling. They should also receive educational kits and other forms of assistance set up by the State. The list of school-age children should be sent to the respective school directors to ensure that schools have the capacity to accommodate these students, exempt them from registration fees, and provide an educational kit. For sustainability, this recommendation can be linked to the Ministry of Social Welfare, where a Survivors Fund can be opened, and payments disbursed to survivors on a continuous basis.

There should not be a limit on the number of children per family who may be eligible for such reparations, as all children may have been affected to the same extent. It would be unfair for parents to have to choose who among their children should receive an education and who would not. Such a limitation may also lead to gender discrimination, as it is likely that sons' education would be prioritised over that of daughters. Limiting benefits to children conceived

in a legal marriage is also a form of discrimination, according to the Convention on the Rights of the Child. All children of those who suffered SGBV, no matter their gender or legal status, should be considered as having suffered similarly. This is even more important if it is remembered that this form of reparation guarantees these survivors other rights: the right to education and the right of parents to direct the education of their children.

A university scholarship should be provided to survivors who have been accepted to a university or who have matriculated to enable them to pay registration fees and tuition. Survivors who had their schooling interrupted because of the act of SGBV committed against their parents should be provided with a scholarship so they can access vocational or technical training until they culminate their education.

Symbolic reparations

Reparations are not just a matter of providing material measures of reparations to victims; it is also about recognising and affirming their inherent dignity. Material forms of reparations can be used for this purpose, but a symbolic acknowledgement is always necessary. One essential form of symbolic reparation that should be made is memorials and public apology by the President of the Republic, who should also invite other heads of institutions complicit in the commission of SGBV to apologise. Official recognition that wrongdoing was committed based on the responsibility of the State and the lack of protection provided to victims could pave the way for a process of apology to victims of past violations. In accordance with the principle of the continuity of the State, the proper process is to request the president, himself, to apologise on behalf of the State for its part in past violations. Apologies by heads of State are not without precedent and have been made in several other countries, including Argentina, Australia, Canada, Chile, El Salvador, Germany, Great Britain, Sierra Leone, Togo. Memorials would contribute to honour the victims, call the people to empathize with them and officially acknowledge that sexual violations are wrong.

Recommendations for gender-sensitive and gender-responsive implementation of reparations

During the Study, survivors underlined several conditions that should, according to them, contribute to a reparations process that is gender-sensitive, fair, and satisfactory. These conditions include:

1. The survivors' reparations policy should be based on five fundamental pillars to respond to the most serious violations, namely i) to prioritise victims of the most serious violations, including sexual and gender-based violence; ii) to develop and implement a comprehensive policy that responds to the different consequences caused by these violations; iii) to develop a clear implementation strategy that could provide some assurance to survivors that they will receive the benefits to which they are entitled; iv) to ensure meaningful and informed participation of the survivors, v) to consider the specific needs of women and children in terms of the method of delivery and the content.⁵⁶
2. A credible and comprehensive reparations program must be transformative in the sense that it must bring about a substantial improvement in the lives of survivors. Therefore, it is important that reparations are holistic as recommended by international principles on the recourse to reparations for victims. The same must be true for survivors of SGBV in The Gambia. The Study showed that their needs are varied and severe, and that they touch on different aspects of their social life. The reparations programme should include more than the payment of compensation to address all aspects of harms caused. The Study showed that the needs of the survivors, derived from the violations of their rights, are so severe that compensation alone, which is symbolic in nature, would not be sufficient to alleviate their living conditions, especially if it is a one-time payment. It is important to integrate other material and symbolic measures as recommended by the survivors themselves. In addition to compensation, international law and the reparations policy developed by the TRRC both recognise other forms of reparation including restitution, satisfaction, and guarantees of non-repetition. Survivors have recommended the following measures to be provided to them: health care services, psychosocial support, education support, acknowledgement of crimes committed, criminal investigations, and official apologies.
3. The victim reparations policy must be accompanied by an outreach and communication plan that clearly details and indicates the types of measures to which each category of victim is entitled, including the registration process and the mechanisms put in place for their distribution.
4. The establishment of a successor institution that can continue delivering reparations to survivors now that the TRRC mandates ended will ensure that survivors receive their reparations without further delays. It will also allow the government to complement the work of the TRRC and develop a holistic reparation program.
5. Put in place mechanisms adapted to the situation of women survivors to guarantee their confidential and secure access to reparations they are entitled to.
6. The reparations policy and program for survivors of SGBV does not need to be a standalone policy. The reparations program for SGBV survivors should be implemented as part of a general policy of reparations for all categories of victims. By implementing them together, it could prevent social stigmatisation of certain categories of survivors, like those who suffered sexual violence, from being identified publicly. This could also allow for an expedient reparations process, instead of one where the assessment of individual survivors requires many administrative staff and more time to be carried out. That said, the delivery should be gender-sensitive, coordinated with organisations already working with SGBV survivors, and include adequate and equal measures for survivors of SGBV who must be treated without any form of discrimination.

⁵⁶ UN Human Rights Council, 'Compilation on the Gambia: Report of the Office of the High Commissioner for Human Rights' (n 50).

Building on these overarching recommendations, this Study further recommends the following:

| To the Gambian Government

The Government of The Gambia bears the fullest responsibility to design and implement a meaningful reparations program that will benefit all victims, including survivors of SGBV. Among other steps it should take to meet the conditions laid out above and fulfil the recommendations made by survivors and outlined in the present Study, the Gambian government should:

1. Reaffirm political support for and commitment to victims' rights through the rapid provision of holistic reparations to victims, including survivors of SGBV, with consideration for their diverse needs arising from the violations suffered. The President of the Republic must provide political support for implementation, convincing reluctant ministries to step up and play their part in the process.
 2. Disburse the necessary funds to comprehensively repair the victims, including survivors of diverse forms of SGBV. The government should utilize all means necessary for funding reparations, including the recovery of assets resulting from the corruption of the Yahya Jammeh administration and expend a special line in the national budget to finance the mechanism and the reparation programs. The President must also work with Parliament to ensure that sufficient funds are allocated for reparations, sending a strong message of empathy for victims.
 3. Establish without delay an independent institution with the political and financial capacity to coordinate the actions of the relevant ministries and State agencies (Ministry of Finance, Ministry of Health, Ministry of National Education, Ministry of Gender, Children and Welfare, and Ministry of Justice and National Treasury) to continue the delivery of reparations now that the TRRC's mandate has ended.
- More specifically:
- The implementing institution must have the authority and political power to coordinate effectively across ministries, departments, and local governments.
 - It must have the autonomy and independence to avoid partisan efforts to use reparations for political interests or to exclude certain categories of victims, as most survivors of the Study fear. It must also provide mechanisms to ensure the participation of survivors and civil society, and the resources to fund its operation and the provision of reparations. Mandating without funding condemns the implementation of reparations to remain incomplete and makes promises impossible to keep.
4. Promulgate a victim and witness protection law to ensure their safe participation in criminal proceedings, especially in cases of SGBV.
 5. Reform the criminal procedure code to provide compensation for all survivors of sexual violence as part of the criminal proceedings, to be paid by the convicted perpetrator. It should also effectively enforce the Domestic Violence Act and the Sexual Offence Act.
 6. Expedite the promulgation of the policy for the implementation of the TRRC recommendations and enact two sets of policies:
 - The first is policies guaranteeing the non-repetition of human rights violations, including sexual and gender-based violence, through the implementation of TRRC's recommendations on institutions reforms and prosecutions.
 - The second set is related to the enforcement of respect for human rights and humanitarian law in all State institutions. Individuals found guilty of violating these norms should be prevented from promotion if not removed from the services. Mechanisms for safeguarding how the police and the military recognise and respect citizens' rights and women's rights and dignity in particular, is essential.

| To Civil Society Organisations

The legitimacy of a reparations programme and its ability to effectively repair victims and establish conditions for reconciliation depend on how they perceive it. Moreover, the ability of the program to effectively address the needs of survivors requires their meaningful participation in the design and implementation of the policy, in line with international principles. Such involvement can only contribute to the efficiency of the policy and ensure its legitimacy and the process through monitoring and evaluation by CSOs. Organisations working on transitional justice issues should consider:

1. Advocate in collaboration with victims' organisations, with a focus on women's organisations, for a more gender-sensitive and holistic reparations policy and program, to amend and complement TRRC's reparations policy, ensuring that it includes other reparations measures beyond financial compensation.
2. Call on the government to promptly establish the commission to continue the distribution of the full reparations program now that the TRRC's mandate has ended.
3. Monitor the reparation process, including ensuring that gender-sensitive reparative measures and mechanisms are considered by the authorities to guarantee safe and easy access of SGBV survivors to reparations.
4. Advocate in favour of the establishment of a memorandum of understanding to formalise a partnership with the entity to be established to oversee reparations post-TRRC. As part of that,

CSOs should be able to accompany that body through training programs, support outreach activities, ensure gender is sufficiently considered and mainstreamed, and facilitate direct access to and exchanges with affected communities.

5. Contribute to raising public awareness about SGBV and reparations.

| To Donors and the International Community

1. Call on the government of The Gambia to respect its international obligations and promises to its citizens by providing gender-sensitive reparations to victims of serious human rights violations committed during the dictatorship, including survivors of SGBV.
2. Maintain the provision of technical and financial collaboration and assistance to support the Gambian government and its reparations program, particularly one that provides for holistic and transformative reparations for the survivors of SGBV.
3. Support civil society organisations working on gender issues to carry out mass awareness-raising activities on the respect of women's rights against SGBV, conduct monitoring and advocacy activities to ensure adequate reparations for women survivors of sexual and gender-based violence committed by Yahya Jammeh's regime.
4. Support civil society organisations to provide direct assistance to empower survivors economically.



X. CONCLUSION

Victims' needs for reparations in The Gambia are most urgent due to the long-term impact of the violations on their lives and exacerbated by conditions of persistent poverty, entrenched discrimination, and structural challenges to their access to basic social services. Added to these experiences are the impacts of COVID-19 on the lives and livelihoods of survivors, that have further exacerbated their suffering and victimisation and vulnerability. There is an urgent need to provide victims with holistic reparations ranging from financial compensation to more material forms like medical care, psychosocial support, education for their children, and symbolic reparations, including public and official apologies by the State.

While the TRRC has established a precedent in terms of reparation, by starting the distribution of financial payments to victims, including survivors of SGBV, the narrow focus on compensation thus far has left several victims without the relief that would come from a more complete, holistic reparations program. This Study provides more information about the situation, current needs, and expectations of the survivors, with the aim to encourage Gambian decision makers and international actors to contribute to and support the delivery of adequate reparations for all survivors of SGBV.



Focus group discussions, Sabach Njien, June 2021
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