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CSO White Paper on the TRRC Report and Recommendations

PREPARED BY CSO TRANSITIONAL JUSTICE WORKING GROUP
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FOREWORD

Transitional justice (TJ) looks to the future and the past, to record wrongdoings of the past, recommend possible remedies, and set the stage for a more peaceful and human rights-respecting society in the future. Truth-seeking is only one piece of the jigsaw that must be pieced together to rebuild a peaceful and just society. The Gambia's Truth, Reconciliation and Reparation Commission (TRRC) did a good job at bringing to life the horrific human rights abuses that took place during Jammeh's 22 years at the helm of government, as detailed in the final TRRC report submitted to President Barrow on November 25, 2021.

The next step in the TJ process is the full and fair implementation of the TRRC recommendations. The three arms of government, civil society organisations (CSOs), the media, and the entire populace, as well as international partners, all have a role to play in rebuilding Gambian society and helping victims of human rights abuses to find closure and rebuild their lives.

Both the TRRC report and this Shadow White Paper have highlighted pertinent gaps in the truth-seeking process, which take nothing away from the stellar effort of the TRRC, yet they need to be addressed. For example, the truth about enforced disappearances and sexual and gender-based violence has not been adequately established by the TRRC. Without establishing the truth in these cases, victims of SGBV and those affected by the loss of family members cannot have closure, justice, and reparation.

We urge the government to put victims of human rights abuse at the centre of the TJ process and be guided by a sense of fairness and justice in preparing its white paper in response to the TRRC recommendations. This is the trust of this Shadow White Paper. Without learning from the injustices and abuses of human rights in the past; without recalibrating social norms and traditional practices towards achieving a society that respects the values of life, freedom, and human dignity regardless of creed or gender; without justice and a programme for reparations, and reforms, The Gambia will never be at peace with itself and the mantra of Never Again will just be an elusive wish. That we must not allow to happen!

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TABLE OF CONTENTS

ACKNOWLEDGEMENTS	1
FOREWORD	2
TABLE OF CONTENTS.....	3
EXECUTIVE SUMMARY	4
INTRODUCTION	6
RATIONALE.....	6
METHODOLOGY	8
OVERVIEW OF VICTIMS' PERSPECTIVES	9
RECOMMENDATIONS.....	14
A. Accountability and Justice	14
B. Amnesty	14
C. Communication and Coordination	14
D. Criminal Liability.....	15
E. Enforced Disappearances	15
F. Extrajudicial Sanctions.....	16
G. Gender Justice	16
H. Human Rights Education	16
I. Legal Aid.....	17
J. Legal and Institutional Reforms.....	17
K. Memorialisation	17
L. National and Case Management Database	18
M. Prevention of Torture.....	18
N. Reconciliation.....	18
O. Reparations	19
P. Protection Concerns	20
Q. Psychosocial Support.....	21
R. Reparations as Awards, not Inheritance.....	21
S. National Human Rights Council.....	21
T. Victim Participation in post-TRRC Process.....	21
THE CASE FOR RESIDUAL MECHANISMS	22
CONCLUSION.....	24
Annex 1	26

EXECUTIVE SUMMARY

Victims and victim-led organisations have expressed views that their expectations of the Truth, Reconciliation and Reparations Commission (TRRC) were largely met. They had hoped for recommendations that would speak to accurate records of human rights abuses of the past regime, prosecution and punishment of persons found guilty of crimes against humanity, national peace, reconciliation, and healing, support for victims and their families to overcome long-held pain, offer of token monetary compensation to victims whose rights were abused by agents of the state, offer of non-monetary compensation such as free education or medical care for victims or families. Other 'asks' remain, such as return of seized property to victims or immediate families, and the identification and proper burial for victims of enforced disappearances.

With the findings and recommendations of the TRRC, it is now apt for the government to create a human rights culture in The Gambia. The perspectives of victims, victims' families, and victim-led organisations, as well as members of the public that participated in the consultations encapsulate core expectations of rights holders targeted towards the State as duty bearers, to ensure comprehensive, timely, and measurable implementation of the recommendations of the TRRC. Herein the government must take up its role to ensure the promotion and protection of all human rights for all.

Victims' participation cannot be overlooked. It is essential that victims remain in the driver's seat of the transitional justice process and steer government's engagements and actions in the various stages. The consultations thus provided a platform to briefly inform participants about the findings and recommendations of the TRRC as well as some of the next steps in the post-TRRC phase.

Not only should implementation of the recommendations be coordinated by an entity or committee that remains to be defined, but it is also critical that the government puts in place mechanisms through which to provide periodic updates to the victims' community and the general populace about its post-TRRC work. This will keep them informed and ensure inclusivity and timely engagements in different processes, as appropriate.

International law is very clear that governments have a legal duty to investigate and prosecute torture and crimes against humanity. Accountability, which is key to ensure non-recurrence of human rights violations featured quite prominently in the recommendations made. Similarly, that public acknowledgement of the role of the state in perpetuating the violations will contribute significantly to healing and providing closure for the victims. This also reinforces the state's commitment to reconciliation, reparations, and redress.

A vetting process within the security sector, which was deemed a critical instrument used by Jammeh to perpetuate his reign of authoritarian rule on the people of The Gambia, remains an essential component of the country's transitional justice trajectory. Security sector reforms are not only for the state, but also to address and respond to the needs of the citizens to realise development potentials. It is time to 'demystify' the role of security

organs and intelligence services—and move from embracing the practices in authoritarian systems to making the transition to a more modern security architecture in a democratic environment. Measures must be put in place to curb excesses to the abuse of powers, whilst accountability is essential to stem impunity. Revision of policies and checks and balances ought to be in place to contribute to rebuilding state institutions and ensure professionalism.

The goal is that there will be non-reoccurrence of the human rights violations and abuses that permeated throughout the country under Jammeh's rule. Whilst there is no panacea for all the violations and abuses meted out on Gambians and non-Gambians, all recommendations are said to be key to the realisation of non-reoccurrence and a new human rights dispensation in the country. Victims are cognisant of the need for resource mobilisation and prioritisation in the implementation process but caution that these 'issues' should not be used to justify delay with or lack of implementation.

Concerns that the main challenge arising from the TRRC report relates to translating the recommendations into reality and urge the government to demonstrate its political will to provide redress to victims. Furthermore, institutions dealing with land issues should be strengthened to properly provide for redress and guard against conflicts. With the findings and recommendations, some of the 'asks' in the TRRC's report are 'low hanging fruits' of issues that can be engaged with without undue delays. This, for example, should include a mandatory course for all soldiers on human rights and on the role of the military in a democratic society, as recommended by the TRRC. This would help shift the deep-rooted attitudes, develop professional maturity, and adherence to codes of conduct. With established frameworks and policies in place, curriculum development, holding conversations about memorialisation initiatives, including declarations of national holidays, and issuing public apologies are not resource intensive and can all be set in motion.

Noting that several victims continue to endure in silence (or had not been aware that their rights had been abused and/or violated), and have not been part of the TRRC process, the government should make provisions and spaces of further dialogue about the violations that occurred. Whilst demonstrating political will/commitment to implement the recommendations from the TRRC, the objectives for a holistic transitional justice process must be widely promulgated to permeate through different echelons of society, with collaboration between the government and CSOs. Such outreach and sharing of information will contribute to ensure awareness of the report, its recommendations, and for effective participation in the implementation process. The government should also solicit and take up offers for technical assistance to build capacity, competencies, and expertise needed to implement some of the recommendations.

Recommendations should be implemented; reforms that are transformative must be made, and action taken to realise the #NeverAgain mantra.

INTRODUCTION

The Gambia's Truth, Reconciliation and Reparations Commission (TRRC) was established by an Act of Parliament, the TRRC Act 2017. It was given the mandate to hear testimonies of human rights violations that occurred from July 1994 to January 2017. The TRRC worked for over two years and heard testimonies from 393 victims and alleged perpetrators as well as from experts and other witnesses. The TRRC submitted its final report with its findings and recommendations to President Adama Barrow on November 25, 2021. A month later, on December 24, 2021, the government, through the Ministry of Justice, made the report public and shared it with key stakeholders, including civil society in line with the TRRC Act 2017. As per the provisions of the TRRC Act, the government has six months (until May 25, 2022) to issue its White Paper, a document that will contain the official position of government on the report's findings and recommendations.

While the government is working to publish a White Paper, it is important that victims play a central role in informing the next steps of the post-TRRC process, recognising core principles of victims' participation, thereby contributing to the legitimacy and credibility of the process. To this end, civil society under the auspices of the Transitional Justice Working Group, have decided to develop their own CSO White Paper (CSO-WP) stating the perspectives of victims and civil society position on the recommendations of the TRRC. Such a position paper by CSOs and victim groups will maximise influence on the government's White Paper. Previous experience shows that the government very often does not consult civil society when developing white papers, and when they do consult, they are very selective. Consequently, a CSO-WP will be a critical tool to provide a consultative victim-led civil society voice and position on all the major recommendations of the TRRC.

The major outcome of the TRRC's work has been uncovering the truth, taking an account of the human rights violations perpetrated between July 1994 and January 2017 and identifying who the victims and the perpetrators are. The report identified the circumstances and factors that perpetuated the violations while making recommendations to address them and ensure their non-recurrence. Recommendations for reparations in its different forms, include the repeal of ominous laws, enhancement and capacity development of state security actors, and reforms of institutions particularly the prisons. The recommendations are clear, practical, and carved to springboard into different stages for phased implementation.

RATIONALE

CSOs and the public have been sceptical of the Barrow government's readiness to implement the recommendations of the TRRC. This position was further exacerbated by the alliance between Barrow's newly formed political party, the National People's Party (NPP), and the party of former President Jammeh (the APRC) in the recently concluded presidential elections, which the NPP won. The nomination by President Barrow of APRC stalwarts Fabakary Tombong Jatta and Seedy SK Njie as Speaker and Deputy Speaker of the National Assembly are counter examples of accountability and justice in the country's current dispensation.

CSOs had set up a taskforce—the CSO Taskforce on post-TRRC—and developed a roadmap to engage with government and provide support with the implementation of the TRRC’s recommendations. The Taskforce held its maiden march pass in September 2021 to call on the government to implement the TRRC’s recommendations. The government responded by publishing a press release through the Ministry of Justice (MoJ) affirming its readiness to implement the recommendations of the TRRC.

It is important to note that the concerns of many stakeholders about the government’s willingness to implement the recommendations of the TRRC are genuine. For example, recommendations in the 2019 Janneh Commission report have not been fully implemented, and where the government enforced the recommendations, it did so selectively. Similarly, the Faraba Banta Commission report of 2018 remains partially implemented, while the Draft Constitution 2020 could not pass in Parliament because National Assembly Members loyal to Barrow voted it down. These are indicators that have created an environment of mistrust amongst many.

The release of a CSO White Paper ahead of the publication of the Government’s White Paper presents unique and unprecedented opportunities at this stage in The Gambia’s transitional justice trajectory, which will contribute to building synergies and harness the role of civil society as watchdogs and contribute to better promotion and protection of human rights in the country. It serves as one of the many ways CSOs can exert pressure on the government and ensure that the government’s position on the recommendations will be influenced significantly, thus achieving a more comprehensive White Paper from the government.

In anticipation of the release of the government’s White Paper on May 25, 2022, Freedom House supported the CSO Working Group on Transitional Justice to produce this CSO White Paper. The CSO White Paper is not an analysis of the TRRC’s report but is aimed at capturing victims’ and civil society’s views around the TRRC recommendations and is informed by findings from consultations with victims and survivors, victims’ organisations, CSOs/NGOs, and the public. It contains information on critical issues and aptly presents victims’ and CSO perspectives on the TRRC’s recommendations for the government’s considerations.

Freedom House contracted a consultant to support the TJ Working Group in the drafting of the CSO White Paper in a participatory and consultative manner.

METHODOLOGY

Several approaches were adopted for the preparation of the CSO White Paper. Findings and recommendations from the TRRC's report guided the design of the questionnaire used and formed the basis of inputs for the different consultations.

Consultative Meetings with Victim-Led/Focused Organisations

Two consultative meetings were held over two-days with 19 participants representing victim-led and -focused organisations, advocates who work with victims, and other organisations working on transitional justice issues.

Desk Research

Inputs for this report were also culled from desk research, particularly on the widely promulgated opinions on the possible modes of prosecution for Jammeh-era crimes. Reports written by various organisations were similarly referenced in the research process.

Focused Group and Key Informant Interviews

The primary data collection method for the study was the focused group discussions in different communities. Mixed focused group discussions comprising of seven to nine people selected by the local regional liaison officer/community mobiliser were conducted in eight local communities in Lower River Region, Central River Region, West Coast Region (Foni District), Kombo North, and Kombo South. Participants included women, youth, family representatives of victims, as well as persons suffering from a disability or debilitating health conditions occasioned by the human rights violations to which they had been subjected. These consultations offered first-hand insights from victims and family members of victims whose rights had been violated and witnesses to rights violations.

Questionnaire

A uniformed questionnaire (see Annex 1) was used for the consultations. This was also emailed to key informants and organisations and responses were received from several including the National Human Rights Commission, the Gambia Federation of the Disabled, and Centre for Legal Studies.

Telephone Consultations

The inclusion of persons with disabilities was critical in the consultations. Telephone interviews were conducted with three individuals (one woman, two men) who had been left disabled and/or who are suffering from debilitating conditions occasioned by violations of their rights.

Do No Harm

During the consultations and in the data collection, care was taken not to retraumatise survivors and victims.

OVERVIEW OF VICTIMS' PERSPECTIVES

It is imperative to remember that there can be no meaningful national transformation if those who were gravely impacted by human rights violations are not recognised. The government has a duty to honour the lived experiences and memories of victims and survivors as it works to reinforce the 'Never Again' campaign. Whilst governments change, the State's responsibilities to fulfil its obligations to promote and protect human rights for all will remain. With the TRRC's report, it is now incumbent upon the Barrow government to acknowledge and remedy the wrongs suffered and provide redress and reparations for victims and their families.

There is unanimity in views expressed that the government should fully implement the recommendations of the TRRC. For many, the TRRC was the only way through which the victims became aware of the truth, so the government should not compromise the TRRC's report, findings, and recommendations. The recommendations are the bedrock for justice and reparations, to bring about institutional and legal reforms, effective reconciliation and trust building between the State and its people, for perpetrators of widespread human rights violations and abuses to be held accountable, and to ensure non-reoccurrence. They should therefore be implemented through the right processes, without favour or bias.

Lack of Information Dissemination

Participants in the consultations were aware that the TRRC had finalised its work and submitted its report to the government. Most of the interviewed victims, however, did not know much about the Commission's findings, recommendations, and the rest of the processes that will follow. Several lamented that they had thought the TRRC process was long done away with, and that the government would no longer continue with post-TRRC work. The gap in communications was also pointed out as a major concern for post-TRRC engagement. It was observed that the lack of information dissemination on the process thus far is unfortunately creating misconceptions and misinformation on post-TRRC issues and distrust among victims. Participants also decried the lack of transparency and consultation of the victims with regards to the amnesties process.

On Prosecutions

Victims have made the clarion call for accountability and justice for the human rights violations and acts of torture to which they had been subjected. The TRRC found that Jammeh and 69 other named perpetrators were responsible for 44 specific crimes, including murder, torture, rape, and sexual violence, enforced disappearance, and called for their prosecution. Mindful of several factors that could negatively impact how any prosecutions would be carried out in The Gambia, an international process is recommended. Whilst some victims are happy with the proposals for criminal liability and hope that justice will be served, sooner than later, which tools will be used for holding perpetrators responsible for crimes committed provoked discussions—how, when, and where? Will victims be able to participate in these processes? What steps should the government take to ensure that perpetrators are held accountable? These are some of the several pressing questions victims had about issues of criminal culpability. Suffice to say that the government must ensure that provisions are in place to domesticate laws under which alleged perpetrators

will be charged for the heinous acts and crimes for which they have been identified as carrying out.

Prior to the release of the TRRC's report in September 2021, pollster Afrobarometer found that 73 percent of respondents in The Gambia supported prosecuting perpetrators of abuses from the Jammeh era. Whilst several victims are not aware of the challenges with the legal processes and rendering some form of accountability for Jammeh era crimes and human rights violations, some have taken comfort in the outcome of the proceedings against Yankuba Touray for his role in the murder of Finance Minister, Koro Ceesay. They also make references to the continued detention of the NIA9 and hope that their case will proceed speedily to demonstrate the government's commitment in holding perpetrators to account. They have called for appropriate legislation to be in place to ensure that 'the punishment for all perpetrators fits the crimes committed'.

Given the prevailing 'political situation and alliances', diverging views have been put forward as suggestions for a system of criminal liability. Some believe perpetrators should be prosecuted out of The Gambia, for example an ECOWAS Court or the International Criminal Court (ICC). Several participants expressed lack of trust in the government's political will in pursuing justice and accountability. Others felt that the government will undermine any nationally driven processes. Others, however, believe that it would be better to have a process in the country so that resources can be maximised and used for the benefit of the victims' medical and other needs, as well as nation building. This will also allow for the participation of more victims and witnesses than if the proceedings were to be in a different jurisdiction. Concerns over security, witness tampering, witness protection, 'a corrupt and inept legal system' were also causes for concern. Ideally, victims would want a national process based in The Gambia but recognise this comes with its own challenges and might not be tenable for reasons outlined above.

While several stakeholder consultations held about the prosecution of Jammeh, and other perpetrators have found consensus in favour of a hybrid court which will be premised on the participation of both local and international personnel/judges and legal frameworks tailored for such trials to be augmented by international laws that befit the crimes. Victims called for the support of the Economic Community of West African States (ECOWAS) and other countries whose citizens were killed under Jammeh to join The Gambia in pressing for his prosecution.

Widespread Impunity

Use of torture was widespread and routine during Jammeh's era and going by jurisprudence one can deduce that (all) victims had been subjected to acts of torture or cruel, inhumane, and degrading treatment or punishment. However, guarantees are not forthcoming that accountability measures will be much more effective than processes that led to the dismissal of charges against Saul Badjie, *et al.* and most recently, with the release from detention of Junglers who had been in pre-trial detention for several years without charge. Furthermore, alleged perpetrators will not suffer fate of the NIA 9/8, who have been in pre-trial detention for almost four years. Concerns are rife that the country's judicial system may lack adequate capacity to prosecute cases against Jammeh and other named perpetrators.

Several victims have stated that although many high-ranking government personnel, as well as police and military officers have been adversely mentioned and recommended for prosecution or have been put on a list of people who should be banned from public office, they are still and very much active and yield significant power and influence. The potential for tampering with available evidence is high to those within certain corridors of power.

Citing the example of Finance Minister Mambury Njie, who was recommended to be banned by the Janneh Commission yet maintains a significant high position in Barrow's government, several respondents/victims expressed concerns about how robustly this recommendation will be implemented. Perpetrators are emboldened by their impunity and according to some victims, they have been mocked by some perpetrators when they meet in public. 'We are in pain, and it is a provocation to us as victims seeing them still holding public offices', victims claim. For several victims, it is 'a slap in the face seeing those who committed violations and abuses holding public positions and moving freely around in the country', yet they continue to struggle with their health and socio-economic needs and dealing with the impact of having lost loved ones. This situation clearly underlines the need for a transformative reparations program.

On Amnesty

As per the TRRC Act, the Commission may recommend amnesty to persons who make full disclosure of their involvement in human rights violations and express remorse for their acts. However, international human rights law 'impedes the use of amnesties not only for offences that reach the threshold of crimes against humanity, but for all serious human rights violations. This is also extended to torture, murder, enforced disappearances, sexual violence, and other violations which due to their scale and context do not amount to crimes against humanity. One victim quipped, 'you cannot tell me, the victim, that you are going to forgive my perpetrators on my behalf without me knowing about it and/or agreeing to it.' Questions such as 'Is it the government that is granting amnesty without talking to us?' were quite common.

Linking issues of amnesty to remorse and forgiveness, whilst some victims could find themselves coming to terms with 'forgiving' the perpetrators because of their religious beliefs, most victims interviewed insist that justice must be served. For others, they cannot bring themselves to forgive the perpetrators, primarily because the psychological and physical impact of their violations have 'destroyed' their lives. Perpetrators must face the consequences and be punished for their crimes, some remarked.

Keeping Missing Persons on the Radar

The TRRC's report indicated there was not enough time or resources to fulfil its mandate with respect to enforced disappearances. This remains a gap that needs to be addressed in follow-up actions and mechanisms. With over 100 people found to have been enforcedly disappeared, amounting to almost half of the 250 people the TRRC reported had been killed during Jammeh's reign, the whereabouts of most of the missing persons is still unknown. Prosecution of perpetrators is possible, even whilst the victim remains in a state of 'enforced disappearance'.

In its general comment No. 9, the Working Group on Enforced or Involuntary Disappearances stated that one consequence of the continuing character of enforced disappearance is that it is possible to convict someone for enforced disappearance based on a legal instrument that was enacted after the enforced disappearance began, notwithstanding the fundamental principle of non-retroactivity. Citing The Gambia's obligations under international human rights law and its accession to the Convention, the working group called on the government to take appropriate measures to continue investigations into the fate and whereabouts of the persons declared missing by their families.

Some victims have stressed that without the government taking action to continue investigations into the fate of their loved ones and provide essential information, which would bring them some closure, reconciliation initiatives would be meaningless to them.

Gender Justice

'Across The Gambia, females were disproportionately affected by violations including sexual violence, torture, inhumane and degrading treatment, arbitrary arrests, detention and forced labour', the Commission observed, yet reparations for victims under this thematic area is limited. For obvious factors, the number of women that participated in the TRRC to enable an understanding of the situation faced by women during the 22-year rule was limited. According to the TRRC, 'misplaced loyalty, fear of reprisals, stigmatisation, and discrimination as well as family honour prevented both men and women from testifying before the TRRC even though systems were in place to protect their identities.'

Proponents of gender justice believe that the hearings on sexual and gender-based violence (SGBV) were not conclusive enough to unveil the violations perpetrated, thus limiting the findings and recommendations in the TRRC's report. Several respondents and victims lament the dearth of information on incidents of sexual violence, noting also that gender components of the crimes discussed were not really focused on during the process. Some believe that the facts and figures around sexual violence during the TRRC's work, the investigations, and reporting in this regard were very scanty and it is possible that the Commission limited its analysis of gender violations only to testimonies that were shared during the public hearings. As it failed to include information contained in statements from women who did not testify, but which was available to the Commission, there were missed opportunities to offer a deeper exposition of gender-based violence and abuse of women's rights during the Jammeh era.

The TRRC provided comprehensive recommendations on prosecutions, however, there remain huge gaps under recommendations regarding reparations especially for victims of SGBV. In a society that has entrenched discriminatory gender structures, SGBV victims are also recommended for inclusion within prioritised groups to receive reparations and that the impact of the violations and abuses they encountered should receive special attention.

To protect the rights of women and children that are victims and to maintain social cohesion within some recipient families, the victims' community should be made aware that reparations awards are not paid out in accordance with inheritance laws. As has been observed, such practices are inherently prejudicial to women, worsening their victimisation.

The government also should consider that women and children were glaringly absent in the reconciliation initiatives facilitated by the TRRC, an anomaly that should be addressed in any planned processes.

Psychosocial Services and Support

Psychosocial services and support (PSS) and specialised medical treatment should be made available to all who wish and need services to enable them to deal with the trauma they have experienced. Similarly, to support victims' participation in prosecutions and other measures for administrative sanctions, their wellbeing must be prioritised, and in meaningful ways. This includes access to PSS for those who need it, and for the complete duration of need, which is often long-term.

Double Standards or Inherent Limitations?

According to one victim, the government ought to be shamed for its approach in handling some cases. The victim cited speedy collaboration and cooperation with prosecutors in the cases of Ousman Sonko in Switzerland, who has requested (and received) the support of the Ministry of Justice to question/interview witnesses in The Gambia, yet the government is 'recklessly releasing Junglers, granting amnesty to serial killers and has failed to take concrete action five years the case since [of the victim in question] came to light'. Prosecutors handling the case of Bai L in Germany and Michael Correa in the United States have also enjoyed such positive collaboration with the Gambian government, according to some victims.

Prioritising Implementation

The stages for implementation of different recommendations were considered, with reparations being highly prioritised. Victims indicated that several of their fellow victims have already died without getting reparations in the form of monetary compensation with which they could have had better medical care and livelihood support for their families. Others remain in dire need of medical and psychological treatment, as well as means to support their families, and would thus welcome urgent payment of the balance of reparations due to them or the initial reparations awarded for those that had not received any payment from the TRRC. Several victims have enduring needs which one-off payments would not resolve. Therefore, based on an analysis of the gravity of their needs, additional material forms of reparations should be allocated to the most vulnerable among the victims (such as those with needs for medical care, victims with school going children, etc.),

A major concern for victims though, is that the government will not commit to continuing the work of the TRRC and no effective implementation of its recommendations will be achieved. For its part, taking note of the need for structuring, prioritisation, and resource mobilisation, the government should adopt policies and frameworks that clearly delineate the recommendations that will be implemented in order of priority, feasibility, and with a realistic timeframe.

RECOMMENDATIONS

A. Accountability and Justice

1. The government must demonstrate political will to obtain justice for victims of human rights violations.
2. The government should ensure that legal and judicial reforms are undertaken as a matter of urgency. In the meantime, to recall that crimes against humanity make domestic crimes international crimes.
3. The government should not try to rely on the principle of retroactivity as this does not negate the need to comply with international laws when dealing with crimes against humanity.
4. The government must expedite capacity building of the MoJ, including by recruiting a Director and Deputy Director and create an independent national public prosecution authority with the powers to investigate and effectively lead prosecution of crimes and ensure justice is served.
5. Prosecutions of individuals, including security officials implicated in human rights violations is essential to serve as a deterrent and address impunity.

B. Amnesty

1. Issues relating to amnesty are major concerns for victims who have been kept in the dark about this process, notwithstanding provisions in the TRRC's regulations which provides for victims' participation in amnesty proceedings.
2. The government needs to spell out clearly how it is going to handle amnesty issues, must have an enabling legal framework and develop specific provisions/criteria for granting amnesty and ensure relevant information is made available to victims on a timely basis.
3. Decisions on granting of amnesty should not be taken without prior consultation with victims and/or their families.
4. Pronouncements by the TRRC's Amnesty Committee recommending amnesty for the named perpetrators, notwithstanding, the government should ensure that it maintains its obligations in line with international standards and principles and should refrain from declaring any amnesty or similar measures that would exempt from prosecution persons implicated in carrying out crimes against humanity and other grave violations of human rights.
5. A process of 'plea bargaining, or consideration of mitigating circumstances' can be in place depending on an individual's role in the abuses perpetrated, and where they have shown remorse, sought forgiveness from the victims and will be willing to testify against those bearing greatest responsibility.

C. Communication and Coordination

1. There is an urgent need to improve communications and sharing of information to reduce the information deficit on post-TRRC engagements. Victims should be regularly updated, and the government should make provisions to popularise how victims will be able to reach out to the government to respond to their concerns and requests for information.

2. Popularising the TRRC report should be a collaborative endeavour and the government should work with different stakeholders such as victims' groups and other CSOs who can play a significant role in sensitisation/awareness creation and mobilisation of the communities on understanding the TRRC's report / recommendations and the government's implementation plan.
3. For the present, and now that the TRRC has submitted its report, efforts must be made to ensure that victims' communities (and the public) have access to the documents and in languages that can be understood by all. Using different formats, contents of the report should be summarised and popularised for ease of information.
4. The government should establish a post-TRRC information centre/unit within the successor body to the TRRC

D. Criminal Liability

1. Jammeh and others named by the TRRC should, without fail, be held accountable for their crimes.
2. The government must not spare any efforts to ensure it conducts timely investigations and prosecution of cases against the alleged perpetrators.
3. As new victims will be joining in the ongoing transitional justice process in The Gambia, mechanisms should be in place to facilitate the sharing of their testimonies and for necessary action to be taken to investigate the crimes they too committed and ensure that they are held accountable.

E. Enforced Disappearances

1. The government is urged 'to establish a forensic team with international technical and financial support to conduct the investigations and build capacity to further probe cases of disappearances, to exhume and identify the remains of victims' and 'take all reasonable steps to ensure the security and full protection of all the sites where the remains were buried and are yet to be exhumed'.
2. It is important for the government to declare that the case of victims of enforced disappearance shall continue to be the subject of investigations until the fate of such victims is established. This process should be expedited for the remains to be returned to their families for proper burial.
3. Appropriate mechanisms should be put in place for authorities to issue a 'Certificate of Absence'. Such a process helps with status recognition (for the missing person), offers some closure for the families, and facilitates access to the victims' entitlements.
4. Authorities should also issue a death certificate where there is clear evidence that the person was forcibly disappeared.
5. Noting that victims continue to be in a state of 'enforced disappearance' until their fate or whereabouts is known, it is crucial that the government independent mechanisms such as the National Human Rights Commission (NHRC) to carry out systematic monitoring, investigations, and documentation of such cases. The role of the NHRC in these situations will boost public trust and collaboration for such actions.
6. The government should enact legislation with which to bring named perpetrators of crimes of enforced disappearance to justice.

F. Extrajudicial Sanctions

1. Victims believe that it is essential to prioritise extrajudicial/administrative sanctions, such as suspensions and/or dismissals from posts, for public officials against whom solid evidence exists of participation in grave violations, where the post they occupy enables them to continue to violate the human rights of others. They recommend that such actions should be carried out in a fair manner that guarantees the due process rights of the named perpetrators, and without prejudice to their eventual prosecution in a court of law.
2. Equally importantly, it is recommended that mechanisms be put in place to monitor effective implementation of the recommendations and ensure that those banned from public offices do not hold public offices.

G. Gender Justice

1. Victims urge the government to implement recommendations which call for 'efforts to provide SGBV victims with safe housing where needed, with psychosocial support and livelihood support'.
2. The government should ensure that reparations provided to victims of SGBV consider the victim's needs to ensure they are appropriate, with respect to the harms suffered and the impact on the victim.
3. It is recommended that the government expedites the establishment of appropriate facilities/care centres and provide victims with essential services, considering the physical and psychosocial trauma experienced, particularly by SGBV victims, and provides training to social workers on dealing with those cases.
4. In addition to being supported to register with the TRRC's successor body, victims also demand thorough investigations into acts of SGBV.
5. Hold members of the police and paramilitary units to account (as is happening with former Minister of Interior Sonko) for the rape and torture of 21 victims of SGBV in community X (who had hitherto not registered with the TRRC). Such measures will serve to send a strong message that there will be no impunity for acts of SGBV and other human rights violations, and as recommended by the TRRC.
6. Ensure legislation is in place to fittingly prosecute crimes of sexualised torture and rape, to effectively implement the recommendations for prosecutions of perpetrators of SGBV.

H. Human Rights Education

1. To help strengthen democracy and foster better relations between state security actors and civilians, the government is urged not to limit human rights training programs to soldiers (as recommended by the TRRC) but to ensure it is expansive to include all state security agents, including prisons personnel, decision makers in the army, as well as border guards.
2. Mandatory teachings of the prohibition of torture, other cruel inhuman and degrading treatment, or punishment and other national and international human rights, obligations. The University of The Gambia can be tasked to lead the revision of such policies/initiatives.
3. To meet its obligations as outlined in the National Development Plan and meeting national targets under the Sustainable Development Goals, incorporate gender,

education, and sensitisation of SGBV in school curriculum, training modules for the state security actors and other public materials.

I. Legal Aid

1. Access to justice is an essential component in the fight against impunity. The government strengthen the National Agency for Legal Aid to enable it to carry on this task and support victims and their families' participation in the quest for justice.
2. Provisions should be made to ensure that indigent potential claimants can pursue cases through legal channels while considering their financial needs and limitations.

J. Legal and Institutional Reforms

1. The government should ensure the implementation of legal and institutional reforms recommended by the TRRC that contribute to ending impunity for grave human rights violations and abuses, contribute to prevent or remove enablers or conditions enabling commission of violations, fulfil the rights of victims, and safeguard against a repetition of grave abuses of the past.
2. The enactment of a new progressive Constitution will help to build public trust in the government and facilitate implementation of some of the recommendations.
3. The National Assembly should domesticate the Torture Convention, enact legislation on Witness Protection, Enforced Disappearance, legislation to address crimes of SGBV, and adopt the International Crimes Bill.
4. The government must ensure that people proposed for banning from holding public office should be banned after investigations on their cases are completed and in the interest of equity, justice, and fairness, to be undertaken in a way that would avoid perceived bias against certain individuals at the expense of others.
5. Establishment/enforcement of code of conducts in the administration should be in place with background checks before appointment for senior positions.
6. Halt all further refurbishments of places that could hold crucial evidence of torture and other crimes.
7. Initiate a meticulous process of collecting and preserving all evidentiary materials that can be used for trials and prosecutions by a competent and independent judicial body.

K. Memorialisation

1. Memorial initiatives should be decentralised throughout the country in recognition of the widespread violations that had negatively impacted the lives of people in different parts of The Gambia.
2. Proposed initiatives should include:
 - a. National commemorations of specific days (such as for the April 10/11 massacre of student demonstrators)
 - b. Establish and support community projects such as memorial gardens in communities gravely affected
 - c. Erect monuments close to the victims and their communities and rename public places to honour the legacy and memories of some victims,

- d. Organise mobile exhibitions through which to raise awareness about the country's history and include references about Jammeh-era violations in national publications
- e. Integrate human rights education in school curricula to promote cultures of respect for human rights and to prevent future violence and violations
- f. Restoration of health facilities
- g. Introduce and support community tree-planting exercises (as well as contributing to address climate change)

L. National and Case Management Database

1. The government must set up a national database which consolidates all details about the human rights violations committed, the perpetrators and the different victims in The Gambia. The TRRC's information sheets completed for each person who submitted a case, forms building blocks for database development.
2. The TRRC's archives no doubt contain evidence that is of value in judicial proceedings both for victims and those accused of wrongdoing—and must be kept secured.
3. The MoJ should be equipped with technical and material resources to set up a case management database for the proper management and consolidation of case records.
4. Mindful that several victims did not take part in the TRRC process, a more comprehensive database is proposed with additional inputs from different victims' groups detailing all victims of the Jammeh era and the human rights violations committed as alleged by the victims.

M. Prevention of Torture

1. Parliament should prioritise the issue of enactment of the anti-torture bill so that it becomes law. With this singular law, prosecutions of different perpetrators would be possible.
2. Victims remind the government that The Gambia's ratification of the 1984 U.N. Convention against Torture obliges it to prosecute alleged torturers.
3. It should also expedite domestication of the Convention against Torture and its Optional Protocols.
4. Victims and CSOs urge the government to ensure systematic use of the 'Istanbul Protocol'—Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which assists competent authorities in ensuring that investigations are prompt, impartial, independent, and thorough.

N. Reconciliation

1. The government's initiatives on reconciliation should not be done in a vacuum and must be premised by public acknowledgment of wrong done as well as public apology from perpetrators and the State institutions involved in the violations.
2. Take concrete steps to ensure the bodies of missing persons are exhumed and returned to families and measures to ensure guarantees of non-repetition.
3. Initiatives for reconciliation between perpetrators and victims should only be initiated at the request of the victim and/or should not be undertaken without the

full acquiesce and participation of the victims and/or their families. All parties to reconciliation initiatives must be consulted and not forced to engage any reconciliation process and must be prepared through the provision of PSS to manage expectations and preparedness for undesired outcomes

4. The government should engage victims to discuss alternative means of ensuring that victims have some form of closure for reconciliation to be successful.
5. Whilst there is need for the government to support grassroot-level trust-building work to build social cohesion in communities, there is an urgent need to rebuild trust with the State (national reconciliation) and for public apologies and guarantees of non-recurrence.
6. As recommended by the TRRC, the government should work with existing structures such as the National Council for Civic Education (NCCE) and local networks to engage communities on what reconciliation means to them and adopt a bottom-up approach to ensure it is sustainable. In the process, however, the government should be cautious of trying to forsake 'the pursuit of justice' in favour of 'reconciliation'.
7. Authorities should establish Decentralised Commissions with a clear mandate to promote peace, reconciliation and healing and foster social cohesion. This body should also take charge of Memorialisation initiatives and ensure victims' participation and local ownership in the different processes.
8. For national reconciliations to be effective, it is important to include and recognise the violations of groups who had not been involved in the TRRC and other truth commissions. These groups include marginalised youths such as the beach boys, black-market boys, and children of victims.
9. Authorities should address land issues in tandem with other initiatives/processes for meaningful reconciliation to happen.

O. Reparations

1. The government must ensure financial resources are made available for reparations and should set up trust funds through appropriate legal framework(s).
2. Respondents and victims urge the government to ensure that its policy on reparations should be premised on the U.N. Basic Principles and Guidelines on Reparations, which states that it should be 'meaningful for victims, respond to their expectations and reflect the acknowledgement of responsibility for the facts they suffered'.
3. The government should also recognise that victims of human rights violations have different needs, which can also differ depending on gender and other intersecting factors which should be factored in, when developing its policy on reparations.
4. The government is urged to provide a remedy for victims but not to limit reparations to monetary awards only. Victims and CSOs urge government to consider other forms, including restitution, rehabilitation, and symbolic reparations, all of which should be given equal importance to ensure they are meaningful to the victims.
5. For reparations to be transformative, the government should consult with victims and families to know their priority needs and perspectives.

6. Reparations must include restitution of land and properties illegally taken away from victims or have alternative measures to provide restitution for those lands that were sold to third parties.
7. There must be continued investigations into the disappearances of loved ones to unearth the circumstances, actions which by themselves provide satisfaction for some victims.
8. Financial reparations should be provided to help victims undertake sustainable livelihood activities.
9. Government must either put in place structures for holistic support and/or support service providers in providing victims with adequate mental and psychosocial support to help in their healing process.
10. A national framework for reparations should be developed and the establishment of a mechanism to administer reparations in various forms made available for victims. As such, the proposed Victims Bill is a welcomed development in this area and should be completed with proper consultation with key stakeholders. An internal auditing system should be set up to help manage funds effectively
11. With concerns that that compensation and other forms of reparations may take a long time to be processed, the government is urged to expedite reparations awards to victims mentioned in the different lists generated by the TRRC.
12. Mechanisms should ensure a thorough need assessment to determine the transformative outcome victims and survivors seek from the reparations program. The government is also urged to ensure stringent review of the lists, due to the numerous flaws that have been observed with the payment of reparations undertaken by the TRRC.
13. For one community (Kerr Mot Hali), restitution will be realised as a means of *collective reparations* with the enforcement of two High Court judgments for the community to get back their land from which they were exiled without any due process, and which others are still occupying illegally.
14. Public apologies can satisfy some victims if the government were to publicly acknowledge wrongs done and harms suffered by victims.
15. In the scheme for prioritisation, several initiatives can be undertaken speedily. These include, for example, public apology, memorialisation (a day for victims), and a National Day of Mourning.
16. Provide opportunities and avenues to enable other victims who had not participated in the TRRC process to be able to have their stories documented for appropriate redress.

P. Protection Concerns

1. Victims urge the government to set up a legal framework through which framework and structures for witness protection, care for mental health, psychosocial support, and related support that would help in pursuing justice.
2. The state must ensure there is adequate protection for the victims and other witnesses whilst preserving available evidence.
3. Extend the protection framework to family members of alleged perpetrators that might need some form of protection and to avoid backlash from the society.

Q. Psychosocial Support

1. The government should consider establishing holistic wellbeing centres, provide training of personnel and have sufficient resources to run these facilities.
2. Regulate and ensure that providers of PSS are registered and certified for service provision and their ability to provide related support should be assessed to avoid retraumatising victims.

R. Reparations as Awards, not Inheritance

1. The government should engage religious and community leaders to educate the public and victims that monetary reparations given to victims' families is 'blood money'—monetary compensation/award and not to be distributed in line with provisions under inheritance law for the deceased victims.

S. National Human Rights Council

1. Strengthening the newly established independent National Human Rights Council (NHRC) in its promotion and protection mandate will significantly contribute to ensuring the work of the TRRC continues so that the country's 'Never Again' campaign is a reality.
2. As part of the residual mechanisms, the NHRC can be further strengthened to take up the role of a 'successor body' to the TRRC with a post-TRRC mandate to advise the government and engage in monitoring the implementation of the recommendations, thereby enhancing public trust in the post-TRRC process.
3. The NHRC should facilitate coordination of national actors in post-TRRC engagements and support the government in its investigations in the case of missing persons who continue to be in a state of 'enforced disappearance until the government makes their fate/whereabouts known'.

T. Victim Participation in post-TRRC Process

1. The government should make concerted efforts to ensure that victims remain central in the process going forward.
2. The government should endeavour to establish regular communication/information dissemination to the public/victims on the post-TRRC process and create fora for engagement and participation, etc.

THE CASE FOR RESIDUAL MECHANISMS

The need for post-TRRC residual mechanisms cannot be overstated. This mechanism provides for continued work on transitional justice issues, addressing most of the uncompleted issues such as registrations/complaints of new victims, etc., that have stemmed from the ongoing transitional justice process, but which have not been addressed. It ensures that key issues are not overlooked and that measures are in place to ensure that the process continues, now that the TRRC's mandate has come to an end.

A significant number of victims and witnesses were constrained to testify either publicly or privately to the TRRC, influenced by religious, family and gender considerations. Due to the stigma and shame that victims of SGBV face, several victims of SGBV had not registered with the TRRC nor denounced the violations they had suffered. As such, they could not actively demand reparations to be provided. As previously mentioned, measures should be in place to provide alternative documentation of past experiences. In hindsight, several victims were in a perilous situation as they were not fully ready and/or aware about how best they should interact with the Commission. Others did not realise at the time that what had happened to them amounted to rights violations and abuses. Several new victims are now coming forward who want their voices heard and are ready to provide statements and give testimonies about violations they suffered or witnessed. Mechanisms should be in place through which victims, including victims of SGBV and torture, can have their cases/awards reviewed. Investigations of cases of SGBV should not be limited to women.

The United Nations Basic Principles and Guidelines on Reparations provide that 'restitution should, whenever possible, restore the victim to the original situation before the gross violations of international human rights law'. Reparations were computed and awarded based on the statements given by victims. This posed an anomaly as if victims did not mention some of the violations they suffered, they would not receive as much to which they could have been entitled.

Under the residual mechanisms, victims who will choose to engage in the transitional justice process would still be able to benefit from the process, including having access to reparations, psychosocial support, etc. Whilst this will not be akin to a full TRRC process, victims should be able to have an avenue through which they can engage and submit their complaints and have those investigated as part of the wider transitional justice process now the TRRC's mandate has come to an end. An appeal mechanism or system within the successor body is recommended.

The government should extend its investigations into additional reports that are now emanating from victims who had registered with the TRRC and new ones that are now wanting to engage in the process. Any follow-up mechanisms on post-TRRC work should be well thought through, be independent and competent to undertake its roles.

Several victims have long complained that some of the statement takers at the TRRC seemed to be 'overwhelmed' and not often focused. Some former staff of the TRRC have

also apportioned blame for the disparity in reparations payments to the 'haphazard work done by some statement takers who did not interrogate what was being said to them to ask for additional/clarifying details or to get better particulars.'

Some victims want to challenge the reparations awards they received. For some, they make comparisons with what others did receive, as in their perspectives, they 'suffered a greater harm than some people who received more than them'. To illustrate, in one community, several victims lamented that the person who 'only' used to take food for those detained was asked to register with the TRRC and he received a higher reparations award than those who had been in illegal and arbitrary detention for days and had been subjected to acts of torture, and other forms of cruel and inhumane and degrading treatment. Another victim mentioned how he had discovered that one of his compatriots (detained for two weeks and released without any major consequences to his health or other condition) had received a much higher initial pay-out than he and others who had been detained for over nine months and had been shuffled frequently between detention facilities and prisons, including Mile 2, Mile 7, and in Janjanbureh as a means to exacerbate their detention and had been subjected to severe acts of torture whilst in detention.

CONCLUSION

The recommendations present several options which the government can work with and implement, whilst also ensuring that the White Paper is of substance and meets the aspirations and needs of the victims' community. There is still need for continuous engagements for victims (and the public) to understand the full extent of violations. The government should develop a coordinated and participatory approach, ensuring its work is not a top-down, elitist, closed-door government process which will not consider the needs and participation of victims and the most vulnerable in our society. This will contribute to building trust and help to manage expectations on reparations, prosecutions, and the overall transitional justice process in The Gambia.

Victims and survivors do not want to be regarded as mere by-standers but rather, as active agents in the process to ensure that realisation of rights and justice are not just notions on paper. They insist they should remain in the driving seat of all the transitional justice processes to contribute to shaping key initiatives, and for securing justice/remedies. They also do not want people to forget what happened to them—the nation and the world at large should know about all the violations that Yahya Jammeh committed, according to several that participated. One such way is through the implementation of appropriate memorialisation initiatives. Even while some victims have misconceptions of memorialisation (such as that a monument can be taken to be a shrine, which is against Islamic teachings), several believe such measures will strengthen empathy for victims and play a significant part in keeping 'memories of loved ones alive' and to reinforce the 'Never Again' campaign.

Due to the pervasive acts of torture, cruel, inhumane, and degrading treatment, or punishment that victims had been subjected to, there are widely held views of the importance to have domestic laws that define torture and establish it as an offence, such as which will also possibly contribute to additional reparations awards for victims. Furthermore, that the benefits of psychosocial support, which is not given much attention in The Gambia, should be thoroughly popularised, considering this is an important component as part of reparations.

In developing the White Paper (and beyond), efforts should be made to engage with victims to ensure that a cross-section of views is adopted, particularly in determining the form or forms and types of reparations, reconciliation initiatives and granting of amnesty. Several victims want answers for why they were targeted and subjected to violations and abuses. For some, they cannot begin to think about reconciliation when the government has not exercised proper time and effort to investigate the cases of disappearances so they can know the fate of their loved ones.

There is also need for significant shift in traditional/cultural norms wherein patriarchal practices remain dominant and women continue to be on the side-lines. These are important factors, given the significantly limited engagements, including with reconciliation initiatives involving women throughout the TRRC's mandate. Some victims have stated that

if they have concerns about their security and safety, that they will not testify in any criminal proceedings as it is traumatising and intimidating.

Whilst the TRRC's recommendations make provisions for the application of amnesty, more work needs to be done for this to be operative in practice. Victims are unclear about how 'amnesty' will be applied. Removing persons adversely mentioned from positions of power, instituting criminal prosecutions, reparations, and public acknowledgment/apology are interrelated forms of accountability some victims insist they deserve and would like to see.

For several victims who are now aware of ongoing court proceedings under universal jurisdiction, the trial of Ousman Sonko in Swiss courts is a yardstick and precedent for litigation of similar cases in The Gambia and worldwide. Amongst others, Sonko is charged with torture and sexual violence. Members of the police are named as the alleged perpetrators of the heinous crimes of SGBV and other acts of inhumane and degrading treatment and torture of different victims. Sonko was the Minister of Interior from 2006-2016, encompassing the time of the acts of torture and other offences. The police, who inflicted terror, including sexualised torture on members of community X in 2009, for example, were under his authority. Due to several factors, these victims of rape did not register with the TRRC. Once too stigmatised to share their testimonies, for now, their identities remain 'protected' but they are resolute in their quest for justice.

Annex 1

Questionnaire CSO Shadow White Paper on the TRRC Report and Recommendations

Place/Location:

Date:

Section A: Personal or Institutional Details	
Name	
Sex	
Community or Name of Institution	
Address	
Status or Position Held:	
Contact Details	

Section B: The TRRC's Report and Recommendations	
Are you aware that the TRRC Report has been submitted?	
Do you have an idea of what is contained in the report? If yes, what has been the major outcome of the report in your view?	
What do you think is are the gaps as per the report?	
What are your thoughts on the recommendations?	
What are your thoughts on Amnesty applications	
Do you think that the alleged perpetrators should be allowed to apply for amnesty? If yes or no – why?	

Section C:	
1. What types of process or system of criminal liability do you think The Gambia should adopt given the different factors and the situation here in The Gambia?	
2. What should the government do to protect people from acts of torture, cruel, inhumane, and degrading treatment, or punishment?	
3. What more should the government do to support victims' families in their quest for justice?	
4. What institutional reforms are necessary for the implementation of the TRRC report and Recommendations?	
5. What type of reparations do you think victims want? Are monetary reparations sufficient, if not – why not? If yes, how/why?	
6. What does 'reconciliation' mean to you?	
7. What should the government do for the victims to help them get closure?	
8. Were victims of SGBV provided with appropriate reparations which considered how they were harmed and the impact of the harm?	

Section D: Next Steps	
How do you think the government should implement the TRRC Report?	
What should be the priority for government for the implementation of the TRRC recommendations?	
What suggestions do you have for government on reconciliation processes?	
What suggestion do you have for government reparation procedures?	
Who do you think should receive amnesty and why?	
Who should be prosecuted and why?	
Who should receive psycho-social support and why?	
Do you have any inputs for the survey about the whole TRRC process?	

