



TRUTH,
RECONCILIATION
AND REPARATIONS
COMMISSION

THE GAMBIA

REPORT

VOLUME 1 (PART A)

**COMPENDIUM ON FINDINGS
AND RECOMMENDATIONS**

REPORT

VOLUME 1 (PART A)

**COMPENDIUM OF
REPORTS ON FINDINGS
AND RECOMMENDATIONS**

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TRUTH, RECONCILIATION AND REPARATIONS COMMISSION (TRRC)

FINAL REPORT, 2018 – 2021

ABBREVIATIONS

AFPRC	Armed Forces Provisional Ruling Council
ANEKED	African Network against Extrajudicial Killings and Enforced Disappearances
APRC	Alliance for Patriotic Reorientation and Construction
ART	Anti- Retroviral Treatment/Therapy
AU	African Union
CDS	Chief of Defense Staff
CEDAW	Convention on the Elimination of All forms of Discrimination Against Women
CMC	Crime management Coordinator
CRC	Constitutional Review Commission
CRR	Central River Region
CRS	Catholic Relief Services
CSV	Centre for the Study of Violence and Reconciliation
CSO	Civil Society Organisations
ECOWAS	Economic Community of West African States
FGM	Female Genital Mutilation
GAF	Gambia Armed Forces
GAMSU	Gambia Students' Union
GBA	Greater Banjul Area
GCVHRV	Gambia Centre for Victims of Human Rights Violations
GMDA	Gambia Medical and Dental Health Association
GNA	Gambia National Army
GPA	Gambia Ports Authority
GPU	Gambia Press Union
GTTI	Gambia Technical Training Institute
ICC	International Criminal Court
ICRC	International Committee of the Red Cross
ICTJ	International Centre for Transitional Justice
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
IDEA	Institute for Democracy and Electoral Assistance
IFIT	Institute for Integrated Transitions
IGP	Inspector General of Police
JRR	Justice Rapid Response

LRR	Lower River Region
MFDC	Movement of Democratic Forces of Casamance
MOBSE	Ministry of Basic and Secondary Education
NABAM	Network of Animal Breeders and Multipliers
NBR	North Bank Region
NCCE	National Council for Civic Education
NCAC	National Council for Arts and Culture
NDLEA	National Drug Law Enforcement Agency
NDMA	National Disaster Management Agency
NHRC	National Human Rights Commission
NIA	National Intelligence Agency
NRP	National Reconciliation Party
OHCHR	Office of the High Commissioner for Human Rights
PATP	Presidential Alternative Treatment Programme
PDOIS	Peoples' Democratic Organisation for Independence and Socialism
PIU	Police Intervention Unit
PLHIV	People Living with HIV
PPP	Peoples' Progressive Party
RID	Research and Investigations Directorate
RSPs	Regional Selection Panels
RSM	Regimental Sergeant Major
RVTH	Royal Victoria Teaching Hospital
SGBV	Sexual and Gender Based Violence
SIS	State Intelligence Services
TANGO	The Association of Non-Governmental Organisations
TRRC	Truth, Reconciliation and Reparations Commission
UDP	United Democratic Party
UN	United Nations
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UNOWAS	United Nations Office for West Africa and the Sahel
UNTJP	United Nations Transitional Justice Project
URR	Upper River Region
VSU	Victim Support Unit
WCR	West Coast Region
WHO	World Health Organisation
WILL	Women in Liberation and Leadership
YCNU	Youth and Children's Network Unit

FOREWORD BY THE CHAIR

DR. LAMIN J. SISE

On December 13, 2017, the National Assembly of the Republic of The Gambia commenced its consideration of the Truth, Reconciliation and Reparations Commission Bill, 2017. In his opening remarks to the legislative body, the then Attorney General and Minister of Justice, Hon. Abubacarr Tambadou said that “ the objects and reasons for this Bill are that it is imperative for The Gambia to carry out a thorough investigation of the human rights violations and abuses of the past 22 years. It is important to have an accurate and impartial historical record of the violations, document them for posterity to ensure that never again do we encounter a recurrence of such abuses.”

This important national undertaking should help The Gambia begin to come to terms with its difficult past under Yahya Jammeh’s 22-year dictatorship and authoritarian rule. It was clearly recognized by the framers of the Act that healing and reconciliation could not be achieved without first establishing the truth of what happened. While it is important to achieve those objectives, it is equally important to address impunity. The victims of heinous crimes perpetrated by agents of the State are entitled to justice and reparations. It is always a challenge to balance reconciliation with justice. Countries, cultures and experiences differ regarding response to dealing with reconciliation and justice in the new dispensation following the end of conflict or dictatorship. The TRRC Commission, in drawing up its findings and recommendations after receiving testimonies, will not shrink from its responsibility to find that equitable balance.

Under the leadership of the Attorney General, the Ministry of Justice embarked on a unique and inclusive process of wide and extensive consultations both inside and outside the country with a view to familiarizing the Ministry with the experiences of countries that had established truth commissions. In this regard, the Attorney General personally led study tours to South Africa and Sierra Leone. The result of all these preliminary efforts was the establishment in The Gambia of an inclusive and a viable truth commission. The members of the TRRC came from all walks of life in The Gambia: women’s groups, youth sector, religious and traditional groups, various regions, as well as civil society organizations. This balanced representation was designed to enhance respect for and acceptance of the Commission by the people of The Gambia.

The TRRC implemented its mandate through live public hearings on television and radio; outreach activities covering the gamut of its mandate, as well as arranging individual and community reconciliation exercises which contributed in building confidence among victims and enhancing their participation in the TRRC processes.

Gambia cannot, must not and I firmly believe will not be prisoners of the Yahya Jammeh era. Let us as a people recognize the past as a two decade catastrophic hurricane; correct the imbalances it brought in its wake and MOVE ON! The Gambia is bigger and more important than Yahya Jammeh!

ACKNOWLEDGEMENTS

The Truth, Reconciliation and Reparations Commission (TRRC) is grateful to the Government of The Gambia for setting it up, funding its activities and in particular, for not interfering in its work since its inception. Both former Justice Minister Abubacarr Tambadou and current Justice Minister Dawda Jallow and their respective SGs have consistently adopted an open door policy and ready ear for the TRRC, and have done much to facilitate the Commission’s work. The Commission is equally grateful to the United Nation’s Peace Building Support Fund in New York who, through UNDP-Gambia’s Transitional Justice Project, funded a significant number of the TRRC’s projects. The Commission also wishes to acknowledge the significant contributions to its work of the Dakar-based Office of the High Commissioner for Human Rights and the United Nations Office for West Africa and the Sahel.

The Commission acknowledges the significant amount of technical and material support it received from its many partners. These include Catholic Relief Services (CRS), International IDEA, the International Center for Transitional Justice (ICTJ), the Institute for Integrated Transitions (IFIT), the Centre for the Study of Violence and Reconciliation (CSV), the African Union Commission, ECOWAS, Justice Rapid Response, Trial International the International Committee of the Red Cross (ICRC), Open Society Initiative for West Africa (OSIWA), Article 19 and the Victims and Witnesses Section of the International Criminal Court.

Many thanks are due to members of the diplomatic community in The Gambia. The Commission deeply appreciates the support – both moral and technical – rendered by the British High Commission, and the embassies of the United States, Holland, Belgium, France, Canada, Qatar, the European Union and Turkey. The Turkish embassy was instrumental in helping the Commission send victims to Turkey for medical treatment. This was a huge plus for the Commission’s Interim Reparations Programme.

The role of the Medical Board is also acknowledged with thanks for providing medical care for the Urgent Interim Reparations Programme of the TRRC. The doctors both from the public and private sector provided on going assessments and treatment to victims who needed mental and psychical care even during the COVID emergency. To the Gambia Ports Authority and The Gambia Revenue Authority, National Aids Secretariat, Sky High Group we say thank you for supporting the Reparations programme of the TRRC.

Some of the Commission’s key local partners during the execution of its mandate were the Gambian religious and civil society communities. The Commission sincerely acknowledges the contributions to its work of the Gambia Centre for Human Rights Violations (Victims Centre), the African Network against Extrajudicial Killings and Enforced Disappearances (ANEKED), the Association of Non-Governmental

Organisations (TANGO), Abiding Word Ministries, Women in Leadership and Liberation (WILL), the Transitional Justice Gender Action Network, the Young Men's Christian Association (YMCA), and the Women's Association for Victim Empowerment (WAVE). To all of you we say thank you for your contributions to this important national project.

During the course of its investigations and its outreach activities, the TRRC was supported by various sectors of the Gambian security forces this includes the Gambia National Army, The Gambia National Navy, The Gambia Prison Services, the National Intelligence Agency (State Intelligence Services), The Gambia Police Force and The Gambia Fire and Rescue Services. We thank them for their cooperation and support but especially The Gambia Police Force who allocated a contingent of officers to put up permanent camp on the Commission's premises to provide 24-hour security surveillance services to the Commission and to personnel whenever required and The Gambia Fire and Rescue Services for posting Paramedics to the TRRC to respond to emergency health needs of witnesses and staff.

Special thanks are due to the Gambian and international media fraternity for their excellent coverage of the Commission's work. Our official media partner, QTV showed an admirable level of dedication to ensuring that the Commission's public hearings and outreach activities reach as wide an audience as possible. Significant coverage was also given by the Gambia Radio and Television Services, EyeAfrica TV, the Fatu Network, Paradise TV, Kerr Fatou, JusticeInfo.Net and many other news outlets. Special thanks to all our local newspapers for their abiding interest in and coverage of the Commission's proceedings. And special thanks to the BBC and other international media for their abiding interest in and coverage of the Commission. Thank you to the Association of Sign Language Interpreters-The Gambia who made the proceedings of the TRRC accessible to the deaf and hard of hearing who otherwise might have been excluded from the process.

To the witnesses - victims, perpetrators and experts, we say thank you for your testimonies. Your participation in the public hearings of the TRRC contributed in no small measure to the truth seeking mandate of the Commission and to letting the world know about the atrocities that took place in the country from July 1994-January 2017. To the audiences that followed the TRRC public hearings we say thank you and hope that the information you heard will commit you to the Never Again agenda.

The health, nutritional and personal security needs of the Commission were assured by the Atlantic Cleansing Services and Hariti Papam. Thanks to the pool of drivers for facilitating movement of the Commissioners, staff and witnesses both within and outside the Greater Banjul Area.

The Commission acknowledges the generous support of the Gambian people both at home and in the Diaspora and members of the International Community. Special thank you to Papa Yusupha Njie and Unique Solutions, Network of Animal Breeders and Multipliers (NABAM), Anya's Wish, MOKI AID, Majula Dabo and the Wam

Taekwondo Gambia. Gambians both at home and abroad have consistently supported the Commission as it grappled with often critical challenges. With The Gambian people and the international community firmly behind us, the TRRC could only succeed in executing its mandate, however daunting the challenges.

A very special thank you to the legal team for the brilliant and professional manner in which they led the public hearings and their support of the Reparations and Report writing process. Our sincere appreciation and gratitude go to the international and national consultant for their input into the Report.

This acknowledgement would be incomplete without the Commission expressing its gratitude to the Secretariat and Staff members of all units for their hard work and diligence in supporting the work of the Commission and providing the technical and professional support and backstopping to ensure that the TRRC achieves its mandate.

EXECUTIVE SUMMARY

LEGISLATIVE MANDATE AND OBJECTIVES

1. The Truth, Reconciliation and Reparations Commission (TRRC) was established by an Act of the National Assembly of the Republic of The Gambia in December 2017 (hereinafter referred to as Truth, Reconciliation and Reparations Act, 2017).¹
2. The main objectives of the TRRC, pursuant to Section 13 of the Act, 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; and
 - d) grant reparations to victims in appropriate cases.
3. Section 29 of the TRRC Act provides that (1) The Commission shall submit a report of its work to the President at the end of its operations; and (2) The report shall state the findings of the Commission and shall make recommendations concerning the reforms and other measures needed to achieve the object of the Commission.
4. This Final Report fulfils the provisions of Section 29 of the Act

ESTABLISHMENT, HEARINGS, ACTIVITIES, AND CONTENTS OF FINAL REPORT

5. The President of the Republic of The Gambia, on October 15, 2018 appointed and swore in the eleven (11) Commissioners of the TRRC. However, prior to the appointment of the Commissioners the following pre-establishment activities were undertaken:
 - a. *Study tours by the Ministry of Justice to Sierra Leone and South Africa*
 - b. *National consultations across The Gambia*
 - c. *Appointment of the Executive Secretary of the Commission*
 - d. *Establishment of TRRC Secretariat units*
 - e. *Recruitment of the staff*

6. The Minister of Justice appointed a Legal Team to assist the Commission in its work. The team is led by the Lead Counsel.
7. Following the establishment of its subsidiary bodies as provided for under Section 18 of the Act (Committees on Human Rights Violations and Abuses, Amnesty, Reparations, Child Protection and Sexual and Gender-based Violence, and Reconciliation), and adoption of its provisional rules of procedure, the Commission, on 7th January 2019, began holding public hearings. It structured the public hearings on the general themes of its mandate, i.e. gross violations and abuses of human rights and enforced disappearances during the period under review (July 1994 – January 2017). The Commission appointed members of the various committees from among the Commissioners who would be assisted by members of the Legal Team and relevant units of the Secretariat. The Committees met to draw up their respective terms of reference and work programmes.
8. On May 28, 2021, the Commission held its final public hearing. That marked eight hundred and seventy one (871) days since the first public hearing of January 7, 2019. During the eight hundred and seventy one (871) days, the Commission heard testimonies from three hundred and ninety two (392) witnesses, the majority of whom were victims of atrocities meted out to innocent civilians by the State, its agents or individuals sponsored by both. The witnesses appearing before the Commission also included self-confessed perpetrators. Their voices and experiences, as well as information from the statements of witnesses who did not testify before the Commission inform the findings and recommendations in this report.
9. Evidence from these witnesses show that a wide range of human rights violations were committed by the Government of the Gambia between July 1994 and January 2017. The violations detailed by witnesses included widespread abuse of public office, arbitrary arrests and detentions, extrajudicial killings, enforced disappearances, sexual and gender-based violence, witch hunting, inhumane and degrading treatment, fake HIV-AIDS treatment, and widespread and systematic torture especially by the Junglers and officials of the National Intelligence Agency, both outfits directly under the Office of former president Yahya Jammeh and taking orders and instructions only from the former president. These violations are extensively highlighted in this final report and also inform the Commission’s findings and recommendations.
10. Between January 2019 and June 2021, the Commission made a number of visits to sites specifically mentioned by witnesses, both victims and perpetrators, as places of illegal detention, torture and extrajudicial executions. These included the prisons at Mile Two, Jeshwang and Janjanbureh, a secret detention centre at Jeshwang, the military barracks at Yundum and Fajara, Tanji Forest Park where some West African migrants were killed by the junglers, and Jammeh’s farms in Kanilai, said by the junglers to be burial sites of victims of extrajudicial executions. Important findings were made during these visits that form part of this final report of the Commission.
11. The outreach activities undertaken by the units of the Secretariat include the following: (a) town hall meetings, (b) village dialogues, (c) women’s listening circles, (d) reconciliation activities, and (e) school outreach programmes that visited over 57 schools across the coun-

¹ Truth, Reconciliation and Reparations Commission, The Gambia, No. 9 of 2017

try to encourage young people to be engaged in The Gambia’s transitional justice process and the Commission’s Never Again campaign. The Secretariat was also actively engaged in other areas of the work of the Commission such as research and investigations, providing medical and psychosocial support and assisting in the preparation of granting interim and final monetary reparations to victims. A separate volume on the activities of the various units of the Secretariat accompany this final report.

12. This Report consists of this Compendium of Findings and Recommendations which constitutes Volume One Part A and a Part B dealing with Crimes and Jurisdictions. The seventeen (17) thematic reports covering all the themes investigated by the Commission are contained in fifteen (15) volumes. A Report on Reparations and Reconciliation, two keys aspects of the Commission’s mandate is contained in Volume 16.
13. A seventeenth (17) volume contains important annexes to the final report. These include:

ANNEXES

A. LEGAL INSTRUMENTS, TRRC INTERNAL RULES AND POLICY DOCUMENTS AND SELECTED SUBMISSIONS

- i. TRRC Act, 2017
- ii. National Assembly Parliamentary Debates – Official Hansard Report
- iii. Rules of Procedure of the TRRC Commission
- iv. TRRC’s Interim Report 2018 - 2019
- v. Expert Submission: Commissioned Report to the TRRC by Professor Abdoulaye Saine
- vi. TRRC Resource Mobilization Policy
- vii. TRRC Policy For The Reparations Process
- viii. TRRC Reparations Regulation, 2020
- ix. TRRC Memorialization Concept Note
- x. United Nations Universal Declaration of Human Rights
- xi. Convention Against Torture and other Cruel, Inhuman or Degrading Treatment
- xii. African Charter on Human and Peoples’ Rights
- xiii. Diaspora Submission to the TRRC
- xiv. Women In Liberation And Leadership (WILL) Recommendations to the TRRC
- xv. Women’s Association For Victims’ Empowerment (WAVE) Policy Brief

B. SELECTED AFPRC DECREES

- i. Decree 1: The Constitution of The Gambia Suspension And Modification Decree, 22nd July, 1994
- ii. Decree 3: State Security (Detention Of Armed And Police Personnel), 4th August, 1994
- iii. Decree 11: Public Assets And Properties Decree, 6th September 1994
- iv. Decree 45: National Intelligence Agency Decree, 29th June, 1995

2. ACTIVITY REPORT – JULY 2018 - JUNE 2021

OUTREACH ACTIVITIES UNDERTAKEN BY THE COMMISSION: REPORTS BY

- i. Communication and Outreach Unit
- ii. Reconciliation Unit
- iii. Research and Investigations Unit
- iv. Victim Support Unit
- v. Women’s Affairs Unit
- vi. Youth and Children’s Network Unit

3. PUBLIC HEARINGS

- i. Witness Portrait Album
- ii. Witness Appearance before the Commission – table of dates of appearance
- iii. Transcripts

14. A separate set of documents that will be submitted with this final report are volumes of verbatim transcripts of witness testimonies. The words of every witness who testified in the Commission’s public hearings were recorded, transcribed verbatim and published into volumes that will be made available to government institutions and the general public. These volumes provide invaluable primary source material for future researchers and are indispensable to the creation of a true historical record of the human rights violations and abuses that happened in The Gambia under the Jammeh dictatorship. These volumes, on the Transcripts of Witness Testimonies, cover the themes investigated by the Commission as listed below:

- a. July 22, 1994 Coup
- b. November 11, 1994 Coup
- c. Unlawful Arrests and Detentions
- d. 2006 UDP Incident
- e. 2006 Alleged Coup & Yankuba Touray
- f. Attacks on Road Users
- g. Attacks on Religious Freedom
- h. Attacks on Journalists and the Media
- i. April 10/11 2000 Incident
- j. Presidential Alternative Treatment Programme
- k. Sexual and Gender-Based Violence
- l. The Junglers: Unlawful Killings, Tortures and other Human Rights Violations
- m. Witch-Hunt Exercise: Regional Hearings
- n. Institutional Hearings: National Intelligence Agency (NIA)
- o. Institutional Hearings: Prisons
- p. Institutional Hearings: Justice Sector Entities
- q. Killing of West African Migrants and Enforced Disappearances

THEME 1

Soldiers with a Difference

A. OVERVIEW

- 1) The July 22, 1994, coup d'état abruptly ended one of Africa's longest-serving functioning democracies, with a reputation for its commitment to human rights, the rule of law and democracy. After being in power from 1965, despite winning elections at the constitutionally mandatory five (5) year intervals, **President Sir Dawda Kairaba Jawara** lost a considerable degree of legitimacy in the eyes of ordinary Gambians due to rising discontent on what many attributed to the slow pace of development and accusations of corruption. Within the context of political power and the country's direction there was a gap between the government and the governed. This facilitated the easy take over by coupists for many Gambians wanted a change of leadership.
- 2) On the morning of July 22, 1994, officers and enlisted soldiers of The Gambia National Army (GNA) marched into the State House of The Gambia with little resistance and seized the reins of power. They established military rule through a military governing Council called the Armed Forces Provisional Ruling Council (AFPRC), a transitional military government. The leaders of the coup d'état were: **1st Lieutenant Yahya Jammeh, 2nd Lieutenant Sanna B. Sabally, 2nd Lieutenant Edward Singhateh, and 2nd Lieutenant Sadibu Hydara. 2nd Lieutenant Yankuba Touray** was later co-opted and made a member of the Council. After taking control of the State House and key infrastructure, the AFPRC further consolidated power by arresting scores of politicians, security personnel and top civil servants and held them in the Mile II Central Prison through Decrees promulgated retrospectively to legalise the unlawful detentions.
- 3) The Junta claimed to be "*Soldiers with a difference*". To give credibility to its claims of fighting corruption, they sought popular support by immediately identifying with slogans such as "*accountability, probity and transparency.*" They made pronouncements that their governance style will be based on these principles.
- 4) When some former PPP Ministers decided to speak in defence of their party and show defiance against what they believed was an unlawful action of the military to usurp the constitutional order through a coup d'état, the Junta decisively sought to neutralise the PPP by arresting and detaining its executive members as well as ordinary PPP supporters. Bystanders who had nothing to do with the demonstration were also arrested, detained and tortured. Any dissent, especially from the PPP top brass, was seen as an attempt by the old guard to unsettle and destabilise the new regime and the Junta employed heavy-handedness to crush the PPP.
- 5) However, in practice, the Junta's actions were contradictory and right from the beginning, there were signs that they were going to govern by power rather than consensus. The Junta started ruling by Decrees after promulgating Decrees that firstly, suspended all political parties and activities and imposed stiff penalties for contravention of the said law. The Junta also suspended the 1970 Constitution, except certain provisions on fundamental rights and freedoms.
- 6) The Junta's crackdown on civil and political rights, fundamental rights and freedoms commenced immediately after the military takeover. Decrees 70 and 71 were passed limiting freedom of expression. The Newspaper Act (Amendment) Decree introduced harsh and draconian laws to curtail freedom of expression and a free press.

- 7) Highly respected politicians, **Halifa Sallah** and **Sidia Jatta** of the Peoples' Democratic Organisation for Independence and Socialism (PDOIS), who ran the widely read and highly regarded "FOROYAA Newspaper," were arrested in Banjul for distributing the newspaper. This was the beginning of clear manifestations of the Junta's repressive anti-freedom of expression tendencies from very early on. The prosecution of **Halifa Sallah** and **Sidia Jatta** for contravening the Decree prohibiting publication and distribution of newspapers was seen as a clear crackdown on the media. Journalists were brutalised during the transition period and any dissent was met with arrests, detention and torture.
- 8) The Junta ordered the arrests and detention of senior officers of the army and the police, former cabinet ministers and senior civil servants at the Mile II Prison. Many of these security detainees remained in prison for a considerable period and some were subjected to torture and cruel and degrading treatment. The civilian detainees were later transferred to Fajara barracks and held in inhumane conditions.
- 9) On September 6, 1994, the Council members and their orderlies, with the exception of **Chairman Yahya Jammeh**, but with his express collusion, visited Mile II Prison and physically tortured **Ebrima Ismaila Chongan**, **Mamat Cham** and **Regimental Sergeant Major (RSM) Baboucarr Jeng**. The security detainees were also psychologically tortured when the said three were led away and shots were fired in a mock execution.
- 10) When the Junta took over, they made it known that they would not tolerate dissent. In order to neutralize members of the previous PPP government and to entrench themselves in power, the Junta set out to crush any form of political opposition by unlawfully arresting, detaining and torturing prominent politicians of the former government like **Omar Amadou Jallow (OJ Jallow)**, **Alhagie Mamadou Cadi Cham (M.C. Cham)** and others.
- 11) Prominent members of the party were also arrested and detained under inhumane and degrading conditions. Men and women were kept in the same hangar at Fajara Barracks and one of the women was kicked in the crotch resulting in her bleeding profusely and not given any medical care. Two of the other women were later moved to the Police Headquarters where they were detained for over a year.
- 12) This trend intensified in 1995 with massive arrests of over fifty prominent politicians and ordinary civilians. Some of the detainees were severely tortured at the National Intelligence Agency (NIA) by personnel of the State Guard and NIA officers at Fajara Barracks and subsequently detained in inhumane and degrading conditions at Fajara Barracks for over a year without due process of the law being followed.

B. FINDINGS

THE COMMISSION FINDS THAT:

1. Even though the military coup d'état was bloodless and the Junta declared to The Gambian people that its style of governance would be guided by the principles of 'accountability, probity and transparency', to legitimise the coup and win public support, in practice, they ruled by the barrel of the gun.

2. In order to have a tight control over the entire machinery of government and the prevailing political climate, the Junta ruled by Decrees. This was a deliberate strategy to ensure that Decrees, laws passed by the AFPRC, supersedes and prevails over all other laws. In practical terms, this means Decrees promulgated by the Junta carried more legal power, weight and authority over and above any other laws, including the subsisting parts of the 1970 Constitution. Decrees passed by the Junta have been incorporated in the 1997 Constitution as per section 7 of the Constitution and are thus part and parcel of the laws of the country'
3. In other words, during the transition, even after a Court had, in the unfettered exercise of its discretion to grant the accused persons bail, a constitutional, statutory and common law right, a Decree prevailed over a court order and this was used to keep political and security detainees in prison and other detention facilities. This led to a system where courts will grant accused persons bail and the NIA and the Police would disregard those orders and continue to detain them.
4. The doctrine of Parliamentary sovereignty was the norm until 1994 when the disregard for conventional political and democratic norms commenced.
5. The Junta restricted the freedom of expression. Despite their claim 'to be soldiers with a difference' they started suppressing and stifling freedom of expression immediately after the takeover- a marked contradiction from the principles of accountability and transparency.
6. While the Junta used the media to communicate its ideology to the people, it was also adamant to control the socio-political narrative at the time and to have a tight lid on the flow of information.
7. The arrests and subsequent prosecution of **Halifa Sallah** and **Sedia Jatta** was to crush dissent. This was a strategy by the Junta to curtail and control the information consumed by the public.
8. In terms of the state security apparatus, the NIA and Police were used as instruments of oppression. Between 1994 and 2016, opposition politicians, were at risk of arrests without any due process or access to a lawyer. Most of them were tortured and subjected to cruel and inhumane treatment.
9. The State was complicit in the systemic violation of the rights of the opposition supporters, especially the PPP former ministers and UDP supporters.
10. Any dissent, especially from the former PPP ministers met with disproportionate, unreasonable and unlawful clampdown.
11. The unlawful arrests and detention of **O.J Jallow**, **Alhagie M.C. Cham**, **Alhagie Aliou EWF Badjie (Kama)**, **Omar Sey** and the other PPP Ministers in the wake of the takeover, disregarded their basic fundamental rights and freedoms. The arbitrary arrests and unfettered use of military power became the blueprint for what became normalised for twenty-two (22) years under **Yahya Jammeh**. Human rights violations, abuse of power and authority, blatant disregard for the rule of law and fair dispensation of justice became the norm.

12. **Alhagie M.C. Cham, O.J Jallow, Alhagie Kama Badjie, Omar Sey** and other former PPP Ministers were physically and psychologically tortured by **Batch Samba Jallow** and other soldiers at the instructions of the Junta. The former ministers were lined up and soldiers pressed pistols in their mouths. They were threatened to be shot by soldiers. The threat of being killed especially with pistols forced in their mouths, giving the impression of being killed imminently, was to break the detainees.
13. **O.J Jallow** was physically and psychologically tortured by the Junta members at the Mile II Prison following his arrest on November 6, 1994. The brutal treatment of **O.J Jallow** in the form of kicking, beatings, slapping and hitting with truncheons by **Batch Samba Jallow** on the orders of **Sanna B. Sabally, Edward Singhatey, Sadibou Hydara** and **Yankuba Touray** was intended to silence him and the other ministers through unlawful, cruel and inhuman treatment.
14. When **OJ Jallow** and former PPP Ministers were arrested, the four (4) Council members, **Sanna B. Sabally, Edward Singhatey, Yankuba Touray** and **Sadibou Hydara**, not only failed to stop the beatings but encouraged it by even laughing, in other words, enjoying the torture and humiliation of **OJ Jallow** and the other ex-Ministers.
15. It is clear that the military Junta intended to humiliate the former Ministers by arresting and driving them in an open truck. From the evidence, **O.J Jallow** was singled out and beaten to set an example and deter the others from criticising the military regime. The Junta had no regard for the law or the people whose rights were violated. They used torture as a means to crush the spirit of the former ministers and PPP supporters.
16. The incommunicado detention of **Alhagie M.C. Cham** at Banjul Police Station in 1994 for weeks without any charge or access to family and lawyer was a cruel, inhuman and degrading treatment.
17. **Sanna B. Sabally, Batch Samba Jallow** and some soldiers tortured **OJ Jallow** when they arrested him from his residence on November 6, 1994. This was done in the presence of his family and was intended to humiliate him.
18. **Sanna B. Sabally, Edward Singhatey, Sadibou Hydara** and **Yankuba Touray** subjected the former PPP ministers to a mock execution at Mile II Prisons by removing them from the remand wing, leading them away from the other detainees and firing shots in the air so as to make the others genuinely believe that their colleagues were being executed by firing and their own executions were imminent. This was intended to instill fear in the minds of the detainees and this level of mental and psychological torture amounted to cruel, inhuman and degrading treatment by the Junta members.
19. **Yahya Jammeh**, the Chairman of the AFPRC Junta was jointly and severally culpable for all the tortures, cruel, inhuman and degrading treatment of the PPP detainees and serious human rights violations committed against the detainees because according to the evidence of **Edward Singhatey**, the Commission can draw adverse inference that he ordered these rights violations or at least had reasonable knowledge of them and failed to stop them.

20. The arrests and unlawful detention of the former PPP ministers at the Mile II Prisons were the beginning of a much bigger plan to crush any form of opposition to the Junta's reign. The Junta did not honour its promise of handing over power to a civilian government. Instead, they launched a wider campaign to persecute members of the opposition parties to intimidate them and the population at large.
 21. The NIA as an institution became a weapon of choice and symbol of oppression, and the State condoned brutality with impunity to terrorise the population and perceived enemies of the Junta. NIA officials such as **Daba Marenah, Musa Kinteh, Baba Saho, Foday Barry, Musa Saidykhan, Lamin AMS Jobarteh (Babadinding)** and others acted with impunity in committing acts of torture and other forms of assault causing physical injury to detainees.
 22. The detainees were subjected to heinous physical torture and sexual torture at the NIA.
 23. With regards the detention and torture of political detainees at Fajara barracks, the Commission finds that these are callous acts of barbarity. In particular, the humiliation of an elderly person, in our traditionally conservative society, was not only an aghast behaviour, but it was also reprehensible and abhorrent as well as being cruel, inhumane and degrading treatment and punishment, amounting to torture.
 24. From the totality of the evidence of the witnesses, as to how and where they were arrested and the fact that all the witnesses consistently stated that they were not involved in any demonstration, it is evident that the purported demonstration was fabricated by the State. It was a pretext to justify the detention of the prominent politicians and civilians. The State resorted to prosecuting on trumped up charges against a few of the detainees and, even those cases, because of the lack of cogent evidence capable of being sustained in Court, the State discontinued those cases. It is quite evident that their detention was unlawful. They were subjected to torture and barbaric treatment and detained in inhumane and degrading conditions, stripped and deprived of their fundamental rights and freedoms.
 25. There is evidence of sexual torture on **Georgiana Kosso Taylor** by kicking her in the crotch, which is corroborated by **Sainey Faye** and the forced nudity of **Malang Fatty**. The soldiers intended to inflict physical and psychological pain and trauma on the detainees, and they did so without any show of sympathy or concern. This was done in the name of **Yahya Jammeh** and the other members of the Junta.
- I. SECURITY DETAINEES FOLLOWING JULY 22 COUP**
26. On September 6, 1994, Junta members, except **Yahya Jammeh** but with his approval, their orderlies and **Peter Singhatey**, visited Mile II central prison purposely with the intention to torture and intimidate the security detainees. **Edward Singhatey** pointed a gun at **Sheriff Gomez** and threatened to shoot him, causing **Sheriff Gomez** extreme psychological trauma and fear of being imminently killed.
 27. **Edward Singhatey** in concert with the other Council members, on the night of September 6, 1994, put a rifle in **Mamat Cham's** mouth and threatened to shoot him. This caused **Mamat Cham** severe traumatic experience and fear of being imminently killed.

28. The decision to visit the security detainees at Mile II Central Prison on the night of September 6, 1994 and subjecting **Ebrima Ismaila Chongan, Mamat Cham** and **RSM Jeng** to physical torture and the others to psychological torture by carrying out mock executions to instill fear of imminent death by execution was a collective one by all the AFPRC members; **Yahya Jammeh, Sanna B. Sabally, Edward Singhatey, Sadibou Hydara** and **Yankuba Touray** and they are all complicit jointly and severally.
29. Despite denying individual responsibility for the physical torture of **Sheriff Gomez** and **Mamat Cham** and psychological torture of the other security detainees on the night of September 6, 1994, **Edward Singhatey's** evidence was evasive, unreliable and not truthful. The Commission holds that **Edward Singhatey** was a key participant in torturing the detainees and the witnesses' description of his actions and actual state of mind was consistent with his personality in the early days of the Junta's rule.
30. The rest of the security detainees who were not physically tortured were psychologically and mentally tortured as a direct consequence of the actions of the council members and their orderlies, in the mock execution of some of the detainees.
31. The majority of the security detainees, if not all of them, were not security threats to the Junta or the State's national security and accordingly their prolonged detention was unlawful and disproportionate.

II. TORTURE OF SANNA B. SABALLY AND SADIBOU HYDARA

32. Following the arrests of Captain **Sanna B. Sabally** and Captain **Sadibou Hydara** on January 27 1995, they were subjected to severe brutal, cruel, inhumane and degrading forms of torture at security wing no. 1 of Mile II Prison.
33. **Sanna B. Sabally** and **Sadibou Hydara** were subjected to frequent and consistent patterns of torture to extract false confessions from them. These torture sessions were led by **Alagie Martin, Manlafi Corr, Lamin Senghore** (Assasin), **Batch Samba Jallow** and **Baboucarr Mboob** and some unidentified NIA operatives. **Pa Modou Sarr** was present at these torture sessions, however, he never participated in the physical torture of **Sanna B. Sabally** and **Sadibou Hydara**.
34. Two unidentified women who were close to **Sanna B. Sabally** were detained and sexually tortured both at the NIA and Mile II Prison following his arrest to force **Sabally** to confess to planning a coup against **Jammeh** with **Hydara**. This was to give credibility to the State publicised narrative that **Sabally** and **Hydara** indeed planned overthrowing **Jammeh**.
35. The Commission believes the account of several witnesses who testified that **Sadibou Hydara** died as a result of the severe and extreme forms of torture that he was subjected to by **Alagie Martin** and his team of torturers. This position rebuts the false narrative that the Junta peddled at the time to mask the truth of what actually happened.
36. RSM **Baboucarr Sanyang** was tortured by **Alagie Martin, Lamin Senghore** (Assasin) and others that the victim was unable to recognise.

37. Warrant Officer 2 (WO2) **Alagie Martin**, supported by Director General of Prisons **David Colley, assistant Prison Officer Faye and Thomas Jarjue** tortured **Cpts. Sanna B. Sabally** and **Sadibou Hydara** and **RSM Sanyang** on the February 5, 1995 in the Prison premises in contravention of Prison rules

C. RECOMMENDATIONS

1. In terms of the mass arrests of ex-Ministers and political opponents, the Commission recommends the prosecution of the AFPRC Junta members, namely **Yahya Jammeh, Sanna B. Sabally, Edward Singhatey** and **Yankuba Touray** for ordering the unlawful arrests, detention and torture of **OJ Jallow, MC Cham** and the others held at Fajara Barracks.
2. Persons subjected to detention have rights that must be respected. Any place designated as a detention facility should meet standards required by relevant laws and international instruments to which The Gambia is a party. The government should put in place procedures for designating a place as a detention centre. The authority making the decision should ensure that:
 - (i) *The place is clean and hygienic and weather proof.*
 - (ii) *The place is suitable for habitation by human beings.*
 - (iii) *Essential facilities that are ordinarily required on a day-to-day basis by the detainees should be available. These include toilet facilities, prayer facilities, first aid and basic medical facilities.*
 - (iv) *Bed and beddings are available.*
 - (v) *Regular and intermittent supply of food and water.*
3. **Almamo Manneh, Baboucarr Bah, Musa Jammeh** (Maliamungu), Sergeant **Gomez** (Hitler) and **Kawsu Camara** (Bombardier) were all complicit in torturing and subjecting detainees to inhuman and degrading punishment. The Commission is of the view that the Amnesty Committee should consider recommending **Baboucarr Bah** for amnesty in view of his testimony and the fact that he showed remorse and participated in reconciliation with his victims.
4. **Almamo Manneh** and **Musa Jammeh** are deceased. For Sergeant **Gomez** (Hitler) and **Kawsu Camara** (Bombardier), the Commission recommends that they should not hold any office with the government of The Gambia for a minimum period of ten years.
5. Repeal of the Decrees susceptible to rights violations and abuses.
6. Review of all Laws that are relevant to the granting of bail with a view to establishing a regime that takes into cognisance the value of individual liberty and to balance same with the need to curb flight from justice taking into account the demands of a modern democratic state.

THEME 2
November 11, 1994
Attempted Coup

A. OVERVIEW

1. On the eve of November 11, 1994, the Armed Forces Provisional Ruling Council (“AFPRC”) Junta members and their loyalist soldiers of The Gambia National Army (“GNA”) attacked Yundum and Fajara Barracks with the intention of “crushing” disgruntled GNA officers and men who were attempting to stage a counter-coup d’état. In the process, the AFPRC Junta members and their loyalist soldiers committed serious human rights violations and abuses, including extrajudicial killings, torture, arbitrary arrests, unlawful detention, and inhumane and degrading treatment in various locations at Fajara, Mile II Central Prisons, Yundum Barracks and at or around Brikama forest.
2. The response of the Junta members and their loyalists to the attempted counter coup which began on the night of November 10, 1994, and the following days, involved further commission of crimes and human rights violations.
3. During the attack, the Junta members and their loyalists, apprehended, tortured and extra-judicially executed eleven (11) GNA officers and men on or about November 11 1994. Those executed include:
 - i. *Lieutenant Basiru Barrow*
 - ii. *Lieutenant Abdoulie “Dot” Faal*
 - iii. *Lieutenant Gibril Saye*
 - iv. *Lieutenant Abdoulie Bah aka “A Chopin, Chopin”*
 - v. *Lieutenant Bakary Manneh aka “Nyancho”*
 - vi. *Lieutenant Buba Jammeh*
 - vii. *Lieutenant Momodou Lamin Darboe*
 - viii. *Cadet Amadou Mbackeh Sillah*
 - ix. *Sergeant Ebrima M. Ceesay*
 - x. *Sergeant Basiru Camara, and*
 - xi. *Sergeant Fafa Nyang*
4. Three other GNA soldiers Lance Corporal **Alagie Kebbeh**, Private **Abdoulie J. Darboe** and Private **Mafugi Sonko**, among others, were also arrested, unlawfully detained and tortured. They were physically kicked, beaten and hit with rifle butts. They were also mentally tortured by being fired at directly or indirectly as they stood handcuffed or tied with legatures.
5. Subsequently, Private **Abdou Bah** and Private **Babai Manneh** amongst others were also arrested and detained. They also suffered a similar fate.
6. The men who were arrested but not executed were subsequently tried in military Court Martials at Fajara Barracks and sentenced to terms of imprisonment.
7. Numerous theories have been bandied around as to why some officers and men of the GNA decided to launch a counter-coup against the AFPRC Junta barely FOUR months after the

July 22 coup d'état that ushered in the AFPRC Junta. The Commission deems it imperative to examine the issue to distill the motives and justifications behind the counter coup and the antecedents, circumstances, perspectives, motives, factors and context that led to the rights violations and abuses that occurred in response thereto.

8. The evidence shows that disgruntled officers and men of the GNA planned and prepared to stage a counter-coup d'état against the AFPRC Junta government due to unfulfilled promises allegedly made by the AFPRC Junta members to the soldiers of the GNA. These promises included improving the welfare of junior GNA soldiers by providing them with housing and compensation for their participation in the July 22, 1994, coup d'état against the regime of then-President of the Republic of The Gambia, **Sir Dawda Kairaba Jawara**. The disgruntled soldiers were also said to be concerned about the actions and policy directions of the AFPRC military regime.

B. FINDINGS

Based on the information detailed above the Commission makes the following findings, that:

1. The planned countercoup of November 11, 1994, was motivated by several reasons. These include (a) the human rights violations and abuses that were going on being committed by members of the Junta against members of the previous regime including the torture and humiliation of the ministers and senior officials of the ousted Jawara regime, (b) poor welfare conditions of the soldiers at the military barracks, (c) unfulfilled promises by members of the Junta to improve the conditions of the soldiers in the GNA and (d) the need to restore democracy and for soldiers to return to Barracks. However, it appears to the Commission that the principal reason was that there was dissatisfaction among the soldiers that their colleagues who had moved on to become the government of the day with all the benefits that came with it. They however, did not keep the promises made to the soldiers to improve their general condition after their hard work of securing and consolidating the July 22 coup of 1994. In essence, the November 11, 1994, countercoup was launched mainly to punish the AFPRC for not keeping their promise to uplift the general condition of soldiers in the GNA.
2. The plan to overthrow the AFPRC Junta on the night of 10 November 1994 moved from a mere plan into actual operational execution. The act of (1) mobilising the men, (2) opening the armoury, (3) providing the men with arms and ammunition (4) loading four vehicles with weapons and ammunition and (5) deploying the coup leaders including **Dot Faal, L.F. Jammeh** and **Basiru Barrow** to Yundum Barracks who would be later ambushed by AFPRC loyalists, clearly demonstrate more than concrete steps being employed in commencing a military operation. For these and other reasons, the Commission finds that the countercoup to dislodge the AFPRC government of then **Cpt. Yahya Jammeh** by officers and men of the GNA on the night of November 11, 1994, had begun before the members of the Junta and their orderlies responded violently to quell the countercoup.

3. In the morning of November 10, 1994, members of the Council **Sanna B. Sabally, Edward Singhatey, Sadibou Hydera, Yankuba Touray** except **Chairman Yahya Jammeh** went to Yundum Barracks together with their orderlies and **Peter Singhatey** to seek to dissuade the soldiers from carrying on with their plans to stage the countercoup.
4. In the evening of November 10, 1994, the Junta members during several meetings established a Common plan to attack both Fajara Barracks and Yundum Barracks with a view to crushing an imminent planned countercoup to depose the Junta. The plan and orders received from **Chairman Yahya Jammeh** was to crush the countercoup, "take no prisoners and kill the ringleaders".
5. Upon receiving information from **Buba Jammeh** (Kanilai) that the countercoup was imminent the Junta members comprising of all the council members except Yahya Jammeh but including then **Peter Singhatey** together with their orderlies and some elements from the State Guard Battalion stationed at State House (the Loyalist group) attacked Yundum Barracks and then Fajara Barracks on the night November 10, and morning of the November 11, 1994 in order to crush the countercoup.
6. **Lt. Barrow** arrived at the camp into an ambush that had been set by the Junta members where he was captured. Up to the stage **Lt. Barrow** was captured and detained there was no fighting or exchange of fire, as such between the countercoupists and the loyalists.
7. Later on, a vehicle arrived at Yundum Barracks at Yundum driven by **Mafugi Sonko** carrying **Lt. LF Jammeh** and **Lt. Abdoulie Dot Faal** amongst others. There was shooting only after the arrival of the vehicle. There is no credible evidence to suggest that the coupists fired any weapons at Yundum Barracks. All the evidence suggests that the shooting came from members of the Junta and their loyalist troops.
8. The Loyalist soldiers captured several members of the countercoupists and undressed them leaving them only in their briefs/undergarments which amounts to inhumane and degrading treatment. Additionally, their manhandling and beating also amounts to the torture.
9. The captured soldiers from Yundum Barracks were transported to Mile II Prison where they were kept until the Junta and their loyalist troops captured Fajara Barracks.
10. When the Junta and loyalists arrived at Fajara Barracks there was significant exchange of fire between them and the coupists. This lasted for hours from approximately around two (2) am until around six (6) am. The loyalist forces were led in the attack at Fajara Barracks by **Cpt. Sanna B. Sabally, Cpt. Edward Singhatey** and then **Major Baboucarr Jatta (Army Commander)** captured more soldiers. The detained captured soldiers were picked up from Mile II Prison, taken to Fajara Barracks where they were paraded at the field, the officers segregated from the men and fired at hitting **Lt. Barrow** and **Lt. Faal. Lt. Jarju** and **Lt. Alhagie Joof** escaped from Yundum Barracks. This amounts to attempted murder.

11. The following individuals are complicit and therefore responsible for the attempted murder of **Lt. Momodou Lamin Jarju** and **Sgt. Joof Sir Jackal** etc and the murder of **Lt. Basiru Barrow** and **Lt. Abdoulie Dot Faal**:

1. *Cpt. Sanna B. Sabally (Vice Chairman and Member of the AFPRC)*
2. *Cpt. Edward Singhatey (Minister of Defence and Member of the AFPRC)*
3. *Cpt. Sadibou Hydara (Minister of Interior and Member of the AFPRC)*
4. *Cpt. Yankuba Touray (Minister of Local Government and Lands and Member of the AFPRC)*
5. *Major Baboucarr Jatta (Chief of Defence Staff)*
6. *Lt. Peter Singhatey (Commandant Gambia National Army Training School (GNATS))*
7. *Cpl. Alhagie Kanyi*
8. *Pte. Baboucarr Njie (De Chebb, or Njie Ponkal)*
9. *Pte. John Charles B. Mendy (JCB Mendy)*
10. *Pte. Baboucarr Ahmad Njie (B.A. Njie)*
11. *Pte. Albert Gomez*
12. *Pte. Lamarana Barry*
13. *Pte. Ensa Mendy*
14. *Pte. Jali Musa Suso*
15. *Pte. Lamin Marong*
16. *Pte. Mustapha Touray (Churro)*
17. *Pte. Lamin (Pa) Senghore (Assasin)*
18. *Pte. Baboucarr Mboob*
19. *Pte. Batch Samba Jallow*
20. *Pte. Zackaria Darboe*

12. The captured soldiers were given inhumane and degrading treatment and subjected to serious torture. More significantly however, the Commission is concerned that these former most senior officers of The Gambia National Army then and still today have no regard or respect for the rules of humane treatment of captured enemy combatants. They seem to think that the Geneva Conventions are useless and are all over the world honoured more in their breach than in their observance. The Commission also notes that this position of brutalizing or torturing enemy combatants seems to be acceptable practice in the armed forces of The Gambia.

13. Both **Vice Chairman Sanna B. Sabally** and **Chairman Yahya Jammeh** issued statements explaining to the general public what had happened on November 10 and 11, 1994. They were both false. They were all intended to cover up the fact that the Council Members and their loyalists deliberately lined up the captured soldiers and attempted to kill them by shooting. While many of them escaped, **Lt. Basiru Barrow** and **Dot Faal** were hit by bullets. Their statements were only intended to cover up their crimes and mislead The Gambian people.
14. The captured soldiers were returned to Yundum Barracks and detained where both **Lt. Barrow** and **Lt. Dot Faal** died. It was in fact **Alhagie Kanyi** who released the final shots that killed both **Lt. Basiru Barrow** and **Lt. Abdoulie Dot Faal** soon after the group arrived at Yundum Barracks. However, the Commission is of the view that both **Barrow** and **Faal** were already dying as a result of the injuries from the serious inhumane treatment, beatings, torture and gun shot injuries they sustained in the hands of the Council members and their loyalists from the night of the 10 to the morning of 11 November 1994. As such, the Commission finds that even though **Alhagie Kanyi** fired the last shots the responsibility for the killing of **Barrow** and **Dot Faal** rests with all the Council members and their orderlies and loyalists who were present and participated in those activities.
15. That **Fafa Nyang** was killed by then **Cpt. Edward Singhatey** and then **Cpl. Lamin Colley** on the orders and instructions of **Sanna B. Sabally** and **Edward Singhatey** himself in pursuance of the Common plan agreed by the members of the Council to execute the ringleaders of the November 10/11 countercoup.
16. With regards to the final shots that killed **Fafa Nyang**, the Commission does not believe **Alhagie Kanyi's** evidence on the matter. The Commission as mentioned earlier finds the testimonies of the numerous witnesses and clear admission by **Lamin Colley** that he fired the final shots that killed **Fafa Nyang** as more reliable.
17. All the military members of the AFPRC and their loyalists who participated in the incident together with then **Cpl. Lamin Colley** (medic) who deliberately and intentionally finished off **Fafa Nyang** are all jointly and severally responsible for the murder of **Fafa Nyang** who was unarmed at the time of his killing, under arrest, stripped to his underwear and had his hands tied behind his back.
18. Both **Basiru Camara** and **E.M. Ceesay** were summarily executed by shooting at Yundum Barracks on November 11, 1994, by soldiers under the command of **Sanna B. Sabally** and **Edward Singhatey** pursuant to orders given by both of them. **Baboucarr Mboob** and **Alhagie Kanyi** participated jointly with members of the Junta and their orderlies pursuant to the orders of **Sanna B. Sabally** and **Edward Singhatey** and the Common plan agreed at State House.
19. Under the orders of **Cpt. Sanna B. Sabally** and pursuant to the Common Plan agreed at State House, members of the Junta except **Cpt. Yahya Jammeh** returned to Yundum Barracks on the afternoon of November 11 and removed the detained officers (suspected ringleaders) (**Lt. Gibril Saye, Lt. Abdoulie Bah (Achopin Chopin), Lt. Bry Manneh (Nyancho), Lt. Buba Jammeh, Lt. Momodou Lamin Darboe and Cadet Amadou Mbackeh Sillah**) took them to Brikama forest and executed them thereby committing murder.

20. The Junta wanted to hide their crime and as such, they brought the bodies to Yundum Barracks and buried them there in unmarked graves supposedly for “*protection of the bodies.*”
21. The victims of human rights violations and abuses include the following GNA officers who were extra-judicially killed and/or tortured by the Junta and soldiers acting on their orders:
- i. *Lt. Basiru Barrow*
 - ii. *Lt. Abdoulie Dot Faal*
 - iii. *Sgt. Basiru Camara*
 - iv. *Sgt. Fafa Nyang*
 - v. *Lt. Gibril Saye*
 - vi. *Lt. Abdoulie Bah (Achopin Chopin)*
 - vii. *Lt. Bry Manneh (Nyancho)*
 - viii. *Lt. Buba Jammeh*
 - ix. *Lt. Momodou Lamin Darboe*
 - x. *Cadet Amadou Mbackeh Sillah*
 - xi. *Sgt. Ebrima M. Ceesay*
22. The following GNA soldiers were tortured:
- i. *WO2 Abou Trawally*
 - ii. *Sgt. Malick Nyang Kabareh*
 - iii. *Pte. Abdoulie Jallow*
 - iv. *Pte. Omar Njie*
 - v. *Pte. Kairaba Camara*
 - vi. *Pte. Mafugi Sonko*
 - vii. *Pte. Lamin Babai Manneh*
 - viii. *Seedy Manjang*
 - ix. *Pte. Abdoulie Darboe*
 - x. *Pte. Alhagie Kebbeh*
 - xi. *Pte. Abdou Bah*

PERSONS ADVERSELY MENTIONED (INCLUDING PERSONS MOST RESPONSIBLE)

23. The AFPRC Junta bears the greatest responsibility for November 11, 1994. They are individually and collectively responsible for the torture, assaults, beatings and extra-judicial killings of the eleven (11) GNA officers and the torture, beatings, arbitrary and unlawful detention of the five private soldiers. The Junta include the following then Captains:
- i. *Yahya Jammeh*
 - ii. *Sanna B. Sabally*
 - iii. *Edward Singhatey*
 - iv. *Sadibou Hydara*
 - v. *Yankuba Touray*

24. **Cpt. Peter Singhatey**, a senior member of the GNA, was present at all the execution scenes and allegedly took part in the executions. He is therefore, jointly and individually responsible for the extrajudicial killings. He reportedly played an active and commanding role.
25. At the time, the Commander of the GNA, **Baboucarr Jatta**, claimed to have played a command role in the attack against Fajara Barracks. He was present when **Lt. Barrow** and **Lt. Faal** were executed. He was also present in Yundum Barracks when **Fafa Nyang**, **E. M. Ceesay** and **Basiru Camara** were executed and at Nyambai Forest where **Gibril Saye**, **Abdoulie Bah**, **Buba Jammeh**, **Bry Manneh**, **Momodou Lamin Darboe**, **Cadet Amadou Sillah** were executed. There is no evidence before the Commission that he stopped these executions, even though he was the Army Commander at the material time and the most senior officer on the ground. He is therefore, criminally culpable based on command responsibility for his failure to prevent or ensure those responsible were subsequently held accountable for their actions.
26. The following orderlies and bodyguards, as well as loyalist soldiers, are individually criminally responsible for their direct participation in carrying out unlawful orders to commit one or more crimes of killing, torture, arbitrary arrests, and unlawful detention:
- i. *Pte. Batch Samba Jallow (deceased)*
 - ii. *Cpl. Alhagie Kanyi*
 - iii. *Pte. Baboucarr Njie (De Chebb or Njie Ponkal’)*
 - iv. *Pte. John Charles B. Mendy (JCB Mendy)*
 - v. *Pte. Baboucarr Ahmad Njie (B.A. Njie)*
 - vi. *Pte. Albert Gomez*
 - vii. *Pte. Lamarana Barry*
 - viii. *Pte. Ensa Mendy*
 - ix. *Pte. Jali Musa Suso*
 - x. *Pte. Lamin Marong*
 - xi. *Pte. Mustapha Touray (Churro)*
 - xii. *Pte. Lamin (Pa) Senghore (Assasin)*
 - xiii. *Pte. Baboucarr Mboob*
 - xiv. *Pte. Lamin Colley*
27. The Commission does not accept the testimony of **Alagi Kanyi** that he and **Cpt. Edward Singhatey** shot and killed **Fafa Nyang** together with **Basiru Camara**. From the evidence, the Commission accepts that **Basiru Camara** was killed by **Alhagie Kanyi** and **Edward Singhatey**. The two killings – **Basiru Camara** and **Fafa Nyang** occurred at different times. The evidence shows that **Fafa Nyang** was killed in the morning while **Basiru Camara** was killed in the early afternoon. **Baboucarr Mboob** suggested that **Alhagie Kanyi** made a

mistake by swapping **Fafa Nyang** for **E.M Ceesay**. **Baboucarr Mboob** further claims that it was in fact **Alhagie Kanyi** who killed **EM. Ceesay**, but he was not there to see it as he only learned about the killing when they returned from the forest. It is however noted that, **JCB Mendy** also alledged that it was **Alhagie Kanyi** who shot and killed **E.M. Ceesay** which **Kanyi** denied. **Kanyi** in turn blamed it on **Baboucarr Mboob** also stating that he did not see it happen. Meanwhile **Sait Darboe** also claimed that it was **Baboucarr Mboob** who killed **EM Ceesay**. That said however, the testimony of **Baboucarr Mboob** that he was not present when **EM Ceesay** was killed is doubtful.

28. **RSM Baboucarr Sanyang** testified that soon after **EM Ceesay** and **Basiru Camara** were gunned down, he left his office to go and see what had happened and he saw **Lamin Colley** and **Baboucarr Mboob** dragging the body of **EM Ceesay** to one of the ditches that was there. The denial by **Baboucarr Mboob** that he was present at the material time suggests that he had something to hide. On this basis, the Commission concludes that **EM Ceesay** was killed by **Baboucarr Mboob** and that he merely blamed it on **Kanyi** because he had heard **JCB Mendy** testify and blamed it on **Kanyi** and also as revenge on **Kanyi** who blamed the killing on him. In addition, the Commission is of the view that **JCB Mendy** also merely blamed the killing of **EM Ceesay** on **Alhagie Kanyi** because **Kanyi** implicated him in the killings at the forest.
29. It is apparent to the Commission that there is a blame game ongoing between **Alhagie Kanyi** and **Baboucarr Mboob** and between **JCB Mendy** and **Alagie Kanyi**. The Commission is of the view that the finger pointing between the trio will not help anyone of them. All three of them participated in the operation leading to the deaths of the 11 officers and men at Yundum Barracks and the Brikama Forest (Firing Range). As such, all of them as participants in the Common plan to execute the soldiers are culpable for these killings and should be treated as such.
30. That both **Basiru Camara** and **E.M. Ceesay** were summarily executed at Yundum Barracks on 11 November, 1994, by soldiers under the command of **Sanna B. Sabally** and **Edward Singhatey** pursuant to orders given by both of them. The Commission finds further that both **Baboucarr Mboob** and **Alhagie Kanyi** participated jointly with members of the Junta and their orderlies pursuant to the orders of **Sanna B. Sabally** and **Edward Singhatey** in compliance with the Common Plan agreed to at State House.
31. The testimony of **Baboucarr Mboob** in this regard is not to be believed. The Commission is of the view that he was merely lying about his conduct in order to shield himself from responsibility.
32. That at Yundum Barracks there was shooting only after the arrival of the vehicle driven by **Mafugi Sonko** carrying **LF Jammeh** and **Dot Faal** amongst others. Except for the outlier evidence of **Ensa Mendy**, there is nothing to suggest that the coupists fired any weapons in response at Yundum Barracks. All the other evidence suggests that the shooting came from members of the Junta and their loyalist troops. It can therefore be concluded from the evidence that the shooting came only from the Junta members and their loyalists. This fact would have significant implications with regards to the handling, treatment and fate of the

apprehended soldiers who were suspected of involvement in the countercoup.

33. The widows, orphans, parents and other family members of the slain soldiers suffered inordinately. They were not given information about their death of their husband, son, father or beloved family member. They were not given the bodies for burial. They were ostracised by the Army and society and had to live a very difficult life especially those who did not have an income. Some of them
34. That the Junta embarked on a Cover Up of the incidents of November 10 and 11 1994 that were intended to mislead the public. The statement over Radio Gambia by **Sanna B. Sabally** on the morning of November 11 and of **Yahya Jammeh** were intended to cover up the fact that the Council Members and their loyalists deliberately killed the coupists and persons perceived to be their allies and buried them in unmarked graves at Yundum Barracks to cover up the fact that they were murdered.

C. RECOMMENDATIONS

In view of the above findings, the Commission therefore, recommends as follows that:

1. (a) all the military members of the Junta **Yahya Jammeh, Sanna B. Sabally, Edward Singhatey and Yankuba Touray**, and senior military officers who participated in the November 11, 1994, tortures and killings-**Baboucarr Jatta, Peter Singhatey and Papu Gomez**, - be prosecuted as appropriate for the crimes they committed including the murders/unlawful killings, torture and inhumane and degrading treatment of the captured countercoupists. In this context, the Commission notes that some of the perpetrators who testified may be eligible for amnesty. This recommendation should therefore, be read together with the relevant recommendations for amnesty or negotiated immunity given in order to assist eventual prosecution.
- (b) Where any of the above-mentioned person is granted an amnesty or immunity from prosecution, the person shall be banned from taking up a position in or employment with The Gambia Government.
- (c) All the perpetrators listed below be banned from taking up a position in or employment with The Gambia Government for ten years. These include:
 - vi. **Cpl. Alhagie Kanyi**
 - vii. **Pte. Baboucarr Njie ("De Chebb," or" Njie Ponkal")**
 - viii. **Pte. John Charles B. Mendy (JCB Mendy)**
 - ix. **Pte. Baboucarr Ahmad Njie (B.A. Njie)**
 - x. **Pte. Albert Gomez**
 - xi. **Pte. Lamarana Barry**
 - xii. **Pte. Ensa Mendy**
 - xiii. **Pte. Jali Musa Suso**

- xiv. **Pte. Lamin Marong**
- xv. **Pte. Mustapha Touray (“Churro”)**
- xvi. **Pte. Lamin (Pa) Senghore (Assasin)**
- xvii. **Pte. Baboucarr Mboob**
- xviii. **Pte. Lamin Colley**

- (d) As for **Pte. Lamin Fatty**, the Commission notes that he participated in the inhumane treatment of **Pte. Alhagie Kebbeh** by putting him in the boot of a vehicle. However, on the basis of his confession, apology and participation in a public reconciliation with the victim, the Commission makes no further recommendation against him.
 - (e) All the perpetrators listed in paragraph 9 (c) above who have not succeeded in getting amnesty may be prosecuted subject to the discretion of the Attorney General in view of the need to have witnesses for the effective prosecution of those who bear the greatest responsibility for the crimes committed. The persons listed above may now be holding different ranks or positions within the Army or other institutions.
2. Provide adequate training of all soldiers in areas of relevant international law, such as international humanitarian law, which includes the Geneva Conventions. Provide adequate training of all soldiers in the relevant areas of the Geneva Conventions to understand the duty to respect fundamental rights and freedoms, including principles of *hors combat* and civilian status.
 - i *Provide adequate training of all soldiers on courses in areas of international criminal law, such as the Rome Statute; in particular crimes against humanity and responsibility of commanders and other superiors.*
 - ii. *Provide adequate training of all soldiers on courses in relevant international human rights law in general.*
 3. Ensure continuous appraisal of these trainings or courses to achieve understanding, compliance and implementation in simulated ‘wars’ and bush exercises.
 4. Provide adequate training of all soldiers on the importance of respect for the Constitution and the rule of law to ensure soldiers respect the principles of constitutionality in a democracy.
 5. Ensure accreditation of these training programmes and courses.
 6. Making satisfactory completion of at a minimum mandatory basic training in the areas mentioned above a requirement and issue for consideration in determining promotions.
 7. Implement targeted sensitisation programmes to help change the mindset of the Army for the better and towards respect for established rules and conventions.
 8. Establishment of community support system for the elimination of discrimination and stigma.
 9. Target government institutions and agencies and strategic local partners to integrate victim support processes into their ways of working in The Gambia.

THEME 3

The Unlawful Killing of Ousman Koro Ceesay

A. OVERVIEW

- 1) **Ousman Koro Ceesay (Koro)**, an economist, who was viewed by many as a man of high intelligence and integrity was appointed as Permanent Secretary Office of the Chairman of the Armed Forces Provisional Ruling Council (AFPRC) government in March 1995. Within a short period, he was appointed Minister of Finance and Economic Affairs and member of Council.
- 2) From the beginning **Koro's** family objected to him taking up a position with the AFPRC government and had advised him not to take the appointment noting that his strong character and the overt behaviours of the Junta were diametrically opposed. **Koro** thought otherwise and insisted that he could not decline such an offer to serve his country, especially during the crucial period of transition. It was time to rebuild the nation and the Junta's message of transforming The Gambia into a better place for all Gambians resonated with his vision for the country. Sadly, the fears of the family became a reality.
- 3) **Koro** was brutally murdered on June 24, 1995 barely three months after joining the AFPRC. After seeing the former Chairman **Yahya Jammeh** off at the Airport where he and his delegation were leaving for the 1995 African Union (AU) Summit in Addis Ababa, Ethiopia, **Koro** was never seen alive again. On the morning of June 25, 1995, **Koro's** charred remains were found inside his burnt official vehicle, under very suspicious circumstances in an isolated location near Jambur Village, Kombo South District, West Coast Region, The Gambia.
- 4) The discovery of **Koro's** charred remains sent shock waves not only within his family but throughout the whole nation. **Koro** was popular and loved by many and the news of his mysterious death caused great consternation particularly among the youths and the community in which he lived.
- 5) The death of **Koro** sparked rumours that the military Junta orchestrated and carried out his murder. This was done to silence him permanently because he was about to expose some unfavorable information about financial management by the Junta in the 1995/1996 Budget Speech. The Junta did not want this exposure as this would damage their public image.
- 6) His family believed this to be true for three reasons. First, he had confided in his mother that he was having problems with AFPRC Vice Chairman **Edward Singhatey**, who had threatened to kill him. Second, he had called the family to say that he would be coming home directly from the Airport for his daily visit and had ordered his favourite foods for dinner. Third, to the best of their knowledge he had no connections in Jambur and had no reason to travel there that evening.
- 7) The failure of the Junta to investigate the murder of **Koro** even though he was a high profile government minister that died in service fueled, gave credence to the rumours that he was murdered by the Junta. **Koro's** murder is one of the most gruesome high-profile crimes committed against a civilian in The Gambia during in the first year of **Yahya Jammeh's** brutal dictatorship. Not only was he killed but his body was burnt beyond recognition to remove all traces of evidence. The state and position of the vehicle pointed to a purported accident.

- 8) **Koro's** family waited earnestly for twenty four (24) years yearning for justice to be done and for the perpetrators of his murder to be held to account. The TRRC gave them the opportunity through its public hearings to hear the truth as to **Koro's** murder. His parent's died in grief in 2014 without knowing the truth about the death of their beloved son.
- 9) During its second, third and fourth three-week public hearing sessions which took place at the TRRC from February 11 to 28, 2019, March 11 to 28, 2019 and April 8 to 25, 2019, the Commission heard testimonies on the circumstances surrounding the death of former AFPRC Finance Minister **Ousman Koro Ceesay** in June 1995. His sister, former and current officers of The Gambian security forces, former government ministers and private individuals testified at the public hearings which enabled the Commission: to determine the circumstances surrounding his death, including the context, motives and perspectives which led to such a violation; who the actors were; whether such violation was the result of deliberate planning on the part of the State its organs or other groups and individuals and to determine what evidence had been destroyed by any person or persons to conceal the violation. Written statements and other open source materials were also examined for further information on this issue. The Commission also visited the site in Jambur where the 'accident' is reported to have taken place on Thursday, November 21, 2019 the last day of the TRRC's public hearings on the witch hunt in Jambur.

B. FINDINGS

THE COMMISSION FINDS THAT:

1. **Ousman Koro Ceesay was a man of honour, dignity and integrity who was committed to transformational development of his country based on these attributes was appointed Minister of Finance and member of the AFPRC in March 1995.**
2. **On the issue of Edward Singhatey being jealous of Ousman Koro Ceesay at a minimum there was bad blood between Edward and Koro. Considering the growing influence Koro began to have in Cabinet and him getting closer to Yahya Jammeh, there is credibility in the conclusion that Edward Singhatey felt threatened by the popularity of the rising star and he became jealous of Koro. Up to the time of Koro joining the Council Edward Singhatey and Yahya Jammeh had enjoyed a very close relationship noted in their connivance to get rid of Sanna B. Sabally and Saidibu Hydara. Edward was a principal architect of the July 22 coup and was a highly intelligent and accomplished member of the Council. Koro's growing stature within the Council posed a threat to Edward's influence and position as Vice Chairman and thus he had a personal motive to kill him**
3. **Koro's progressive ideologies, as far as the Junta was concerned, threatened the direction of the Junta and Jammeh. They were used to giving orders and having the orders obeyed without question. Therefore, cumulatively, Koro's independent position and critical thinking unsettled Jammeh and this gave him a motive to eliminate him. The Commission takes into account the testimonies of various credible witnesses**

about how Jammeh dealt with people that he believed were obstacles to his objectives following the 1994 coup.

4. On the balance of probabilities, it is more likely that the version proffered by the majority of the witnesses is the real version of events because, not only are they credible, but they also corroborate each other's testimonies. The strong character evidence in favour of Koro demonstrates that he was unlikely to engage in anything untoward, because of his stubborn convictions, which would prompt him to expose the Junta. The Junta had a motive to silence him properly and permanently as alluded to by Attorney General Marong and Pa Mbye in their testimonies. The statement by Yahya Jammeh to his Cabinet that they could have easily dismissed Koro from office if they were unhappy with his work would have been a temporary and risky solution to the problem as there were no guarantees that he would not expose them in the future.
5. Immediately after arrival in Addis Ababa, the information provided by Yahya Jammeh to his delegation demonstrates his knowledge of what was going on in The Gambia.
6. There was general indifference on the part of the AFPRC Junta to the death of Koro and an unwillingness to investigate it.
7. Not only was Yahya Jammeh aware of the circumstances leading to the death of Koro but there was a deliberate state sanctioned effort to suppress the truth about Koro's death. This leads back to the question, would the Junta members prevent investigations into Koro's death if they had nothing to do with his murder? From these facts, the Commission draws the conclusion that at least three Junta members – Yahya Jammeh, Edward Singhatey and Yankuba Touray together with Peter Singhatey not only conspired and carried out the murder of Koro, but actively covered up the murder and prevented proper and effective investigations from taking place despite the fact that Yahya Jammeh and others knew about the rumours accusing the Junta of Koro's death.
8. The substantially corroborated evidence of the staff of Edward Singhatey (Fatty and L.S. Marong), the staff of Yankuba Touray (Ndure and Jangum) and Alagie Kanyi (who at the time was working under Peter Singhatey at the Training School) is a very convincing and compelling account of the truth of what happened, as opposed to the uncorroborated version of Edward's.
9. Edward Singhatey offered no further evidence to support his alibi which, in addition, gives the Commission sufficient reasons to conclude that the evidence overwhelmingly places Edward Singhatey, Yankuba Touray and Peter Singhatey at the crime scene at Yankuba Touray's residence on that fateful night, and points to them as the architects and perpetrators of Koro's assassination.
10. Edward Singhatey's suggestion that Koro was killed by the MFDC rebels was rebutted by the MFDC leader Salif Sadio, in a T.V interview, responding to Edward's claims.

11. After the events of November 11, 1994, Kanyi regularly met Edward at his residence where they would drink alcohol together to help Kanyi drown his guilt. The Commission is of the view that the statement by Edward in his defense is a very weak and unconvincing attempt to extricate himself from responsibility for the crime alledgedd and is aimed at misleading the Commission.
12. It is more by design than by coincidence in that (a) Tumbul Tamba, who the Commission learns worked at State House and became a close Jammeh killer, participated in the crime; (b) that Edward Singhatey's orderly and driver (Fatty and LS Marong) dropped him at the crime scene at Yankuba Touray's house; (c) that Yankuba Touray's guards and driver (Jangum, Ndure and Mendy) removed all the people in Yankuba's house to clear the way for the crime to be carried out there without the presence of potential witnesses; and (d) Alagie Kanyi, was a direct subordinate of Peter Singhatey working at the time as an instructor at The Gambia National Army Training School to which Peter Singhatey was the Commander. The fact that all the above contributors to the crime alledgeddly had a direct connection with the architects and perpetrators of Ousman Koro Ceesay's murder also strengthens the evidence that Yahya Jammeh, Edward Singhatey, Yankuba Touray and Peter Singhatey, together with their subordinates Alagie Kanyi, Pa Aliou Gomez, Tumbul Tamba and B.K. Jatta, planned and carried out the assassination of Koro.
13. Kanyi was so terrified of Edward and his brother Peter who were by far his superiors to the extent that he would not dare implicate them in such a gruesome and dastardly assassination if they did not do it. Additionally, in spite of all the things he did, Kanyi is a reasonable person and would stand to gain nothing from implicating himself in a crime that he did not commit. Kanyi's conduct can therefore, only be explained by the fact that he was motivated by his desire to tell the truth and to reveal the facts about the death of Ousman Koro Ceesay.
14. Kanyi had participated in the November 11, 1994 killings and the Junta members were aware of the role that he played in it. They used this to hold sway over him.
15. The testimony of Kanyi is credible and that he indeed went to Yankuba's house and they participated in the murder of Koro. The Commission believes that Kanyi could not have described Yankuba's house so accurately if he had never been there. As such, the Commission finds the testimony of Kanyi credible and that he indeed went to Yankuba's house and they participated in the murder of Ousman Koro Ceesay.
16. The Commission shares the belief of the Attorney General Marong and also concludes that for Edward Singhatey to mention *murder* when he did not suggest so and then conclude against his own former assertions of murder that it was an accident was very suspicious under the circumstances and suggests that he had personal foreknowledge of the incident.

17. **Edward Singhatey has much to gain from his denials to avoid being implicated or associated with the brutal and gruesome murder of Ousman Koro Ceesay, because he has managed to polish his image from his days in the army to a clean, accomplished lawyer and statesman, and that is the image he wants Gambians to have of him. He readily accepted collective responsibility for the atrocities of November 11, 1994 even though he denied individual responsibility. This shows that he did not mind being associated with that event, because it was more acceptable and justifiable to the public, in his view, to be part of the resistance to quell a coup attack from dangerous armed soldiers which is treason rather than being seen as participating in the murder of an innocent civilian, a fellow Council and cabinet member.**
18. **The statement by Attorney General Marong who testified that he was present when Yahya Jammeh ordered Bajo to go slow/quietly on the investigations, and even though Mr. Bajo denied this, his confession of neglect/failure to have a proper investigation conducted suggests that the statement of AG Marong is more in line with the truth. The Commission makes this finding because if Yahya Jammeh had genuinely ordered an investigation, all the relevant offices and their personnel would have ensured that a full investigation was conducted. This finding is reinforced by the fact that the matter was hardly discussed at Cabinet. More significantly, officers who attempted to conduct investigations were sacked from their jobs and no Coroner's inquest was instituted.**
19. **In the case of Yankuba Touray, the matter has been dealt with by the High Court on Wednesday July 14, 2021 where he was found guilty of killing Koro Ceesay and sentenced him to death by hanging by Justice Jaiteh. In addition he told the courtroom that Touray had ensured that no investigation was carried out after the murder and that the victim's body was "burnt beyond recognition".**
20. **In terms of evidence received from Alagie Kanyi that he was contacted by Yankuba Touray and Fatoumatta Jahumpa Ceesay urging him not to cooperate with the Commission, the Commission finds that this conduct amounts to tampering with a potential TRRC witness in relation to a case in which he was involved. The Commission holds that this is consciousness of guilt on the part of Yankuba Touray, which further demonstrates his involvement in the assassination of Koro.**
21. **From the above, the Commission finds that Ousman Koro Ceesay was murdered in a planned assassination by members of the Junta and their subordinates at the official residence of Yankuba Touray on the night of Yahya Jammeh's travel to Addis Ababa in Ethiopia to attend the A.U Summit in June 1995.**
22. **The evidence before the Commission completely discredits any notion that Koro's Mercedes Benz vehicle was involved in an accident, which caused it to catch fire, and reinforces the finding of the Commission that Koro's body was deliberately burnt in his vehicle in order to conceal the nature and manner of his killing.**

23. **Some of the reasons ruling out an actual accident are outlined by the testimonies of the investigators – including M.K. Bojang and Pa Habibou Mbye and other witnesses who concluded that there were signs of the accident being framed or staged to look real.**
24. **In addition to the above, the description by the witnesses of what they saw on each of the perpetrators also indirectly connects them to the crime. For instance, with regard to Edward Singhatey, both Ndure and Jangum saw him in the garden of Yankuba Touray's house during the night of the murder. When Jangum saw him, he noticed that his boots were wet and muddy. This evidence supports the suggestion that at the relevant time, Edward went to a place that was wet and muddy. The weather conditions prevailing at the forest where Koro's body was burnt, as described by Sima, was that the place was wet. This evidence suggests that Edward may have been to the scene where Koro's vehicle was burnt. As for Yankuba Touray, Ensa Mendy claims that when he returned to the house, he saw Yankuba's uniform on the floor and it was wet and had some burns. This was the same uniform Yankuba wore during the day, and it had no burns before that time. The Commission finds that this is very likely a result of Yankuba's involvement in the burning of Koro's body inside his vehicle. As for Peter Singhatey, several witnesses testified that soon after the death of Koro, they saw his left arm in bandages. Amid rife rumours at the time that Peter's arm was burnt from the incident. Again, this is also consistent with burns that was more likely to have been sustained from participation in the burning of Koro's body in his vehicle.**
25. **There is significant circumstantial evidence involving Edward, Yankuba and Peter in the burning of Koro's vehicle and therefore in his murder. They tried to cover up their crime by burning the vehicle.**
26. **The Commission believes Kanyi's story and finds that because of the oath of secrecy taken by the perpetrators at Edward's residence two days after the murder of Koro, it is not surprising that the real story about the killing of Koro was never confirmed by any one of the perpetrators or the witnesses until the hearings of the TRRC began.**
27. **Although it is suggested that Koro might have been killed as result of the sharing of parts of the money received from Taiwan by the military members of the Junta which implicates Kaba Bajo and Ebou Jallow, the Commission does not have sufficient evidence on this issue to ground a finding on their culpability or involvement in the murder. It is simply plausible that Bajo's act of neglecting to conduct an investigation was more a show of loyalty to Jammeh and not complicity in the murder. As such, the Commission makes no further finding on the possible complicity of Bajo and Jallow in this matter due to lack of evidence on the matter.**
28. **Premised on the evidence presented before the commission, it can be concluded that Yahya Jammeh, Edward Singhatey, Yankuba Touray, Peter Singhatey, Pa Alieu Gomez, BK Jatta, Tumbul Tamba and Alhagie Kanyi are responsible for the murder of Ousman Koro Ceesay.**

C. RECOMMENDATIONS

Taking the totality of the evidence as a whole the Commission recommends:

1. The prosecution of **Yahya Jammeh, Edward Singhatey, Yankuba Touray and Peter Singhatey for their role in the premeditated murder of Ousman Koro Ceesay** and also subverting the course of justice by covering up their crime.
2. **Yankuba Touray** for his part has already been indicted for the murder of **Koro Ceesay** in his individual capacity and was convicted of the murder of **Koro** the High Court of The Gambia on 14th July 2021. As such, no recommendation is made against him.
3. Thus, for the low level perpetrators such as **Alagie Kanyi, BK Jatta, Pa Alieu Gomez**, the Commission notes that they may qualify amnesty under the provisions of the Act.
4. **For low level perpetrators such as Alagie Kanyi, BK Jatta, Pa Alieu Gomez in the event that they are granted amnesty, the Commission recommends that they are banned from holding public office for a minimum period of 10 years.**
5. The National Assembly should be given powers to initiate investigations into executive interference in the public service which may hinder lawful exercise of their functions.

THEME 4

The Convoy of the President - Accidents and Deaths

A. OVERVIEW

1. Between July 1994 and January 2017, the President’s convoy, travelled with a display of force and power. Shortly after the Armed Forces Provisional Ruling Council (AFPRC) ousted the People’s Progressive Party (PPP) government, Gambians started seeing Junta members travelling in convoys with heavily armed soldiers. The display of heavy weapons was a deliberate attempt to show The Gambian people that this was a military regime and by implication, the conventional rules did not apply.
2. As well as being heavily armed, the convoy travelled at an alarming speed without much regard to the road users who may accidentally or otherwise find themselves in the convoy’s way. Consequently, pedestrians, motorists, bystanders, and other road users who came into the convoy’s way got hit, beaten, or even shot. This led to many injuries and even loss of lives. Some victims became permanently disabled. All these road accidents and related incidences derived from the recklessness and or the incredible speed at which the convoy travelled even within highly populated areas.
3. In all the accidents causing death, or serious injuries, the convoy drivers who caused the said accidents and incidents were never investigated, prosecuted or held accountable for their actions. There was never an inquiry into how and why many people were killed by the convoys and how the situation could be averted or remedied. Where there was an investigation the culpability of the state employees/convoy personnel was never called into question.
4. The military Junta took over the country in the July 22 1994 *coup d’etat* with the message that they were soldiers with a difference and would bring prosperity and development to Gambians. However, soon after they consolidated power, they began to exert excessive force against the people they promised to protect. The Vice Chairman of the military Junta, then **Lt. Sanna B. Sabally**, drove in a convoy with heavily armed personnel who exercised dominance on the road and demanded that road users give way whenever his convoy was passing. Individuals who failed to do so were brutally dealt with by his bodyguards.
5. Over the years, **Yahya Jammeh’s** convoy also became even more dangerous. The President’s convoy included heavy vehicles which traveled at top speeds, with military escorts equipped with high-grade weapons. During President’s tours, former President **Yahya Jammeh** would throw biscuits and/or T-shirts to the crowd while the convoy is moving causing stampede as people push and shove each other for the biscuits/T-shirts, leading to many accidents involving children.
6. In many cases, road users were beaten for merely failing to stand up in acknowledgment of the President’s convoy. Soldiers in the convoy also shot vehicles they perceived as obstructing the road or failing to get off the road quickly enough when the President’s convoy was passing. As a result, several civilians, young and old, lost their lives and those that survived were abandoned, with no assistance from the State or the President.
7. In most of these cases, neither the victims nor their families received compensation from the President. None of the convoy drivers were held accountable or punished for their misconduct. As a result of this impunity, members of the President’s convoy became brazen and emboldened to drive with total disregard for the lives and wellbeing of road users. In essence, the large entourage, a big fleet of vehicles and heavy weapons were a show of force and strength which were all calculated to intimidate and further instill fear in Gambians.

B. FINDINGS

Based on the available evidence Commission finds that:

1. The evidence presented overwhelmingly shows that though this pattern of road brutality started with the convoy of the then Vice –Chairman of the AFPRC **Sanna B. Sabally** during the transition period, over the years, the organisation and structure of the presidential convoy were tightly controlled and micro-managed by former President **Yahya Jammeh**.
2. Soldiers in former President **Jammeh’s** convoy terrorized, traumatized, intimidated, bullied and beat other road users, including those by the roadside. Failure to stand up when the convoy was passing by was a crime they invented and they summarily inflicted punishment on those who did not show ‘respect’ to the President.
4. Instead of addressing the concerns raised about the convoy, including state house staff, **Yahya Jammeh’s** convoy became larger and more heavily armed. They drove around in dark, tinted vehicles with heavy machine guns and anti-aircraft guns mounted on some vehicles. Their main goal was to show strength, frighten, intimidate, and terrorize. This had a harmful effect on the psyche of the people.
5. The Commission finds that four issues relating to the Presidential convoy have been the major reasons for accidents that often resulted in the death of motorists, pedestrians and members of the crowds waiting to see Former President Jammeh and the other noted human rights violations that arose from the actions of the soldiers protecting the convoy. These include throwing of biscuits and T-shirts while the convoy was moving at top speed, failure to acknowledge the convoy and perceived threats to the convoy
6. The Commission received evidence that, there was failure on the part of Former President Jammeh and or those concerned to mitigate the real risks posed to the public and road users by the speed of the convoy.
7. There was complete impunity for the drivers and those that caused deaths and serious injuries to road users. Ironically, the victims of these accidents were subjected to more ordeals as they often treated themselves without government intervention. Their victimhood was exasperated by the calculated and deliberate failure of the government to compensate them or give medical assistance. Many were shunned and treated with contempt and total disregard by the government.
8. Former **President Jammeh’s** throwing of biscuits to crowds welcoming him were not only negligent acts but carried out without due regard to the consequences it may cause to members of the crowds that went out to welcome him. The Commission further finds that the fact that the occurrences of these deaths were repetitive suggested that Former **President Jammeh** knew about these deaths but did not care about the nature and consequences of his actions. He was also aware that death could occur as it did on several occasions when he threw biscuits to the crowds. The fact that he did not stop it suggests that **Yahya Jammeh** intended the consequences of his actions or accepted that these deaths could occur and could not care less.
9. The Commission finds that the four (4) incidents of deaths arising out of the biscuit throwing constitute unlawful killing and that the former president **Yahya Jammeh** and the perpetrators

- who were part of the convoys and directly caused the deaths are responsible for those four (4) unlawful killings.
10. Despite Lamin Sillah's denial of firsthand knowledge of the physical assault on Lamin Jarju by soldiers in the presidential convoy, The Commission believes that **Lamin Jarjue** was beaten by members of the presidential convoy thereby causing his death three days later. The Commission finds that this constitutes unlawful killing.
 11. With respect to the death of **Omar Kanyi**, the Commission finds that soldiers who were part of the Presidential convoy under the command of then **Cpt. Armando Jatta** attacked and killed **Omar Kanyi** by beating him with gun butts and kicking him without any lawful or justifiable reason. They attacked and killed **Omar Kanyi** because he rode his bicycle on the road when the Presidential convoy was about to pass. The Commission finds that this act constitutes unlawful killing. As the commander at that material time **Major Armando Jatta** knew that his men assaulted Omar Kanyi and failed to investigate and punish those involved in that act. **Major Armando Jatta** should be held accountable for the death of **Omar Kanyi**.
 12. The Commission believes that the case involving the shooting of the vehicle around Methodist Academy School, is an attempted unlawful killing of **Kisira Krubally**. This incident was known publicly and in fact reported in the press. There was no investigation or prosecution. Instead, state agents intimidated witness and vehicle owner **Abdoulie P.O. Njie** and recovered the incriminatory evidence from him. As such, **former President Yahya Jammeh** ought to be held responsible for this crime.
 13. The Commission finds that the case of **Abdoulie Barry** among many others demonstrated that **Ex-President Yahya Jammeh** had no regard for road users who come into contact with his convoy. The evidence clearly shows a pattern of protection of soldiers under him and shielding them from prosecution when they hit road users, killing or injuring them. The fact that he caused the victim in this case to be prosecuted for allegedly giving false information against him clearly shows that he was aware of the case. As such, **Yahya Jammeh's** failure to ensure that the culprit was prosecuted instead of the victim is in fact an offence in itself. As Commander in Chief of The Gambia Armed Forces, **hFormer President Jammeh** had an obligation to punish the soldiers known to have committed an offence. His failure to do so attracts command responsibility. For this reason, the Commission finds that **Yahya Jammeh** should bear responsibility for the reckless driving causing the injury of **Abdoulie Barry**.
 14. In the case involving a Swedish National, the Commission does not believe the testimony of **Lamin Sillah** who claims that the driver of the Mercedes Benz hit his vehicle. Rather the more realistic position is that **Lamin Sillah** deliberately blocked the path of the oncoming vehicle by coming unto it head on. The Commission believes that in this particular instance, the oncoming vehicle was viewed as a threat to the safety and security of the principal (former **-President Yahya Jammeh**). As such, the rules of engagement that the military members of the convoy take such action as is necessary to neutralize the threat would come into play. The question then is whether at that moment, **Lamin Sillah** used excessive force to neutralize the threat. The Commission finds that the circumstances described reveal that **Lamin Sillah** was confronted with an urgent need to act at the spur of the moment. He did not have much time to reflect on the situation and did not have any other tools at his disposal to avert the oncoming threat other than to place his vehicle in the path of the oncoming

- Mercedes Benz vehicle. For this reason, the Commission finds that **Lamin Sillah's** conduct was to be expected under the circumstances even though it led to the unfortunate situation where a foreign national lost his life in such terrible circumstances.
15. With respect to the incident involving the shooting of a Nigerian taxi driver by Almamo Manneh, the Commission finds that former **President Jammeh** as Commander In Chief knew that **Almamo Manneh** committed a very serious crime. Instead of ensuring the prosecution of **Almamo Manneh** for murder as required by law, **Jammeh** shielded **him** from prosecution thereby violating the law of command responsibility. On that basis, in his failure to ensure the investigation and prosecution of **Almamo Manneh**, **Yahya Jammeh** is liable for murder of the Nigerian taxi driver.
 16. Members of **Yahya Jammeh's** convoy violated peoples' rights at will. They acted with complete impunity. They beat, shot or killed motorists, pedestrians and sometimes mere bystanders by reason of their high-speed reckless driving. For many of these victims, their "supposed" crime was not acknowledging the convoy when it passed which was seen as disrespectful to **Jammeh**. Some victims of the reckless speed at which the convoy travelled, were perceived as security threats to **Yahya Jammeh**. The victims include the following:
 - i. *Alpha Bah, Mamud Fana, NBR (killed)*
 - ii. *Kadijatou Bah , Nemakunku (killed), and four (4) others seriously – Fatoumatta Tunkara, Mbansi Sillah, Sandeng Sillah and Natou Waggeh*
 - iii. *Mustapha Badjie, Tabokoto (killed)*
 - iv. *Abodulie Barry, Brikama (serious permanent injury)*
 - v. *Musa Bass, Brufut (killed)*
 - vi. *Bakary Camara, Serrekunda (shot)*
 - vii. *Isatou M. Ceesay, Busumbala (serious permanent injury), and five (5) killed at Lamin NTC Junction, WCR*
 - viii. *Lamin Chorr, Lamin (beaten)*
 - ix. *Kebba Dampha, Kaur (killed)*
 - x. *Modou Jallow, Tallinding (serious permanent injury)*
 - xi. *Lamin Jarju, Kaur (killed)*
 - xii. *Omar Kanyi, Abuko (Beaten to death)*
 - xiii. *Dawda Ngum, Denton Bridge (killed)*
 - xiv. *Kandeh and Modou Nyassi, Sintet (killed)*
 - xv. *Kisira Krubally, near Methodist Academy School, (shot in the arm)*
 - xvi. *Fatou Sanneh, (serious permanent injury)*
 - xvii. *Dembo Sibi, Numuyel, URR (killed)*
 - xviii. *Rohey Sonko, Dawda Jatta (child) and 2 other children (killed)*
 - xix. *Lamin Susso, Kanubeh Basse (killed)*
 - xx. *Adama Saïdy, Nyima Camara , Nachitu Mendy, Protected witness Banjul (KC48) and another student, Lamin (all serious permanent injuries) Daughter of Protected Witness (KB27) (killed)*
 - xxi. *Unknown truck driver, Barra (killed)*

17. **Yahya Jammeh** is responsible for the injuries and/or deaths of the persons listed above jointly and severally with his subordinates including **Cpt. Armando Jatta, Sulayman Jatta and Dawda Sanneh.**
18. Shortly after the takeover and in the very early days of the Junta's reign, Vice Chairman **Sanna B. Sabally** started travelling in a heavily armed convoy that beat and assaulted motorists and road users. Any motorist that was deemed to obstruct his convoy was mercilessly dealt with. **Sanna B. Sabally** introduced the culture of the intimidation and mistreatment of road users by the Junta. He and his subordinates **JCB Mendy, Baboucarr Njie (Ponkal)** among others are responsible for the beating and/or injury to:
 - i. **Abdoulie Tekanyi**
 - ii. **John Njie**
 - iii. **Fafa Ceesay**
 - iv. **Alo Bah**
19. **JCB Mendy** lied to The Commission that he was neither present nor aware of the incidents involving **Sanna B. Sabally's** convoy. The Commission finds that he is merely evading responsibility by providing false information about his knowledge of these incidents.

C. RECOMMENDATIONS

1. The Commission further recommends that members of the President's and Vice Chairman-Convoys, including former President **Yahya Jammeh**, be investigated and prosecuted for murder, manslaughter and other road traffic offences committed by them.
2. The Commission also recommends that Parliament enacts legislation and or regulations limiting the privileges of convoys, including the President's convoy. This could be included in the Motor Traffic Act or Highway Code.

THEME 5

Student Demonstrations

April 10 and 11, 2000

A. OVERVIEW

1. The April 10 and 11 2000 Student Demonstrations in The Gambia was sparked off by two incidents involving students which The Gambia Students Union (GAMSU) felt was not adequately addressed by the government and aggrieved the student population of The Gambia. The first incident involved **Ebrima Barry** a fifteen (15) year old Grade 10 student of Forster’s Technical High School in Brikama, Kombo South District, West Coast Region (WCR). **Ebrima Barry** died shortly after being physically assaulted by fire officers in Brikama. The second incident was the rape of **Binta Manneh** a Grade 7 student of Brikama Ba Upper Basic School, in the Central River Region by a security officer when she came to represent her school at the inter Secondary Schools Sports Competition at the Independence Stadium Bakau.
2. In line with their obligation of safeguarding the welfare and best interest of their membership **GAMSU** engaged the government to seek redress. The negotiations were unsuccessful. **GAMSU** decided to hold a ‘*limited peaceful demonstration.*’ The said demonstration was to have taken place on 10th April 2000 and students were to converge at the gate of Gambia Technical Training Institute (GTTI) at Kanifing for the procession. According to **Alieu Darboe** a member of The GAMSU Executive: “*on 9th April, 2000, the Executive held a meeting at St. Therese’s Middle School at Kanifing in which I was present. At the said meeting Mr. Alieu Khan, the President of Gambia College Sub-Union, informed us that the Secretary of State for Local Government and Religious Affairs, Retired Captain Lamin Kaba Bajo informed him that he heard that GAMSU was planning a demonstration. The said Secretary of State told Alieu Khan that he was going to arrange a meeting for some members of the GAMSU Executive Committee to meet the Vice President and some Secretaries of State in order to find a peaceful solution to the crisis over the death of Ebrima Barry and the raping of Binta Manneh.*” The meeting with the former Vice President, Her Excellency, **Isatou Njie Saidy** on the morning of the April 10, 2000 was overtaken by events.
3. Things turned out differently however. On the morning of April 10, 2000, hundreds of students had already converged outside the premises of The GTTI. Thereafter, the Police Intervention Unit (PIU) and later The Gambia National Army (GNA) were deployed to disperse the students. Some of the senior security officers including the then Army Commander **Baboucarr Jatta**, the Deputy Inspector General of Police (DIGP), **Sankung Badjie** were also on the ground. The then Secretary of State for Interior, **Ousman Badjie** was also present. With no coherent plan as to how handle the situation, it spiralled out of control when shots were fired by the security to dispel the protesting students and the students responded by throwing stones at the security personnel.
4. To escape from the assault by the security forces the converged students ran away in different directions. Other students in other locations upon hearing about the confrontation also converged and the whole of the Serekunda area from Westfield to Iceman in the Industrial Area and along the Brikama Highway were filled with student protestors and security forces. The security forces chased after them and beat and arrested a good number of them. They also fired tear gas and bullets which were supposedly blank ammunition but which turned out to be live bullets as in the process twelve (12) students a Red Cross Volunteer and a

- toddler died from gunshot wounds. Several students were seriously wounded and had to be hospitalised. One child was trampled upon in his home by students who were fleeing for their lives from the security forces.
5. In Banjul armed PIU were deployed from the Police Headquarters to patrol the city. Even though no deaths were reported in Banjul there were incidents of violence. Some security officers entered the premises of Saint Augustine High School, assaulted a teacher, seriously wounding him and fired indiscriminately into a class room resulting in glass shatter which wounded three (3) students.
6. Some persons capitalised on the situation and there was vandalism and looting of various public and private properties in the Greater Banjul Area (GBA) resulting in immeasurable economic loss.
7. On April 11, 2000 when news of the events of the April 10, 2000 student demonstrations reached the rural areas the students in the different parts of the country - Brikamaba, Janjangbureh and Bansang in the Central River Region (CRR), Basse, Upper River Region and (URR) and Barra and Essau in the North Bank Region (NBR) decided to come out in solidarity and support of their peers who were killed, wounded, brutalised and detained by the security forces. This time, the GNA was sent to curb the student demonstrations in the CRR and URR area and the NBR was handled by the Police. In handling the situation the students were manhandled, physical assaulted and shot at with live rounds. Two (2) died in the Brikamaba area, others were seriously wounded and hospitalised. Some were forcefully detained at Armitage High School and Janjanbureh prisons.
8. Thereafter, a commission of enquiry was set up by the State to investigate the incident. Subsequently, The State absolved those responsible for the violations by enacting the Indemnity (Amendment) Act 2001. This was intended to exonerate public officials, especially members of the security forces from liability for the violations that occurred during the demonstrations.
9. From August 19 to October 3, 2019, the Truth, Reconciliation and Reparations Commission (TRRC) heard testimonies from 32 witnesses including direct and indirect victims and those adversely mentioned and concluded hearings on April 10/11, 2000 Students’ Demonstrations investigative theme.
10. This report will provide the testimonies of victims that were presented at the public hearing of the TRRC on this theme and from other witness testimonies emanating from other themes as well and from the written statements that were submitted to the Commission. It will also present the testimonies of perpetrators and adversely mentioned persons and use this evidence to identify the human rights abuses and violations that occurred during this unfortunate incident which is described by many as “*one of the darkest days in The Gambia.*” Finally, recommendations will be made for the reform of those key institutions involved in perpetrating the atrocities.

B. FINDINGS

The Commission finds that:-

1. The evidence received by the Commission with regards to the Kanifing Municipality (KMC) suggest that all the shootings were done by the PIU officers. However, the commission of enquiry into April 10 and April 11 disturbances and other subsequent evidence indicate that both the PIU and the Army wore the same uniforms. As such, witnesses could have been mistaken as to the security entity that carried out the shooting at that material time. This makes it impossible under the circumstances for the Commission to state exactly which service is responsible for the shooting. However, it is evident that both the PIU and the Army were on the ground. Hence, both outfits are individually and severally responsible for all the human rights violations perpetrated against the students on April 10 and 11 2000.
2. The issue of whether the students provoked the situation is immaterial given the brutal response by security forces. There is overwhelming evidence as to the violations committed by the security forces across the country in response to the protest. One of the students died after their release from Janjanbureh Prison, where they had been detained illegally and tortured. Many of those who survived are still suffering from their injuries and are in need of urgent medical attention.
3. In total, twelve students, two toddlers and a Red Cross volunteer were killed by State Security officers during the April 10 and 11, 2000 incident. One of the children was a three (3) year-old toddler who was shot in the head and the third was a child trampled upon in a stampede when the students were fleeing from the PIU.
4. The evidence revealed that **Yahya Jammeh** instructed Vice President **Isatou Njie Saidu** to “*take care of the bastards in whatever way, in whatever form*”. The Commission concludes that these instructions were an order to shoot the student demonstrators. In addition, the Commission notes that:
5. **Isatou Njie Saidu** pursuant to the instructions of **Yahya Jammeh** instructed **Baboucarr Jatta** to deploy the army who complied by deploying soldiers with AK 47 rifles and the live rounds to push the demonstrators out of key installations resulting in the fatal shooting of the student demonstrators. The government also tried to cover up the illegal acts of the Army by saying that the shooting started from the students knowing same to be false.
6. In response to the brutality of the security forces, the students resorted to unruly behavior by engaging in violations against security officers and destroying public installations and private property.
7. **Yahya Jammeh** and **Isatou Njie Saidu** are responsible for the arbitrary arrest, unlawful detention, torture and rape. **Jai Sowe**, Officer Commanding Banjul Police Station, unlawfully authorized the supply of firearms and ammunition to Police Officers including **Gorgui Mboob**, **Yorro Mballow** and **Ousman Cham**.

8. The following officers: **Gorgui Mboob**, **Inspector Darboe**, **Modou Lamin Fatty**, **Abdoulie Bah**, **Modou Cham** and **Modou Gajaga** unlawfully entered the premises of St. Augustine’s High School in total disregard for the school authorities and recklessly launched a tear gas canister into a classroom full of students.
9. During the demonstration, **Gorgui Mboob** assaulted teacher **Ousman Sabally** by striking him with his baton and gun butt causing him serious injury.
10. **Gorgui Mboob** and other officers unlawfully shot into a building at St. Augustine’s High School resulting in unlawful damage and injury to three students namely, **Babucarr Jagana**, **Omar Sosseh** and **Ebrima Darboe**
11. **Gorgui Mboob** and **Inspector Darboe** participated in a conspiracy by State agents to cover up the full extent of the participation of the police by giving false testimony, concealing and fabricating evidence at the ‘Commission of Inquiry into Public Disturbances of 10th and 11th April 2000’ to mislead the Commission.
12. **Momodou Ceesay** and PIU officers under his command violated the fundamental human rights of students by beating, torturing and unlawfully arresting **Alhagie S. Darboe**, **Omar Joof**, **Aliou Darboe**, **Baboucarr Jonga** and two other unknown females.
13. **Baboucarr Sowe** failed in his responsibility as officer commanding operations to ensure that the operational orders were promptly disseminated to the relevant divisional commanders. He also failed in his responsibility by not taking control over the PIU officers on the ground amidst chaos and disorganisation.
14. **Baboucarr Jatta** failed as Army Commander to discipline his men involved in the unlawful shootings and killing of students at Brikamaba as well as the unlawful arrests, detention and torture of these students.
15. **Baboucarr Jatta** and **Wassa Camara** were responsible for giving false testimony and fabricating evidence at the ‘Commission of Inquiry into Public Disturbances of 10th and 11th April 2000’.
16. **Rex King** as IGP failed to ensure operational preparedness of the Police to handle demonstrations of the nature seen on April 10 and 11, 2000. It was a dereliction of duty on the part of **Rex King** for refusing to take the necessary steps to address the situation as legally required.
17. **Abdou Giri Njie** shot at the students in Brikamaba using live rounds which resulted to the deaths of **Sainey Nybally** and **Ousman Sabally**.
18. Corporal **Lamin Camara** and his men including **Private Aliou Kambi**, **Paul Mendy** and **Abdou Giri Njie** also participated in the unlawful arrest and detention of students including **Malick Jallow** and **Hamadi, Sowe** and the beatings and torture of other students.

19. **Isatou Njie Saidy, Baboucarr Jatta and Ousman Badjie (Secretary of State for the Interior)** tried to cover up their illegal actions that led to the deaths and injuries of the students by providing false and misleading information to the ‘Commission of Inquiry into Public Disturbances of 10th and 11th April 2000,’ and to the TRRC when they stated that the students were carrying banners stating “Sopi” which suggested that the students were advocating regime change.
20. **Baboucarr Jatta** provided false and misleading reports before the ‘Commission of Inquiry into Public Disturbances of 10th and 11th April 2000’ and to the TRRC by stating that the soldiers did not fire their weapons.
21. There were series of inconsistencies and contradictions by state officers in the ‘Report of Commission of Inquiry into Public Disturbances of 10th and 11th April 2000’, as well as a failure to investigate the persons responsible for the violations. This points to the conclusion that there was an orchestrated cover up by the State. Additionally:
22. The indemnity act enacted in 2001 to absolve security officers of all liabilities was intended to protect former **President Yahya Jammeh** who gave the order to shoot the students.
23. The following individuals were killed:

APRIL 10, 2000

- i. **Reginald Carrol** of 7 Grant Street, Banjul
- ii. **Omar Barrow** (Red cross volunteer) of Banjul of Latrikunda German
- iii. **Momodou Lamin Chune** of Serekunda
- iv. **Lamin A Bojang** of Jambur
- v. **Perrera Calisco** of New Jeswang
- vi. **Karamo Barrow** of Ebo Town
- vii. **Momodou Lamin Njie** of Ebo Town
- viii. **Mansally Wuyeh** of Talligding Kunjang
- ix. **Amadou Ablie Sajaw** (3 year old boy)
- x. **Burama Badjie** (10 year old boy) of Talligding
- xi. An unidentified corpse in the mortuary
- xii. **Ousman Sembene** (3 year old boy shot in the head)

APRIL 11, 2000)

- xiii. **Ousman Sabally** of Kerewan Samba Sire
- xiv. **Sainey Nyabally** of Dasilameh Village (12 year old boy)
- xv. **Bamba Jobarteh** (Armitage student tortured and detained at Janjangbureh Prisons and died shortly thereafter)

24. The RVTH was:
 - (a) inadequately equipped to deal with emergencies of such nature;
 - (b) the hospital personnel were negligent in sending two injured people to the mortuary without verifying whether they were alive.
25. As a result of the heavy-handed action of the security forces, some students are still left permanently incapacitated (mentally, physically and emotionally) and require further medical support and continuous assistance. Two student still suffered from mental disability as a result of the psychological trauma.
26. The victims were unfairly and unlawfully denied access to medical records which were needed for further treatment. The seizure of these documents further limited the possibilities of the victims to seek more expert help abroad.
27. Three students, **Sainey Senghore, Assan Suwareh and Yusupha Mbye** were taken to Egypt for further treatment medical treatment by virtue of the severity of their injuries. The State failed to provide the funds needed to take care of their medical bill, resulting in them being prematurely discharged. Consequently the three became permanently disabled.

C. RECOMMENDATIONS

Taking the totality of the evidence as a whole the Commission recommends:

1. **Yahya Jammeh** as Commander in Chief of The Gambia Armed Forces should be prosecuted for all the atrocities against students such as arbitrary arrests, unlawful detentions, tortures, assaults causing harm and killings of the demonstrators by reason of:
 - i. The orders and instructions he had given.
 - ii. Failing to investigate and prosecute members of the security forces who committed the violation and for seeking to seal them from responsibility via the Indemnity Act.
2. **Isatou Njie Saidy, Baboucarr Jatta and Ousman Badjie** should be prosecuted for the arbitrary arrests, detentions, tortures, injuries and killings of the demonstrators.
3. By the Commissioners present and voting, the majority voted in favour of prosecuting **Isatou Njie Saidy** and imposing a ban on her from holding public office for a period of ten (10) years and **Yahya Jammeh** is banned from holding public office for life for their roles in the massacre of students on April 10 and 11, 2000.
4. **Baboucarr Jatta** should be prosecuted and banned for ten (10) years for the unlawful arrests, detention, torture, injury and killing of the demonstrators.
5. **Abdou Giri Njie** should be prosecuted for the unlawful arrest, detention, torture and for the unlawful shooting resulting in the deaths and injury of two students **Sainey Nybally** and **Ousman Sabally**.
6. **Corporal Lamin Camara** should be removed from office if he is currently employed and banned from holding any public office for five (5) years for knowingly providing false information.

7. All those recommended above for prosecution should be banned from holding public office for a period of not less than five (5) years if they have not been prosecuted or if they have been granted amnesty.
8. **Gorgui Mboob** should be prosecuted for the assault and injury of **Ousman Sabally**. He should be banned from holding public office for five (5) years.
9. All those who were with **Gorgui Mboob** at St. Augustine's **High School including Modou Lamin Fatty, Abdoulie Bah, Modou Cham and Modou Gajaga** should be subjected to internal disciplinary mechanisms if they are still occupying public office.
10. **Baboucarr Sowe** and **Momodou Ceesay** should be banned from holding public office for five (5) years.

11. The government should:

- a) Provide proper training to the security forces on crowd control (riot management), and all other relevant security and legal issues concerned with the management of violent demonstrations and riots. In addition, the government should provide the security forces with appropriate equipment and materials needed for demonstrations or protests of this magnitude.
- b) The Ministries of Basic and Secondary Education and Tertiary Education should consider:
 - i. *Declaring April 10 or 11 a school holiday or to develop other arrangements to memorialize the sad events and ensure a non-recurrence of what happened in 2000.*
 - ii. *Putting in place mechanisms to (a) meet with student bodies annually to discuss issues of concern to the students, and (b) facilitate and enhance setting up an official channel of communication to deal with student complaints on a timely and effective basis.*
- c) Set up a rehabilitation centre or a fund to provide medical assistance and support for victims who have been left permanently incapacitated (mentally and physically) as a result of this incident.

THEME 6

Attack on Political Opponents

A. OVERVIEW

1. When the military Junta took over the country, they made it known that they will not tolerate any form of criticism against their rule. The Junta justified the coup by alleging that the government of **Sir Dawda Jawara** was corrupt and government officials lived lavish lifestyles at the expense of the people. They presented themselves as saviours that had come to redeem the country from corrupt and selfish rule and espoused a doctrine of “accountability, probity and transparency”.
2. To entrench themselves and consolidate power, they set out to crush any form of opposition by unlawfully arresting, torturing and detaining prominent Ministers and politicians and of the former government like **Omar Amadou Jallow (O.J Jallow)**, **Alhajie Mamadou Cadi Cham (M.C. Cham)** and others in the aftermath of the coup.
3. This trend intensified in October 1995 with massive arrests of over fifty prominent politicians and ordinary civilians. Some of the detainees were severely tortured at the National Intelligence Agency (NIA) and at Fajara Barracks by personnel of the State Guard and NIA. They were subsequently detained in inhumane and degrading conditions in an old store at Fajara Barracks for over a year without following due process of the law. Comments made by soldiers and NIA officers during the torture sessions suggests that they were carrying out the orders of the military Junta. The mounting pressure from opposition parties on the Junta forced them to release the detained politicians in November 1995.
4. The military Junta resigned from the Army and formed a political party. The AFPRC announced its decision to transition to civilian rule, leading to the establishment of the Alliance for Patriotic Re-Orientation and Construction (APRC). The AFPRC/APRC wanted to win the elections at any cost, so they set out to do the following:
 - a) *Delay the movement of the UDP, seen as APRC’s biggest threat in the polls, at the start of the campaign to limit their progress.*
 - b) *Arrest members of the UDP during the campaign trail to intimidate and instil fear amongst its supporters.*
 - c) *Attack and beat supporters of the UDP party. Some of the supporters that were arrested and unlawfully detained in different locations were **Sainey Sabally, Seyaka Sonko, Kemesseng Jammeh and Lamin Waa Juwara.***
5. The PPP, NCP and GPP were banned from contesting the 1996 election. Prominent Gambian lawyer **ANM Darboe (Ousainou)** the leader of the newly formed Democratic Party (UDP) in 1996, was detained without serious justification before he was later released. In September 1996, supporters of the UDP were attacked at Westfield by APRC supporters and by soldiers who ambushed them at Denton Bridge and subjected them to brutal torture them in the presence of **Yankuba Touray** and **Edward Singhatey**, then Junta members. Two persons died as a result of the torture. These were **Kebuteh Jaffuneh** and a young unidentified woman. Many sustained permanent injuries. The APPRC won a landslide in the 1996 election which many observers concluded was not free and fair.
6. Even after evolving from military to civilian rule, the characteristics of the AFPRC remained unaltered and ruthless attacks on the opposition continued to pervade undiminished. From

2001 to 2006, the government of **Yahya Jammeh** used its institutions and supporters to violate the rights of the leaders of the opposition parties and their supporters. The leaders and members of the UDP lived in constant fear without much protection from the law.

7. When some former PPP Ministers decided to speak in defence of their party and show defiance against what they believed was an unlawful action of the military to usurp the constitutional order through a coup d’état, the Junta decisively sought to neutralise the PPP by arresting and detaining its executive members as well as ordinary PPP supporters. Bystanders who had nothing to do with the demonstration were also arrested, detained and tortured. Any dissent, especially from the PPP top brass, was seen as an attempt by the old guard to unsettle and destabilise the new regime and the Junta employed heavy-handedness so as to crush the PPP.
8. Prominent PPP politicians like **Alhagie M.C. Cham** and others were “humiliated, dehumanized, disgraced,” by soldiers to break their resolve and spirits. During their detention at Mile II Prison, the political detainees at the Remand Wing had little freedom, liberty and access to social amenities. The detention conditions were sub-human and degrading and this was deliberate to punish the detainees. The arrests and unlawful detention of the former PPP ministers at the Mile II Prisons were the beginnings of a much bigger plan to crush any form of opposition to the Junta’s reign. The Junta did not honour its promise of handing over power to a civilian government. Instead, they launched a campaign to persecute members of the opposition parties to intimidate them and instil fear in the opposition and the population at large.
9. Other political parties also suffered from the brunt of Jammeh’s attack against politicians. On Saturday March 31 2012 at Sabach Njaien Village in the Sabach Sanjal District, North Bank Region of The Gambia over sixty persons were arrested at the home of **Hon. Ousman Touray** the former Councillor and the NRP Candidate in the National Assembly. The arrests came in the wake of the National Assembly Election for Sabach Sanjal Constituency. The arrested persons both men and women were physically assaulted and detained at Farafenni Police Station. One of the women suffered a miscarriage in the police station and was not given medical attention. They were detained at the police station under inhumane and degrading conditions and arraigned before the Farafenni Magistrates’ Court on Tuesday 3rd April 2012 on trumped up charges of resisting arrest and fighting with the police. They were granted bail in the sum of D500. The case against them did not proceed. The NRP Candidate, **Ousman Touray**, was denied bail and eventually taken to court and charged and fined D50, 000 (Fifty Thousand Dalasis).
10. In April 2016 the brutal crackdown against UDP continued. On Thursday April 16, 2016, the top executive of the party including, the UDP Leader, **Ousainou Darboe** were arrested and detained. Several other peaceful demonstrators were severely wounded by security forces led by officers from the Police Intervention Unit (PIU) for holding a peaceful demonstration demanding to see ‘Solo Sandeng dead or alive’ and the release of about twenty five (25) demonstrators who had been arrested on Thursday April 14, 2016. Those arrested included **Fatoumatta Jawara, Fatoumatta Camara, Modou Ngum, Nokoi Njie, Solo Sandeng, Kafu Bayo, and Ebrima Jabang** who were protesting for electoral reforms. Some of them including **Solo Sandeng** were taken to the NIA where they were seriously tortured. **Solo Sandeng** died while in custody at the NIA. His matter is currently before the courts. The

three women (**Fatoumatta Jawara, Fatoumatta Camara and Nogui Njie**) were detained at the NIA for 14 days before being moved to Mile II Central Prisons where they met other UDP women including **Jukuna Susso**.

11. Following the arrests of the **Ousainou Darboe** and other prominent members of the UDP in April 2016, the “Kalama” revolution was born as women mobilised to stand against and condemn the brutality of the state. On May 9, 2016, the PIU arrested members of the “Kalama” revolution and detained them without due process of the law. The crackdown on these women was intended to crush them in the same violent manner as the April 16 incident.
12. Following a politically motivated prosecution, the UDP supporters were subsequently convicted and sentenced to imprisonment for three years for holding a demonstration without a permit among other charges. They were eventually released on bail after spending nearly eight months in prison by The Gambia Court of Appeal on December 5, 2016, pending the hearing of their appeal of the three-year jail term that was handed down by the High Court in July 2016. The decision to them grant bail came in the wake of former President **Yahya Jammeh’s** election defeat to opposition coalition candidate **Adama Barrow** on December 2, 2016 and his surprising announcement conceding power after ruling the country for twenty two (22) years.
13. On June 3, 2016, **Yahya Jammeh’s** rhetoric against Mandinka’s appalled **Adama Dieng**, the UN Special Adviser of the Secretary-General on the Prevention of Genocide and provoked a statement from him which read: *“On 3 June in Tallinding, President Jammeh allegedly referred to the Mandinka as “enemies, foreigners” and threatened to kill them one by one and place them “where even a fly cannot see them.” -----“I am profoundly alarmed by President Jammeh’s public stigmatization, dehumanization and threats against the Mandinka.”* He further went on to describe the statement as hate speech and that it was irresponsible and extremely dangerous as it had the potential to divide populations and *“incite violence against populations based solely on their identity.”*

B. FINDINGS

THE COMMISSION FINDS THAT:

1. During the 1996 election campaign, the APRC created a militant youth group called July 22nd Movement. As the name plainly suggests, it was derived from the date the AFPRC took over power. The July 22nd Movement enjoyed the protection of the leadership of the APRC giving it latitude to terrorise members of the newly formed UDP supporters and other opposition supporters with complete impunity.
2. From the early days of the APRC, the justice sector institutions such as the Ministry of Justice, Police and the Judiciary were used to suppress and intimidate the members of the opposition parties. The politically motivated prosecution of **Kemesseng Jammeh** and others in Farafenni in 1996 during the campaign in relation to an alledgedd altercation with members of the July 22nd Movement in which only the opposition members were charged and prosecuted, before the court later dismissed the case for lack of evidence.

3. The July 22nd Movement later evolved into the Green Boys. Their main objective and operations were promoting Jammeh’s political agenda. Some members of the Green Boys were recruited in the security services and armed forces such as the Police, Prisons, Army and Immigration to act as spies for Jammeh and his ruling APRC party.
4. A group of armed soldiers led by **Edward Singhatey** and **Yankuba Touray**, executive members of the newly formed APRC, attacked UDP supporters travelling in a convoy to a political rally in Banjul. They were ambushed at Denton Bridge and subjected to the most brutal assault by soldiers during that campaign period. This happened in the presence of **Singhatey, Touray, FRI Jammeh** and **Almamo Manneh**. The severe beatings led to the deaths of two UDP supporters shortly afterwards. Even though **Edward Singhatey** denied participating in the beatings he accepted that he was present and that he did not do anything to stop them.
5. **Lamin Waa Juwara** was arrested in relation to the Brikama mosque dispute on the May 19, 1998 after Magrib prayers by paramilitary men. Even though he had no connection with issue. He was arrested with **Imam Karamo Touray, Samsam Sanneh, Malang Kalifa Jatta, Bakary Jatta, Jerrehba Touray, Ba Jerreh Touray (late), Karamo Banna Bojang, Ousainou Touray and Abdoulie Sanneh** in connection to the destruction of a section of their mosque. They we taken to Brikama Police station and later moved to Mile II Prison where they were detained incommunicado for at least two (2) weeks before being arraigned at Brikama court. While they were being taken to Mile II Prison, they were seriously beaten by members of the July 22nd Movement under the orders of the late **Baba Jobe**.
6. Some UDP supporters were arrested, detained and severely tortured by the NIA in 1997. One of the victims was subjected to extreme sexualised torture, leading to a permanent dysfunction of his manhood. The Commission however, was unable to ascertain the persons responsible.
7. In the 2011 incident involving NRP supporters, the Police, under the supervision of **Gorgui Mboob**, are responsible for the physical assault, psychological trauma and detention of Hon. **Ousman Touray** and sixty other persons under inhumane and degrading conditions. Those arrested included six pregnant women who were exposed to extremely harsh conditions. As a result of these conditions and the trauma experienced, some of these pregnant women suffered miscarriages one in the police cell itself and she received no medical care.
8. Between 1996 and 2016, opposition members were at risk of being arrested at any time and place without any due process or access to a lawyer. Most of them were subjected to cruel and inhumane treatment and some disappeared without any trace. Often, the State denied knowledge of the whereabouts of individuals who were arrested by its agents. In cases where state agents violated the rights of opposition supporters, no action was taken to punish or prevent such violations in the future. Consequently, the State was complicit in the systemic violation of the rights of the opposition, especially the UDP.

9. The PIU and the NIA are responsible for the arbitrary arrests, detention, physical assaults, torture and inhumane and degrading treatment of the UDP supporters arrested in April and May 2016.
10. The PIU brutally dispersed the protesters throwing tear gas into the crowd without warning. The protesters were arrested, manhandled and some of the women were sexually assaulted.
11. The detention of **Kaddy Samateh** and her infant **baby Aisha** and other women at the PIU for eleven days and being subjected to forced labour was a violation of their fundamental rights and freedoms. Their subsequent arrest and detention at Banjul Police Station by Superintendent **Almami Manga** without any order while on a court bail was a violation of their rights and an affront to the sanctity of the rule of law.
12. The Public Order Act was over the years used by the Police as a weapon to restrict and suppress the freedom of movement and association of opposition parties.
13. The Commission is satisfied that during the march the PIU attacked peaceful protesters on April 14, 2016 and threw tear gas into the crowd without warning. The protesters were arrested, manhandled and some women were sexually assaulted. They were transferred from the PIU headquarters to Mile II Prison without being charged with any offence.
14. During the trial of the UDP protesters, a defiant group of UDP women started the “Kalama revolution” with brooms and calabash as traditional symbols calling for an end to dictatorship. This movement was crushed on the May 9, 2016 with brutal force, leading to the arrests and unlawful detention of about forty protesters.
15. **Yahya Jammeh** used derogatory remarks against the Mandinka ethnic group who were predominantly members of the UDP and incited violence against them. This contributed to the deeply rooted political divide on tribal grounds in The Gambia.

C. RECOMMENDATIONS

The Commission recommends as follows:

1. To prosecute **Edward Singhatey** and **Yankuba Touray** for the torture and inhumane treatment of the UDP supporters at the Denton Bridge in September 1996.
2. To take administrative and internal disciplinary measures against **Superintendent Almami Manga** for unlawfully detaining an infant and her mother without a court or other lawful order.
3. There should be a comprehensive review of the Public Order Act by the National Assembly with a view to amending it to be in line with international human rights instruments and customary standards.
4. To develop an effective training manual for the Police on crowd control and the use of force during riots and protests.

5. There should be a comprehensive review of the Public Order Act with the view to amend it to bring it in conformity with international human rights standards.
6. Develop a training manual on crowd control and use of force by The Gambia Police Force, specifically the PIU.
7. The spirit of reconciliation anchored on social cohesion, harmony and mutual co-existence regardless of political differences should be pursued and strengthened in communities across the country.
8. Consideration be given to passing of legislation to criminalise hate speech and making derogatory remarks against any ethnic group.

THEME 7

Attack on Freedom of Expression and the Media

A. OVERVIEW

1. Freedom of expression is a fundamental human right and is a necessary condition for promoting public participation, accountability, and democracy in any country. The right to freedom of expression extends to holding, receiving and imparting all forms of opinions, ideas and information. **Former President Yahya Jammeh** wanted to entrench himself in power. He knew that in exercise of its functions to bring information to the people which can affect public participation and accountability in the democracy of a country, the press and media in general can be a potent threat to his self-perpetuation in power.
2. Under the pretence of a civilian and democratic rule, **Yayha Jammeh**, the then president of The Gambia from 1994 to January 2017, subjected Gambian journalists to severe human rights violations. Journalists were jailed, threatened, tortured, disappeared, exiled or killed. **Yahya Jammeh** and his agents limited freedom of expression to instil fear in everyone, including the media, whether print or broadcast.
3. The media fraternity became concerned by the continuous violations of the right to freedom of expression and access to information in The Gambia due to the arbitrary arrests, detention, prosecution, imprisonment, harassment, intimidation, threats, arson, disappearances, extra-judicial killings, physical attacks, destruction of media house and closure of media houses that criticized the government or even reported actual events. Further, there were concerns regarding the repressive laws that imposed unwarranted restrictions on published material and allowed the government interference with the media, limiting the enjoyment of freedom of speech and access to information. The media fraternity in general did not succumb to the violation of their rights by **Yayha Jammeh** or his agents even though some practiced self censorship to escape reprisals. Those who resisted increased the tension between the government and the media with severe consequences.
4. This theme's focus is the suppression by **Yahya Jammeh** of the media and the freedom of the press, most specifically through arbitrary arrests, detention, torture and enforced disappearance of journalists during his dictatorship.
5. The Commission heard testimonies of seventeen (17) witnesses who were mainly journalists and media practitioners who suffered human rights violations in the hands of state agents. The Commission heard testimonies on the extrajudicial killing of **Deyda Hydara** in 2004 and how this incident was a turning point on the attacks meted on journalists on orders of **Yahya Jammeh** given to security agents.
6. Consistent with his primary objective of self-perpetuation in power as evident in his statements that he would rule The Gambia "for one billion years", **Yahya Jammeh** took all necessary steps to remove or neutralise any threats including the media to his position as head of State of The Gambia. He targeted journalists and media houses, denouncing and attacking media practitioners and calling them "*illegitimate sons of Africa*" and other such names as he did the Coalition of Human Rights Defenders who also sought justice against human rights violations perpetrated by the **Jammeh** regime. He subjected them to gross human rights violations to the extent that many of them left the country and went into self exile for fear of further/being persecuted.

B. FINDINGS

From evidence of the witness testimonies, the Commission notes the consistency of the witnesses in narrating the incidents of harassments, arbitrary arrests, unlawful detentions and torture of media practitioners who the **Jammeh** regime perceived as its enemies. All the witnesses who testified on this theme speak about the same incidents with a great degree of similarity. It may thus be concluded that the witnesses are very credible and that their testimonies in general ought to be believed. The Commission finds that:

1. There was a very short period of cooperation between the Jammeh government and the media. It appears to the Commission that from the outset, **Yahya Jammeh** viewed freedom of expression and of the press as a real and credible threat to his tyrannical rule. He therefore devised means to muzzle and silence the media. With the failed charmed offensive towards the media of the early days, former **President Yahya Jammeh** resorted to other means to deal with journalists.
2. **Former President Yahya Jammeh** used a multi pronged approach in dealing with the media. It is obvious from the evidence that **Jammeh** did not want or entertain any criticism of himself or his government from any quarter. The over 140 arrests and detentions of media practitioners shows a deep-seated intolerance for freedom of expression and the media exercising its functions of promoting public participation, accountability, and democracy as he viewed this as a threat to his power.
3. **Former President Yahya Jammeh** used the law (the existing colonial legislation or drafted new laws of a draconian character) to silence or muzzle the media. Attempts to silence the media through legal means included making changes to the relevant laws and also making the requirements more stringent as in Decree Number 4 that essentially banned political expression. The aim was to tighten the legal noose around the necks of media practitioners by making legal conditions for registration more difficult for newspapers and/or other media platforms, making fines/penalties for violations much stiffer and criminalising certain acts that ought not to be made criminal in a progressive democratic society. The ultimate objective of all these being to ultimately instil fear in the hearts of media practitioners in the country and deter them from being critical to him.
4. This did not deter the media fraternity as they resisted by being openly defiant as in the case of the *Foroyaa* newspaper-**Halifa Sallah** and **Sidia Jatta** who were eventually arrested, detained, prosecuted and convicted for distributing their newspaper when they were banned from so doing.
5. A consistent pattern of conduct by former **President Yahya Jammeh** which points to a trend that any citizen who dared go against him or his wish or state publicly a view or share information that may be construed as poor portrayal/critical of his government would be branded an enemy who had to be dealt with.
6. Most if not all media practitioners who were arrested and detained at the NIA (which is part of the Office of the President) were tortured. The tortures where mostly carried out

by Junglers brought in from State House. This could not have happened without the direct involvement of **Former President Yahya Jammeh** himself. This consistent pattern of torture at the NIA of journalists who **Yahya Jammeh** considers as his enemies demonstrates a state or organisational policy to torture persons involved in cases that **Yahya Jammeh** had an interest in.

7. **Former President Yahya Jammeh** was prepared to go to any length in his attacks on the media. The treatment of the broadcast media which had a deeper reach and more easily accessible to the masses was more stringent than that of newspapers. The arson attacks on (i) *Radio 1 FM*, causing injury to the owner, George Christensen, (ii) the home of Ebrima Sillah former *BBC* Correspondent and (iii) the closure of *Citizen, Sud FM* and *Teranga* radio stations including the harassment, arrests and detention of Abdoulie Ceesay proprietor of *Teranga Fm* show that Jammeh was intolerant to the broadcast media.
8. **Former President Yahya Jammeh** was also brutal to the print media. The evidence on the attacks of *The Independent* newspaper, the attacks on **Ebrima Ceesay** and the enforced disappearance of **Ebrima Chief Manneh** are just examples of the extent he would go to silence journalists and media houses he viewed as his enemies.
9. **Deyda Hydara** might have caused great discomfort to **Former President Yahya Jammeh** through his column “*Good Morning Mr. President*” which he used as a platform to effectively criticise then **President Jammeh** and his stoic efforts that finally led to the repeal of the National Media and Communications Act. These two activities caused **Yahya Jammeh** to order his junglers to assassinate **Deyda Hydara** in 2004. The Junglers have testified before The Commission and confirmed that they carried out the assassination on **Yahya Jammeh’s** orders.
10. **Former President Yahya Jammeh’s** hatred for the media could not be more exemplified than by his visceral hatred for **Pa Nderry M’bai** who for more than a decade made it a preoccupation to constantly reveal the most scandalous secrets of the **Jammeh** government. Due to the fact that **Pa Nderry M’bai** was abroad and out of Jammeh’s reach he devised several means to silence him including by blocking internet access to the **Freedom Online Newspaper** site and attacking known users of the site. The alleged hacking of the **Freedom Online Newspaper** and the subsequent arrests and brutal tortures of individuals who were discovered to have used the site further shows the extent to which **Jammeh** would go to deal with his perceived enemies, especially those in the media. The Commission further finds that the evidence given by of the witnesses is credible including the inclusion of **Pa Nderry M’bai** as the number two person on **Yahya Jammeh’s** spiritual hit list.
11. In addition to enforced disappearances, unlawful killing or arson attacks, **Yahya Jammeh** also used other means such as deportation to silence the media. The Commission notes the instances of at least seven deportations of journalists from The Gambia including **Kenneth Best** and the making of conditions so untenable that many journalists left the country.

12. The government of the day had very little respect for the journalists' commitment to keeping their source. Journalists including **Pap Saine, Aliou Badara Sowe, Bruce Asemota** and others were frequently questioned about their source and where they refused to divulge the source they were arrested and detained. Whistleblowers would be too scared to pass on information to reporters in confidence; individuals, businesses and governments would be able to get away with whatever they wanted without the scrutiny the press - or fourth estate provides.
13. Even though **Former President Yahya Jammeh** was not present neither did he directly participate in the following crimes, the Commission concludes that **Yahya Jammeh** is ultimately responsible for the crimes for the following reasons: The confessions by the Junglers that they carried out the criminal acts on the orders of **Yahya Jammeh** through their senior officers at State House who in turn ordered the Junglers to carry out the acts.
 - ii. *The fact that **Yahya Jammeh** knew that Junglers who were directly under his command and control committed criminal acts publicly complained about and failed to have them investigated and prosecuted.*
 - iii. *In the case of the murder of **Deyda Hydara** and the arson attack on Radio 1 FM, the confessions of the Junglers and in particular the confessions of **Bai Lowe** that they carried out these acts with the knowledge of **Yahya Jammeh** and on his orders and the fact that he **failed** to respond to complaints about these acts also show that he had foreknowledge about the violations and gave orders that they be done.*
 - iv. *The failure of the government to genuinely investigate the crimes and in the case of **Deyda Hydara** the efforts of the NIA to cover up the crime of The Junglers by fabricating false evidence seeking to paint **Mr. Hydara** in poor light and blame him for causing his own death in the hands of a jealous civilian.*
 - v. *Statements by **Yahya Jammeh** trivializing the value of investigating the **Deyda Hydara** case show that he had something to hide about that case.*
 - vi. *The arrest and detention of the GPU Executive (**Emil Touray, Pap Saine, Sarata Jabbi, Pa Modou Faal and Sam Sarr**) when their President **Ndey Tapha Sosseh** wrote an open letter to **Yahya Jammeh** asking him to do a proper investigation of the death of **Deyda Hydara** and to desist from smearing the name of the deceased journalist.*
 - vii. *Statements by **Yahya Jammeh** calling journalists names with the intention of reducing their standing in the society as well as pitting journalists against members of the public.*
 - viii. *Amendments or creation of laws that are repressive in character aimed at silencing journalists.*
 - ix. *The numerous arbitrary arrests, unlawful detentions, inhumane and degrading treatment, physical assaults and and tortures that were carried out by state agents (NIA and Junglers) who were under the direction and control of the Office of the President or the President himself – effectively under **Yahya Jammeh**.*

- x. *The numerous pardons that **Former President Yahya Jammeh** had given to journalists who had been arbitrarily arrested, detained and tried or convicted under unjust laws by complaint judges including, **Halifa Sallah, GPU and others** show that **Yahya Jammeh** was in charge and knew everything that was going on.*
14. All these put together establish clear indicia by which responsibility for these crimes / human rights violations can be placed squarely on the shoulders of **Yahya Jammeh** and the Junglers.
15. **Lamin Cham** in his testimony indicated that when he was tortured at the NIA, **Foday Momodou Hydara** and **Nuru Secka** subsequently interviewed him. He however did not attribute any responsibility for his torture on these two individuals. The Junglers in their testimonies confessed to having carried out these tortures. As such, the Commission makes no adverse finding against **Foday Momodou Hydara** and **Nuru Secka** about these tortures.

C. RECOMMENDATIONS

THE COMMISSION RECOMMENDS THAT:

1. **Former President, Yahya Jammeh** should be investigated and prosecuted for the murder of **Deyda Hydara**, the disappearance of **Chief Ebrima Manneh**, the arson attacks on Radio 1 FM and The Independent newspaper and torture of all journalists and other persons mentioned in relation to the Freedom Online Newspaper issue.
 2. An investigation be carried out for the purpose of prosecuting the Junglers who participated in the murder of **Deyda Hydara**, arson attack on Radio 1 FM, attacks on The Independent newspaper and torture of the journalists and other persons mentioned in relation to the Freedom Online Newspaper issue bearing in mind any recommendations for Amnesty that may be made in relation thereto.
 3. A study be carried out on the Criminal Code and the Criminal Offenses Bill 2020 and the Criminal Procedure Bill 2019 with a view to removing/repealing or amending any provisions contained in it that are repressive or unduly restrictive or inimical to freedom of expression and of the press in a democratic society.
 4. There should be a review of domestic laws relating to the media and carry out a comprehensive review of the regime with a view to bringing The Gambia's laws regulating the media in line with international standards and international best practice. Such a review shall include the National Media and Communication Act 2002, The Newspaper Registration and Broadcasting Act, and the Information and Communication Act 2009,
- The government should:**
5. With immediate effect, repeal all repressive legislation, including legislation that does not comply with international and regional human rights law, particularly the Information and Communication (Amendment) Act 2013 and Criminal Code (Amendment) Act 2013; being criminal libel and defamation. The Newspaper Act;
 6. Take all necessary steps to ensure that all journalists are able to freely exercise their right to freedom of expression without fear of arrest, detention, intimidation, or harassment.

7. Ensure media and freedom of expression provisions contained within the Constitution comply with international standards, as outlined under article 19 of the International Covenant on Civil and Political Rights (ICCPR).
8. Provide comprehensive training and reform of the security sector to understand journalism and the importance of freedom of expression in a democratic government.
9. Issue a standing invitation to all UN special procedures, including the Special Rapporteur on freedom of opinion and expression.
10. Finalize a comprehensive reform agenda for laws restricting media freedom and freedom of expression, in line with the recommendations of the National Media Law Committee, transparently and with the full and effective participation of civil society, and submit this to the National Assembly without delay the draft Media law that provides for an independent regulation.
11. Repeal Section 173A of the Information and Communications Act 2009 (as amended 2013).
12. Reform the Criminal Code to fully protect media freedom and freedom of expression, in particular by decriminalising sedition and defamation, ensuring that individuals' reputational interests can only be safeguarded through civil litigation, in conformity with international human rights law.
13. Ensure media independence, including through reforms to Chapter IV of the Information and Communications Act 2009 and the repeal of the Newspaper and Broadcasting Stations Act 1994 (as amended in 2004), in particular, to ensure that broadcast content regulation is within the competence of an independent regulatory body applying standards in compliance with international human rights standards, and ensure the establishment of an independent public service broadcaster and the transformation of the GRTS into a public service broadcaster.
14. Review and reform legislation providing for government secrecy, such as the Official Secrets Act 1922, to bring it in line with international human rights standards.
15. Reform or replace Decree 81 (1996) on NGOs to comply with international human rights law, particularly Article 22 of the ICCPR.
16. Harmonise national legal provisions with international standards on freedom of expression under the ICCPR inter alia by repealing section 173A of the Information and Communications Amendment Act (2013) and by amending sections 25 (4) and 209 of the Constitution.
17. Protect the right to freedom of expression by repealing the Seditious Act and the Official Secrets Act
18. Protect freedom of expression by ensuring that all provisions of the Information and Communications Act of 2013 are brought into conformity with article 19 of the ICCPR.
19. Fully implement the United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity.
20. Consider libel, defamation and media-related offenses, in general, as civil and not criminal offences, and as such, in the event of prosecution, should be The Newspaper and Broadcasting Stations Act 1944 (as amended 2004) be repealed and replaced to reflect the current trends in Information and Communication technology.

21. Ensure the full implementation of the Access of the Information Act (2021)
22. Accept in totality the submissions and recommendations on the way forward of legal position papers from Article 19 and the GPU on media law reforms in the country.
23. Accept the November 2017 proposals of Article 19 on The Gambia: draft regulatory guidelines on media ownership.
24. Continue making progress in implementing ECOWAS Court of Justice decisions on ending impunity for crimes against journalists, in particular by ensuring persons responsible for the 2004 murder of Deyda Hydera, the 2006 enforced disappearance of Ebrima Manneh, and 2006 torture in custody of Musa Saidykhan, are brought to justice and implement the decision of the ECOWAS court decision of 2018 which called for the repeal of harsh media laws including sedition, insult, false news and criminal defamation;
25. Engage in comprehensive reforms to laws limiting the right to freedom of peaceful assembly to bring them into compliance with international human rights law, in particular the Public Order Act (repealing Sections 5 and 167), repealing Sections 15(A) and 72 of the Criminal Code, and the Indemnity Act;

THEME 8

Attack on Religious Freedoms

A. OVERVIEW

1. The freedom of conscience to choose and freely exercise one's religion is a fundamental human right protected by numerous modern human rights laws such as the International Convention on Civil and Political Rights (ICCPR) and Article 8 of the Banjul Charter, which states *-Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.* In The Gambia, section 25(1)(c) of the Constitution of The Republic of The Gambia, 1997 guarantees every person in The Gambia the freedom to practice any religion and manifest such practice. However, under the span of twenty-two (22) years of **Yahya Jammeh's** regime, these freedoms were gradually eroded, similar to many of the other fundamental freedoms guaranteed by the 1997 Constitution.
2. The Gambia is estimated to comprise of a population of 95.7 percent Sunni Muslims, a Christian community of up to 4.2 percent of the population (the majority of whom are Roman Catholics) and Ahmadi Muslims, Baha'i, Hindus, Eckankars and adherents traditional religions making up less than 1 percent of the population.
3. Section 1 of the 1997 Constitution as contained in the 2009 Revised Edition of the Laws of The Gambia, states that The Gambia is a sovereign secular republic. This provision unambiguously declares the neutrality of the state in religious matters. The Gambia is a multi-cultural and religious society where religious leaders are held in high esteem and have the power to sway public opinion. They are often perceived as the intermediaries who interpret God's word and laws. Culturally, the belief in spirits and spiritual knowledge, and supernatural beings comes from a belief that some people (mostly religiously trained people) possess supernatural knowledge about these things.
4. Between the military Junta's takeover of the government in 1994 and **Jammeh's** election defeat in December 2016, arbitrary interference with religious rights in The Gambia by the government became increasingly common. His Excellency Sheikh Professor Alhagie Doctor **Yahya Jammeh** as he preferred to be called used his position and influence to gain religious titles such as "Sheikh," which is reserved for qualified Islamic scholars and "*nasiru-deen,*" meaning "*Defender of Religion*" in Islam which is given to outstanding champions and contributors to Islam. Through patronage, he also secured honorary membership of the Supreme Islamic Council (SIC), which is the leading Islamic organisation in The Gambia, and many other religious groups and organisations.
5. This then gave the President a façade of religious legitimacy behind which he could manipulate religious beliefs and sentiments intended to bolster his political objectives. **Jammeh** proceeded to ensure that only an interpretation of Islam that suited him was propagated and religious plurality was viciously restricted. These acts, which were either carried out or orchestrated by the **Jammeh** government, dismantled the longstanding history of religious harmony that was characteristic of Gambian society during the first republic, leaving a polarised society in the aftermath of the regime.
6. This theme focused on attacks against religious freedoms. The public hearings provided an opportunity for the different religions including the Christian Council and the Ahmadiya Muslim Jamaat to present their experiences in the country pre and during the **Jammeh**

regime. An expert witness, **Professor Abdoulaye Saine** who was commissioned by the TRRC to analyse the antecedents that contributed to the gross human rights violations that occurred in The Gambia between July 1994 and January 2017 also testified and this is what he had to say: *“Thus, religious leaders and marabouts, sometimes one and the same, wield considerable power over all aspects of society. In doing so, they not only serve as intermediaries and intercede on behalf of and between believers and God, but they also help legitimize those in power. The belief that a “leader” is sanctioned and installed by God, is commonly shared by all- the sub-text of which is: one does not challenge leaders installed by God, because when you do, you challenge God.”*

7. Seventeen (17) witnesses testified under this theme including the *n’digal* sect, a non-conformist Islamic religious sect based in the Central River Region of the country who were subjected to gross violations of their human rights resulting in their being forced to leave their homes and to settle in neighboring Senegal. .

B. FINDINGS

AFTER A CAREFUL REVIEW OF THE EVIDENCE, THE COMMISSION FINDS AS FOLLOWS, THAT:

1. The appointment of **Yahya Jammeh** to an honorary position in the Supreme Islamic Council (SIC) enabled him to establish that relationship with the Council in which he dominated and dictated the Council’s actions. This symbiotic relationship between **Jammeh** and the Council, enabled Jammeh to use the Council for his own political ends.
2. It is improper for the Head of State of the country to occupy a position in one of the religious bodies especially an organisation that seems to have a regulatory function.
3. The SIC arrogated to itself powers that it could not have without any legislative backing. The power to register and/or ban preachers was unlawfully arrogated to itself. The Council should immediately desist from the exercise of such powers.
4. The authority purportedly given to the SIC by **Yahya Jammeh** to ban preachers who were perceived to be preaching or espousing different beliefs or were considered unsatisfactory, and unlawful. Even though the Constitution in section 25(4) allows for restriction of the right to freedom of conscience and the freedom to practice any religion and manifest such practices, when it is reasonable to do so in a democratic society or for the purpose of the sovereignty and integrity of the country, national security, public order, decency or morality, or in relation to contempt of court, there is no prescribed procedure to do so in the Constitution or any other law. As such **Yahya Jammeh** himself did not have the power to impose a ban or authorize the SIC to impose bans on anyone.
5. The SIC is a private organisation that aimed at mainly harmonizing syllabuses of Islamic schools and help settle disputes between members of the *Umma*. It is quite clear that there are many other functions that the Council can perform which will help the Muslim community which is the vast majority of the people in the country. However, the Commission considers that it is beyond the scope of the work of the Commission to carry out an in-depth study of the SIC in order to determine how it could be remodeled to be of greater benefit to the Muslim Community.

6. The following Imams and individuals including **Bakawsu Fofana, Sheikh Muhideen Hydara, Dr. Dumbuya, Ismaila Manjang, Imam Baba Leigh, Imam Alhagie Ousman Sawaneh, Imam Karamo Touray, Imam Omar Colley, Lasana Fatty** and **Imam Cherno Gassama** were unlawfully detained and tortured while under detention.
6. **Yahya Jammeh** persecuted members of the Muslim Community who he believed, practiced or manifested a brand of Islam that he considered different from the one of his choice-these groups include the *Ndigal* Sect, the Shia Muslims, the *Ahmadiya* Jamaat.
7. The removal of members of the *Ndigal* Sect from *Kerr Mot Ali* in The Gambia, who have been pushed to live in Senegal amounts to forced exile and is impermissible under international human rights law and is proscribed /criminalized in the Rome Statute which is applicable in The Gambia.
8. The declaration by **Yahya Jammeh** of The Gambia as an Islamic State was unlawful. The only way to change the no-state religion character of the country is by constitutional means which will require a referendum. It cannot be done by edict or decree or mere pronouncement as purported by **Jammeh**.
9. The unilateral and unlawful declaration of The Gambia as an Islamic State was largely inspired by the influence of foreign religious clerics. Extremist religious clerics/preachers can potentially offset the religious tolerance and harmony what is enjoyed in the country.

C. RECOMMENDATIONS

THE COMMISSION MAKES THE FOLLOWING RECOMMENDATIONS:

1. **Yahya Jammeh** should be prosecuted for unlawful arrests and detention and torture of **Bakawsu Fofana, Sheikh Muhideen Hydara, Dr. Dumbuya, Ismaila Manjang, Imam Baba Leigh, Imam Alhagie Ousman Sawaneh, Imam Karamo Touray, Imam Omar Colley, Lasana Fatty** and **Imam Cherno Gassama** and the persecution of the Shia community, *Ahmadiya* Jamaat and the *Ndigal* Sect in The Gambia.
2. The government shall ensure the separation of the State and religion, but this shall not be interpreted to mean that the State cannot facilitate the free exercise of religious beliefs of the citizens.
3. The members of the **Ndigal** Sect still living in exile in Senegal should be returned to live in *Kerr Mot Ali* (Gambia) and their properties returned to them. The government should enforce the judgment obtained by members of the Sect in the High Court of The Gambia.
4. The Government should establish a Peace Committee for *Kerr Mot Ali* comprising of all relevant stakeholders including the National Human Rights Commission whose mandate would be to negotiate the resettlement of the exiled residents and restoration of peace and religious co-existence in *Kerr Mot Ali*.
5. Establish civic education in all educational institutions in The Gambia to teach the importance of religious tolerance and social cohesion.

6. Make it a rule that the Head of State shall not hold any substantive or honorary position in the SIC, religious body or religious order.
7. Establish an interfaith consultative body that will be mandated to carry out activities that will help strengthen religious tolerance and social cohesion.
8. The government shall take steps necessary to ensure the clear separation between the State and religion. This shall not be interpreted to prohibit the facilitation by the state of the free practice of religion by the citizens of the country

THEME 9

THE JUNGLERS

Unlawful Killings, Tortures & Human Rights Violations

A. OVERVIEW

1. **Yahya Jammeh's** 22 years of dictatorship was characterised by heinous human rights violations ranging from enforced disappearances, torture, unlawful killings and unlawful detentions. These were systemically carried out by the state security apparatus such as the NIA, police and the military, pursuant to a state orchestrated policy, to deliberately silence any form of opposition and threat to **Yaya Jammeh's** rule. Under the constitution, the President is the Commander in Chief of The Gambian Armed Forces, consisting of the Navy, Air Force and such other services established by statute. The principal functions of the Army are to defend the sovereignty and territorial integrity of The Gambia, aid civil authorities during emergencies and national disasters and engage in productive activities that are of interest to the livelihood of the citizens. In doing so, the army is required to respect the fundamental rights and freedoms of citizens.
2. In order to entrench himself in power, **Jammeh** set up a special group within the army without any legal basis for its operations and given the sole task of repressing anyone considered to be a critic or threat to his administration. This clandestine group of soldiers were loyal to the president and carried out all his orders without questions. Their operations were generally covert in nature and they worked directly under the control and supervision of **Jammeh** through intermediary commanders such as **Tumbul Tamba**. They carried out extra-judicial killings, arbitrary arrests and torture on the orders of **Yayha Jammeh** with total disregard for the functions of the armed forces which is to defend the people and not oppress them. The existence of this group was an open secret in the army. The Junglers, were the special squad of the president and he used them as tools to eliminate those he considered treats to his power.
3. They were feared, hence senior members of the army avoided them which implicitly gave them an additional air of invincibility to continue to commit serious human rights violations with impunity. They were considered untouchable because of their closeness to the president and the protection he accorded them. The group was first referred to as the “**Patrol Team**” and later “**Junglers**” in reference to the military jungler training most members of the group underwent. In 2006, the activities of the group started to become known to the general public, mainly because of the horrific nature of the atrocities they committed. Cases in point concerned the arson attack on the Independent Newspaper by the Junglers and the cruel aftermath of the **Ndure Cham** foiled coup. It was then that they became known as “**Black Black**”, derived from their dark dress code during operations. They were an amorphous group with fluid membership, at one point comprising of at least 40 personnel drawn from the President's Guards Unit of the army.
4. The Junglers caused widespread fear and anxiety in the hearts of Gambians. This repressive environment made it easy for dictatorship to become increasingly entrenched and perpetuated. It gave **Jammeh** the fear factor to violate the rights of the people that voted him into power with absolute impunity, thus emboldening him to such heights that he made a statement on Gambia Radio and Television Services (GRTS), national TV broadcaster threatening that he would personally supervise the killing of anyone who destabilises the country.
5. Defending **Jammeh** at all costs and carrying out his orders, irrespective of how wrong and unlawful they may be, was integral in the operational psyche of the Junglers and to them, equated to defending the “nation's” interest. **Jammeh's** wishes, in the end, became one and the same as the “nation's” as far as the Junglers were concerned.

6. As part of its mandate to investigate the fate and whereabouts of disappeared persons, this theme on the Junglers is to identify and reveal the extent of the extrajudicial killings and other human rights violations of their ruthless group. Eight former Junglers/Patrol Team members confessed to their involvement in murdering more than seventy individuals on the orders of **Yahya Jammeh**. They also admitted torturing detainees at the NIA and Mile II Prisons.
7. Most victims of the Junglers fall under one of the following three categories:
 - i. *Those perceived by **Jammeh** to be security threats such as **Dawda Nyassi**, the West African Migrants, **Saul Ndow** and **Mahawa Cham**, **Daba Marenahh** and his group including **Ebou Lowe**, **Alpha Bah**, **Alieu Ceesay** and **Manlafi Corr**, **Ebou Jobe** and **Mamut Ceesay**.*
 - ii. *Vocal critics of **Jammeh** who challenged and condemned his self-perpetuating rhetorics and serious human rights violations. These include the highly respected and renowned veteran journalist **Deyda Hydara** and **Jammeh's** own relatives including **Haruna Jammeh**, **Masi Jammeh** and **Jasaja Kujabi** and **Lawyer Ousman Sillah**.*
 - iii. *Business and close associates who fell out of favour with **Yahya Jammeh**, such as **Baba Jobe**, **Tumbul Tamba** and **Musa Jammeh (Maliangungu)***
8. The following witnesses were Junglers who participated in the commission of serious human rights violations and abuses. They gave an account of the history, mindset and mode of operation, command structure and nature of the violations committed by the Junglers.
 1. **Malick Jatta**
 2. **Omar Jallow (Oya)**
 3. **Amadou Badjie**
 4. **Ismaila Jammeh**
 5. **Alieu Jeng**
 6. **Pa Ousman Sanneh**
 7. **Lamin Sambou**
 8. **Lamin Badjie**

B. FINDINGS

THE COMMISSION FINDS AS FOLLOWS:

1. **Yahya Jammeh** created the Junglers as a killer squad to be used to eliminate his enemies or people he perceived as threats to his rule.
2. As Commander in Chief of the Armed Forces, **Yahya Jammeh** was the ultimate commander of the Junglers. However, he occasionally directly commanded or issued instructions directly to the Junglers to carry out certain killings or to carry them out in a particular manner.
3. As the creator of the Junglers, **Jammeh** gave them a command structure within the State Guard Battalion and made the State House their Headquarters, thereby giving him proximity greater control over the activities of the Junglers.

4. **Yahya Jammeh** used the Junglers to carry out killings and other serious human rights violations and abuses of his perceived enemies.
5. **Dawda Nyassi** was killed on the orders of **Yahya Jammeh**. He was picked up from Serrekunda by **Tumbul Tamba, Sanna Manjang, Alieu Jeng** and **Malick Jatta**. The evidence shows that all these Junglers participated in this unlawful killing. During the killing, **Malick Jatta** said to the man, *“in the interest of my country we are ordered to gun you down”* All four of them shot the victim to death.
6. **Ndongo Mboob** was handed over to Junglers **Tumbul Tamba, Solo Bojang, Sanna Manjang, Alieu Jeng** and **Malick Jatta** by the NIA. They took him to Bunubor Gardens where they killed him. **Ndongo Mboob** was killed because of differences he had with **Yahya Jammeh**. The fact that there was no investigation of his fate and whereabouts when he went missing shows that **Yahya Jammeh** intended that he remained disappeared. Additionally, the fact that he was buried in Bunubor Gardens which belonged to and was under the control of **Yahya Jammeh** at the time material clearly indicates that **Yahya Jammeh** did not wish the fact about **Ndongo Mboob’s** killing to be known.
7. **Lawyer Ousman Sillah** defended **Baba Jobe** when he was charged before the courts after falling out with **Yahya Jammeh**. **Lawyer Sillah** had consistently opposed **Yahya Jammeh** whom he accused of wanting to entrench himself in power. **Yahya Jammeh** ordered his assassination and the Junglers attempted to kill him. **Lawyer Sillah** survived the gunshot injuries after he was evacuated to Senegal for treatment.
8. **Deyda Hydara**-a veteran journalist-who in his column “Good morning Mr. President” published in the Point Newspaper was regarded by **Yahya Jammeh** as one of his most ardent critics. **Yahya Jammeh** ordered the Junglers to kill him. Two groups of the Junglers one headed by **Tumbul Tamba** and the other by **Kawsu Camara (Bombardier)** ambushed him at Kanifing in December 2004 and shot him. He died of his gunshot wounds and two of his staff sustained serious injuries. After the execution, **Yahya Jammeh** rewarded the Junglers by giving them cash in Dollars -**Malick Jatta** received an equivalent of D50, 000 as “a token of appreciation from the big man” (referring to **Yahya Jammeh**).
9. **Haruna Jammeh** and **Jasaja Kujabi** were brother and cousin respectively to **Yahya Jammeh**. They fell out with **Yahya Jammeh** who believed that the duo planned to kill him so that they will take his properties. **Yahya Jammeh** decided to act first by ordering the Junglers to kill them. **Tumbul Tamba, Solo Bojang, Sanna Manjang, Omar Jallow** and **Alieu Jeng** organized and executed the order by killing both **Haruna Jammeh** and **Jasaja Kujabi** and dumped their bodies in **Solo Bojang’s** well used for disposing bodies.
10. **Daba Marenah** and six (6) others (**Alpha Bah, Ebou Lowe, Alieu Ceesay, Manlafi Corr, Masi Jammeh** (**Yahya Jammeh’s** sister), and a woman called **Julia** were killed sometime in early 2006 by **Tumbul Tamba** and his Junglers on the orders of **Yahya Jammeh**. **Daba Marenah** and his three male colleagues were suspected of playing a role in the failed **Ndure Cham** coup plot in 2006. **Masi Jammeh** was killed because she demanded information from **Jammeh** regarding the disappearance of her brother, **Haruna Jammeh**. However, **Ju-**

11. **Yahya Jammeh** ordered the Junglers to kill **Ceesay Bujiling** as he believed that Ceesay was aspiring for the position of Chief wizard (“Buwa Mansa”) and he needed to eat a very high profile person to prove his mettle. **Yahya Jammeh** was led into believing that **Ceesay** targeted him and he choose to strike first by getting the Junglers to kill **Ceesay Bujiling**.
12. **Ebou Jobe** and **Mamut Ceesay**- two Gambian Americans who visited The Gambia in 2013 were arrested by the Junglers on the instructions of **Yahya Jammeh** on the belief that they were in Gambia to overthrow his government. They were arrested in Brusubi and taken to Kanilai. **Jammeh** ordered that they be killed and mutilated. The Junglers executed the order, killed the duo, decapitated them and buried their bodies in a single grave in **Yahya Jammeh’s** farm in Kanilai. The Commission visited the identified sites and carried out excavations on the area but found no human remains. However, the Commission notes that there are mounds of soil in the area which suggests that the graves were likely tampered with.
13. **Tumani Jallow** was believed to be one of the soldiers who attacked the APRC headquarters in Kanifing and burnt the voters cards found there which were alledgedly intended to be used by non-Gambians to bolster **Yahya Jammeh’s** votes in the 2016 elections. **Abdoulie Gaye** on the other hand was believed to be an informant for **Pa Ndery M’bai** of the Freedom Newspaper. They were apprehended by the Junglers at different places on the orders of **Yahya Jammeh** and unlawfully killed. Their suspected graves are in Santaba.
14. On October 28, 2011, **Baba Jobe** was sleeping in his hospital bed at the RVTH in Banjul. He had already served his term of imprisonment and was due to be released. He was in jail for several years as a result of disputes between him and **Yahya Jammeh** which led to him being prosecuted and convicted for economic crimes. **Jammeh** did not want **Baba Jobe** to leave prison so he ordered the Junglers to unlawfully kill him. The Junglers strangled him to death on his hospital bed making it appear as if he died in his sleep as a result of his illness.
15. Former **CDS Ndure Cham** was apprehended after a few years on the run for being accused of carrying out a failed coup attempt against the government of **Yahya Jammeh**. He was set up by a former close aide who led the Junglers to his hide out in Farafenni. **Yahya Jammeh** ordered the Junglers to unlawfully kill him. The Junglers placed a plastic bag over his head suffocating and strangling him to death.
16. **Ello Jallow** was alledged to be having an affair with the **First Lady- Zeinab Jammeh**. After a trip from the United States, **Yahya Jammeh** ordered that he be killed. He was lured by a Jungler, **Bora Colley** and when he went out to meet him, he was apprehended by the Junglers and killed. He was later placed in his vehicle which was pushed over the bridge in Old Cape Road around Bakau making it look like he drove over the bridge in an accident.
17. **Yahya Jammeh** used to conceal his crimes by disguising them to look like accidents. On

his instructions, **Mustapha Colley**, a former soldier was killed by the Junglers and placed in his taxi to make it look like he died a natural death in his car. **Yahya Jammeh** specifically instructed the junglers to stage his death like they did with **Ello Jallow** and they drove his car from Kololi to Sukuta Jabang road and placed him in the driver's seat.

18. **Sulayman Ndow** and **Ma Hawa Cham** were planning to overthrow Yahya Jammeh's government. Jammeh got wind of it and used former Gambian mercenaries in Liberia (**Suwandi Camara** and **Lau Jarjue**) who worked for him as government agents to work with **Ndow** and **Cham** under cover. They lured **Ndow** and **Cham** into Cassamance where with the assistance of a Senegalese military intelligence officer, they were arrested by the Junglers, brought back into The Gambia and unlawfully killed and buried in Jammeh's farm in Kanilai.
19. **Mariama Camara** and **Alpha Jallow** were killed at Hamza Barracks. There were speculations as to why they were killed. Some people suggested that they committed suicide. While others said that they were killed by the Junglers on the orders of **Yahya Jammeh** as **Jammeh** wanted to hide that he had an illicit relationship with **Mariama** and impregnated her. The Commission has no conclusive evidence on these two killings.
20. Over sixty seven (67) West African Migrants arrived on the shores of The Gambia on July 22, 2005 to meet their Gambian agent **Lamin Tunkara** to join a boat to travel to Spain. They were apprehended by Gambian security officers in Barra and later sent to Banjul. In Banjul senior security officers received them at the Marine Unit where some started calling them mercenaries and **Kawsu Camara (Bombardier)** assaulted some of them. They were subsequently taken to different places in the Kombos (Kairaba Station, Bundung Station, Baba Jobe's residence and the PIU) where they were detained. On the orders of **Yahya Jammeh**, they were taken in batches and unlawfully killed at different locations in The Gambia and Cassmance/Gambia border. **Yahya Jammeh** then ordered a massive campaign to destroy and fabricate evidence contained in police diaries. **Yahya Jammeh** managed to deceive the joint UN/ECOWAS Investigation Team that was sent to The Gambia to investigate the matter.
21. **Yahya Jammeh** ordered nine (9) death-row inmates who were convicted of capital crimes to be executed. It is speculated that these executions were some form of human sacrifice by **Jammeh**. However, the legal processes for the lawful execution of the nine (9) persons were not completed or carried out in accordance with the established procedures. This unlawfulness rendered the executions unlawful. **Yahya Jammeh** and the Minister of Justice did not pay due regard to the established laws and procedures in order to ensure that the executions were carried out in accordance with the law.
22. **Yahya Jammeh** deliberately chose torture as a means to punish his opponents or to extract confessionary or incriminating evidence against them which he would use in court to secure their convictions and imprisonment. He used the Junglers to carry out the tortures. The Junglers would often wear face masks when carrying out these tortures. The evidence before the Commission indicates that people arrested in connection with the 2006 **Ndure Cham** coup, the 2009 alledged **Lang Tombong Tamba** Coup, the Freedom Online Newspaper saga and the **Lalo Jaiteh** coup were all subjected to torture by the Junglers at the NIA premises.

These tortures were intended to punish the suspected coupists and also to improperly obtain incriminatory evidence to secure their conviction either in normal courts or court martial.

23. Based on the overall evidence, the Commission finds **Yahya Jammeh**, the following Junglers and other persons individually and collectively culpable for crimes of murder, torture and other serious human rights violations listed below:
 - a) *Unlawful Killing of Dawda Nyassi- by Yahya Jammeh, Malick Jatta, Alieu Jeng, Tumbul Tamba and Sanna Manjang*
 - b) *Unlawful Killing of Ndongo Mboob – by Yahya Jammeh Malick Jatta, Tumbul Tamba, Solo Bojang, Sanna Manjang and Alieu Jeng*
 - c) *Attempted murder of Lawyer Ousman Sillah- by Yahya Jammeh, Ousman Sonko, Tumbul Tamba, Sulayman Badjie, and Bai Lowe.*
 - d) *Unlawful killing of Dedyah Hydera- by Yahya Jammeh, Tumbul Tamba, Alieu Jeng, Sanna Manjang, Malick Jatta, Manlafi Corr, Kawsu Camara (Bombardi) and Bai Lowe.*
 - e) *Unlawful killing of Haruna Jammeh -by Yahya Jammeh, Tumbal Tamba, Solo Bojang, Sanna Manjang, Omar Jallow (Oya) and Alieu Jeng.*
 - f) *Unlawful Killing of Momodou Lamin Jasaja Kujabie - by Yahya Jammeh, Tumbul Tamba, Solo Bojang, Sanna Manjang, Omar Jallow (Oya) and Alieu Jeng.*
 - g) *Unlawful killing of Daba Marenahh and 6 others – Yahya Jammeh, Tumbul Tamba, Solo Bojang, Malick Jatta, Sainey Jammeh, Yusupha Sanneh, Bora Colley, Micheal Correa, Nfansu Nyabally, Mustapha Sanneh and Alieu Jeng and the concealment of the murders by Yahya Jammeh, Ousman Sonko, Harry Sambou and Tumbul Tamba.*
 - h) *Unlawful killing of Mamut Ceesay and Ebou Jobe - by Yahya Jammeh, Major Nuha Badjie, Captain Momodou Jarju (Rambo) Lieutenant Mustapha Sanneh, Lieutenant Michael Jatta, WO2 Pa Ousman Sanneh, Staff Sergeant Malick Manga, Sergeant Amadou Badjie, Sergeant Sulayman Sambou, Corporal Saikouba Jarju and Staff Sergeant Omar Jallow and Micheal Correa*
 - i) *The unlawful killing of Tumani Jallow and Abdoulie Gaye- by Yahya Jammeh, Lieutenant Colonel Nuha Badjie, Major Momodou Jarju alias Rambo, Captain Mustapha Sanneh, Captain Michael Jatta, Warrant Officer Fansu Nyabally, Warrant Officer Class 2 Malick Manga, Staff Sergeant Sulayman Sambou, Sergeant Omar Jallow "Oya", Sergeant Amadou Badjie, and Corporal Saikouba Jarju.*
 - j) *Unlawful killing of Baba Jobe- Yahya Jammeh, Omar Jallow (Oya), Pa Sanneh, Mustapha Sanneh, Michael Jatta, Fansu Nyabally, Malick Manga, Sulayman Sambou, Captain Momodou Jarju (Rambo) and Nuha Badjie.*
 - k) *Unlawful killing of Ndure Cham by Yahya Jammeh, Lt. Col. Nuha Badjie, Cpt.*

Momodou Jarjue aka Rambo, Omar Jallow (Oya), Malick Manga and Sulayman Sambou. Saikouba Jarju and Sheikh Omar Jeng.

- l) Unlawful killing of Ello Jallow- Sanctioned by Yahya Jammeh*
- m) Unlawful killing of Mustapha Colley by Yahya Jammeh, Nuha Badjie, Mustapha Sanneh, Momodou Jarju (Rambo), Nfansu Nyabally, Mustapha Sanneh and Omar Jallow (Oya) and Sulayman Sambou*
- n) Unlawful killing of Saul Ndow and Mahawa Cham by Yahya Jammeh, Nuha Badjie, Momodou Jarju (Rambo), Lieutenant Mustapha Sanneh, Lieutenant Michael Correa, Lieutenant Michael Jatta, WO2, Nfansu Nyabally, Staff Sergeant Malick Manga, Omar Oya Jallow, Sulayman Sambou, Lau Jarju and Suwandi Camara. Although the evidence is inconclusive, this is a matter for consideration for prosecution.*
- o) Unlawful killing of Mariama Camara and Alpha Jallow- sanctioned by Yahya Jammeh*
- p) Unlawful Killing of the West African Migrants- Yahya Jammeh, Kawsu Camara (Bombardier), Bai Lowe, Musa Badjie, Tumbul Tamba, Sanna Manjang, Solo Bojang, Malick Jatta, Alieu Jeng, Omar Jallow (Oya), Lamin Sillah and Buba Jallow.*
- q) Unlawful execution of the nine (9) death-row inmates- Yahya Jammeh, Saul Badjie, Lamin Babanding Jobarteh and Ousman Sonko*
- r) The evidence reveals that Solo Bojang is one person who knows the burial sites of most of the disappeared victims.*

C. RECOMMENDATIONS

The Commission recommends as follows:

1. Prosecute **Yahya Jammeh** for the crimes referred to in this report and impose a life-ban on him from holding public office.
2. Prosecute all the Junglers and other persons listed for their complicity in crimes referred to in this report subject to the grant of amnesty that the Amnesty Committee may recommend.
3. Introduce a mandatory course for all soldiers on human rights and on the role of the military in a democratic society.
4. Put in place a mechanism to identify the burial sites of victims, exhume their remains and conduct their proper identification with a view to handing them over to their families for proper burial.
5. Conduct further investigations into the killings of **Mariama Camara** and **Alpha Jallow** with a view to prosecuting those found responsible.
6. Locate **Solo Bojang** and secure his cooperation in identifying the burial sites.

THEME 10 *The President's Alternative Treatment Programme*

A. OVERVIEW

1. In January 2007, former **President Yahya Jammeh**, made a pronouncement to the world that he had been given a mandate from Allah (God) to cure HIV/AIDS by using seven herbs from the holy Quran. **Yahya Jammeh** stated he would cure HIV/AIDS within three (3) days of administering the cure on any person living with HIV/AIDS (PLHIV). This claim by **Yahya Jammeh** was bogus as it defies science and medicine regarding the treatment for HIV/AIDS. His audacious alternative scheme became known as The President's Alternative Treatment (PATP) to cure PLHIV.
2. **Yahya Jammeh** did not only stop at his bogus claims, he took bold steps to execute the PATP embarking on his fake and fraudulent "HIV cure" scheme. Yahya Jammeh identified PLHIV from support groups such as the Santa Yalla and Ala tentu Support Society Groups to be enrolled into the programme without obtaining their informed consent.
3. **Yahya Jammeh** personally administered the fake cure on his patients. The treatment was performed in 2 parts. The first was the running of an ointment all over the bodies of the participants including their private parts. The second part was the drinking of a concoction. **Yahya Jammeh** carefully prepared the concoction himself as reported by **Neneh McDouall** in the Breakthrough Part 1.
4. **Yahya Jammeh** conducted his initial treatment sessions publicly on national television-Gambia Television and Radio Services (GRTS). He used this forum to advertise and promote his reckless treatment PATP. This way Jammeh was able to persuade many PLHIV to join the programme because of the fake images showed on national television, the false information given and in general because of his power and influence as head of State.
5. The victims were desperate for cure and **Jammeh** exploited their vulnerability. Ordinarily they believed that **Jammeh** had the powers to cure HIV/AIDS because it was inconceivable that the President would make such sweeping assurances on television if he was not capable of offering a cure. Thus, there was a legitimate expectation of a durable cure to their plight because his pronouncements as President carried significant weight.
6. **Yahya Jammeh** under the PATP created rules. The participants were to stop taking their antiretroviral drugs which was the only drug that supported their health. Fourty one (41) PLHIV died due to the fake and fraudulent cure **Yahya Jammeh** poisoned them with.
7. The **PATP** cure violated the human rights of PLHIV in The Gambia and those that came from abroad. Their right to health was violated. They were prevented from getting the right medical support that could keep them healthy. The participants were treated in inhumane and degrading manners.
8. This theme focuses on the science of HIV/AIDS so as to have an in-depth understanding of the disease and ways to contain and manage the health of persons living with the disease. HIV is a virus transmitted through contact with bodily fluids such as blood, semen, vaginal fluids and breast milk. **Dr. Jaye** testified as an expert witness told the Commission that

The Gambia had two (2) types of HIV infections known as HIV 1 and HIV 2. That HIV 2 was rare to find except in lusophone countries such as Guinea Bissau, which caused a cohort to be established to understand better how people living with HIV2 had long term non-progression. He further stated that these studies were done in The Gambia, and it was discovered that certain components of the immune system were responsible for fighting HIV and were able to inform other countries that worked on HIV 1.

9. Once HIV is contracted, the body's immune system begins to develop antibodies to attack the virus. HIV directly attacks CD4 cells in the body, which are cells that the body uses to protect itself from pathogens, infections and illnesses. Consequently, disease progression can be measured by the number of CD4 cells in the body as well as through evaluating the amount of viruses in the blood known as the viral load.
10. On average, a healthy person has a CD4 count of 500 to 1,500 cells per cubic millimeter of blood. As HIV infection progresses in the body, CD4 count drops, and once there are 200 cells per cubic millimeter of blood, the disease reaches a level where it is classified as acquired immune deficiency syndrome (AIDS). The ability to monitor viral load and CD4 levels was paramount in disease detection and treatment; however, it became complicated by the discovery of latent reservoirs of HIV. This is demonstrated in a study by Chun and Fauci (1999) in which people receiving treatment for HIV were able to successfully lessen their viral load to undetectable levels and were asymptomatic, but rebounded back into a diseased state immediately after halting the medically recognized treatment, *antiretroviral therapy (ART)*.
11. There are many types of procedures for testing for HIV and the most common procedure for testing is the enzyme-linked immunosorbent assay (ELISA) test. This is used to diagnose HIV by looking for antibodies in blood samples and by testing, HIV could be detected in persons who are asymptomatic. This test is more likely to be given in many countries due to limited resources and restricted access to HIV p24 antigen testing and molecular assays.
12. Additionally, while the p24 antigen is usually not detectable after five to six weeks from exposure to HIV, the HIV antibody can be detected as early as two weeks in some and antibodies produced in a person's blood will be there for the rest of that person's life. Newly developed fourth-generation HIV tests allow simultaneous detection of the HIV p14 antigen and HIV antibodies.
13. Using this combination of tests, HIV infections can be detected days before antibody seroconversion, which is the change in an HIV-negative to HIV-positive test result based solely on the presence of antibodies.
14. Early detection of HIV in a patient is imperative and crucial to enable the person to start treatment and prevent transmission, as a large proportion of transmission occurs in the early phase of infection. The amount of time for HIV to develop into AIDS varies for each individual. Most people infected with HIV and are not receiving treatment present HIV symptoms within five to ten years.

15. In the 2000s, a drug was discovered known as antiretroviral therapy (ART). For clinicians to make informed treatment decisions for HIV-infected individuals and increase the life expectancy of those patients, treatment should commence as soon as one tests positive for HIV. Guidelines published by the World Health Organisation (WHO) in 2015 recommended that “antiretroviral therapy should be initiated in everyone living with HIV at any CD4 cell count”. **Dr. Jaye** testified that the discovery of the drug became a game-changer and that once a person living with HIV was taking and stayed on their drugs, they could live a productive life. He further said that the drug could help a person have their viral loads drop to a level that could be classed as undetectable, at which level the virus cannot be transmitted. In short, **Dr. Jaye educated the Commission by saying that the discovery of the drug moved HIV from a death sentence and made HIV a manageable chronic illness such as diabetes.**
16. Despite barriers, ART has been largely successful, measurable by the extension of the life expectancy of a person living with HIV. In 1981, an AIDS patient had a life expectancy of one to two years; however, a diagnosis still allows for an average of 53 more years in 2018. Strict adherence to the ART drug regimen is critical because incorrect usage can increase viral loads and drug resistance to first-line treatment. If ART (further referred to as ARV) is stopped for three months or longer, the risk of developing AIDS or dying more than doubles.

B. FINDINGS

Based on the considerations above, the Commission finds that:

1. Former **President Yahya Jammeh** is neither a trained/certified medical doctor nor a trained/certified herbalist. He does not hold any academic qualifications nor certificates in either of the two fields to enable him to practice in these fields. Therefore, his practice was a sham, carried out under the guise of divine guidance with no knowledge or professional/academic training.
2. The establishment of the unproven and fraudulent treatment program by **Yahya Jammeh**, was a flagrant abuse of power. Jammeh gambled with people’s lives by conscripting PLHIV into his bogus treatment programme and ordering them to cease taking anti-retroviral drugs. Many of the patients that stopped taking the medically recommended HIV treatment and died.
3. **Yayha Jammeh** did not accept any criticism and would use his ultimate powers on any one that questioned the authenticity of the treatment. .
4. **Yahya Jammeh** disrupted the country’s HIV prevention and response strategy, by diverting resources to his treatment programme.
5. **Yahya Jammeh’s** ‘cure’ for HIV/AIDS did not go through the “*exploratory, pre-clinical, clinical development, regulatory review and approval, manufacturing and quality control*” of WHO. The cure also did not undergo any clinical trials, nor was it approved and licensed for admission or distribution. Therefore, Jammeh’s claim to cure HIV/AIDS patients within 3, 5, and 10 days was fake and fraudulent as the cure did not meet these internationally accepted standards.

6. **Yahya Jammeh** knew or eventually realized that his herbal treatment was a colossal failure. As a result, he assented to the HIV and AIDS Prevention and Control Act, 2015, on 2 April 2015. **Jammeh’s** PATP contravened the procedures and guidelines stipulated in the Act relating to procedures, patient’s consent, privacy, medical confidentiality, amongst others.
7. **Yahya Jammeh** forced the PLHIV to join the treatment programme. He also used coercive tactics such as being present along with security agents to compel patients to give false statements that they have been cured. The participants were further coerced to state that their blood work results showed that their CD4 counts were better than ever.
8. **Yahya Jammeh** failed to obtain the informed consent of the first batch of the PATP patients; instead, he used his power to force them to take part in the treatment. The Commission further finds that even though subsequent batches of participants admitted to the treatment program willingly, they were not adequately informed about the risks and hazards of the treatment to enable them to give informed consent. Every patient has the right to get information and ask questions before procedures or treatments.
9. Participants in the treatment programme suffered false imprisonment with restricted mobility. They were under full guard by state agents at all times. They were always transported by an authorized official vehicle between the Kanifing Hospital and State House and when they were being taken to Kanilai for the discharge ceremonies or other festivals held by **Yahya Jammeh**. The participants were not allowed visits from their families or their friends.
10. Some of the participants were sexually abused by **Yahya Jammeh** and members of the PATP team. Witnesses testified that Yahya Jammeh administered and massaged his herbal concoctions on patients’ private body parts. This violated patients’ right to dignity and privacy.
11. **Dr Tamsir Mbowe** was an accomplice to **Yahya Jammeh** in the bogus treatment. Dr Tamsir Mbowe endorsed the treatment programme which led to human rights violations and the loss of lives.
12. **Dr. Tamsir Mbowe** did not uphold the standards of ethics as provided in the codes of ethics and professional conduct for medical and dental practitioners in The Gambia. Dr. Mbowe failed to ensure that informed consent was obtained from the participants of the PATP and did not give attention to the sensitive nature of the disease, the social factors, and the need for psychological support.
13. **Ansumana Jammeh** while working under the supervision of **Dr. Mbowe**, was primarily responsible for pounding the leaves used to make the concoctions (Chakri and Omo) that he administered to the patients on several occasions. Whereas **Ansumana** is neither a medical practitioner nor an herbalist, he endangered the lives of persons by purporting to be curing them of HIV/AIDS when he had no proof or scientific basis to rely on except the direction of Yahya Jammeh

14. **Both Yahya Jammeh and Dr. Tamsir Mbowe** misled people to participate and undergo the treatment program using a conventional hospital setting and medical staff.
15. The PATP subjected patients to cruel, inhuman and degrading treatment. They were compelled to discontinue life-saving anti-retroviral treatment and suffered poor quality of care, which further damaged their weak health. They were not informed of the duration of their treatment nor their mandatory isolation at the treatment center. While they were given adequate food supply to prepare their own food, for the first 2 to 3 months, they were too frail to cook their food.
16. The PATP violated the Right to Privacy of the participants as their names, HIV/ AIDS status, identity (faces), and even the results of their CD4 counts were broadcasted on national television without their consent nor approval sought.
17. The PATP violated the right to health of persons living with HIV/AIDs. **Jammeh's** unconventional treatment prevented them from taking ARVs and septrin, which worsened their HIV status and gravitated their health to AIDS.
18. Participants of the PATP that were admitted to the programme before the 2011 elections were denied their right to vote. Their condition of isolation prevented them from being able to vote.
19. **Yahya Jammeh** accused some PATP participants of being witches and wizards, trying to sabotage his AIDS treatment. He neglected and isolated them as a form of punishment and left them to suffer. **Jammeh** further gave them the Kubejara concoction that he administered to persons alledged to be withches and wizards. This led to the death of 9 participants.
20. The fake, fraudulent, and bogus claim of **Yahya Jammeh** to cure HIV/AIDS endangered the lives of many people living with HIV/AIDS that participated in the PAPT, causing their death.
21. **Yahya Jammeh** exploited the participants in the PATP by subjecting them to forced labor by making them work on his cashew and rice farms without remuneration or pay.
22. Two children were admitted into the PATP in violation of the Convention of the Rights of the Child. **Jammeh** further forcibly administered the concoction to at least one of the children, leading to him being critically ill and hospitalized. Upon returning to the treatment center, Jammeh continued to administer the concoction to the child.
23. **Dr. Mariatou Jallow** while being the Director of Medical Health Services, was present at the treatment centre and, on at least two occasions, administered concoctions on the participants under the direction of **Yahya Jammeh**. The participants did not adversely mention her as having been part of the PATP nor informed them that they would be cured. The Commission has no reason to disprove this position of the witnesses.

24. **Dr. Malick Njie** was in the early stages part of the PATP by virtue of his position as the Director of Medical Health Services and then the Minister of Health under the direction of **Yahya Jammeh**. Witnesses mentioned that **Dr. Njie** told them that **Yahya Jammeh** would not broadcast their video recording at the statehouse showing their faces and partially naked bodies. The Commission finds that this could have been the genuine belief of **Dr. Njie**. Further, **Dr. Njie** was not mentioned by the witnesses to have told them that the cure would work nor did he administer the cure on them. The Commission makes no finding against **Dr. Malick Njie**.

C. RECOMMENDATIONS

THE COMMISSION RECOMMENDS THAT:

1. The prosecution of the former president, **Yahya Jammeh, and Dr. Tamsir Mbowe** for intentionally and knowingly causing the death of PLHIV, who were conscripted in the sham PATP and deprived of life-saving treatment. **Yahya Jammeh** and **Mbowe** should be charged with murder.
2. **Yahya Jammeh and Tamsir Mbowe** be prosecuted for negligence causing death for the PLHIV that took part in the programme which deprived from lifesaving treatment.
3. **Yahya Jammeh and Dr Tamsir Mbowe** should be prosecuted for the inhumane and degrading treatment meted to PLHIV that took part in. the treatment programme.
4. **Yayha Jammeh** be prosecuted for admitting children into the PATP in violation of the provisions of the Children's Act 2005 and the Convention on the Rights of a Child.
5. The Medical and Dental Council should revoke **Dr. Tamsir Mbowe's** practicing licence indefinitely for failing to honour the medical code of conduct and for the role he played in the fake PATP.
6. **Ansumana Jammeh** should not hold any position in the government at all levels and in any capacity.
7. Review the legal framework and policies on HIV to identify and address gaps in relation to the protection of the rights of PLHIV.
8. Establish mechanisms to ensure access to comprehensive treatment, care and health services for PLHIV.
9. The government should (i) ensure enforcement of the Medicines and Related Products Act, 2014 on herbal medical products (ii) put in place monitoring mechanisms to ensure herbal medicinal products meet standards of quality, safety and efficacy.

10. The Government should ensure access to treatment, care and Health Services for PLHIV. Healthcare workers in The Gambia should be trained on HIV stigma and discrimination and protecting the right to privacy and confidentiality of PLHIV. In the same vein, the government should increase access to HIV testing services countrywide.
11. The Ethics for Health care providers should be strengthened. There should be penalties, criminal or otherwise, for healthcare workers that disclose the status of PLHIV anyone, including family members, without obtaining the prior informed consent of the PLHIV. Healthcare professionals that promote, support or spread misinformation regarding HIV and other diseases to members of the public should face disciplinary actions and loss of their practicing licence where appropriate.
12. Conduct training for health workers on human rights and medical ethics in the context of HIV;
13. Media Practitioners to uphold the standard for reporting on PLHIV. There should be penalties, criminal or otherwise, for journalists who disclose the HIV status of a PLHIV to the public without the prior informed consent of the PLHIV. There should be mandatory training on HIV-sensitive media reporting to address stigma and discrimination against PLHIV due to negative or offensive media coverage of HIV issues.
14. Establish programs to reduce stigma and discrimination among PLHIV.
15. The government should recognize PLHIV support groups as an integral part of the public health system and include budgetary support for PLHIV-led support groups within their healthcare budgets. Government should put in place a social safety net system to protect the right to education and welfare of PLHIV. This should include free education at the basic and secondary school cycle levels and other support for children orphaned by HIV.
16. The Gambia Medical and Dental Health Association should strengthen its mechanisms and procedures on ways to discipline medical personnel who violate the rules and regulations governing the conduct of medical practitioners. The GMDA should review its regulatory framework to identify inadequacies that enabled Doctors and medical assistants to participate and endorse the bogus PATP.
17. The PATP violated the right to health of persons living with HIV/AIDS. **Jammeh's** unconventional treatment prevented them from taking ARVs and septrin, which worsened their HIV status and gravitated their health to AIDS.
18. Participants of the PATP that were admitted to the programme for the 2011 elections were denied their right to vote. Their condition of isolation prevented them from being able to vote.
19. **Yahya Jammeh** accused some PATP participants of being witches and wizards and trying to sabotage his AIDS treatment. He neglected and isolated them as a form of punishment and

- left them to suffer. **Jammeh** further gave them the Kubejara concoction that he administered to persons alledgedd to be witches and wizards. This led to the death of nine (9) participants.
20. The fake, fraudulent, and bogus claim of **Yahya Jammeh** to cure HIV/AIDS endangered the lives of many people living with HIV/AIDS that participated in the PATP, causing their death.
21. **Yahya Jammeh** exploited the participants in the PATP by subjecting them to forced labor by making them work on his cashew and rice farms without remuneration or pay.
22. Two children were admitted into the PATP in violation of the Convention of the Rights of the Child. **Jammeh** further forcibly administered the concoction to at least one of the children, leading to him being critically ill and hospitalized. Upon returning to the treatment center, **Jammeh** continued to administer the concoction to the child.
23. **Dr. Mariatou Jallow** while being the Director of Medical Health Services, was present at the treatment center and, on at least two occasions, administered the concoctions to the participants under the direction of **Yahya Jammeh**. The participants did not adversely mention her as has having been part of the PATP nor informing them that they would be cured. The Commission finds the same.
24. **Dr. Malick Njie** was in the early stages part of the PATP by virtue of his position as the Director of Medical Health Services and then the Minister of Health under the direction of **Yahya Jammeh**. Witnesses mentioned that **Dr. Njie** told them that **Yahya Jammeh** would not broadcast their video recording at the statehouse showing their faces and partially naked bodies. The Commission finds that this could have been the genuine belief of **Dr. Njie**. Further, **Dr. Njie** was not mentioned by the witnesses to have told them that the cure would work nor did he administer the cure on them. The Commission makes no finding against **Dr. Malick Njie**.

THEME 11

Sexual and Gender-Based Violence

A. OVERVIEW

- 1) Widespread sexual and gender-based violence (SGBV) characterized **Yahya Jammeh's** twenty two (22)-year rule as President of The Gambia. Sexual violence was often perpetrated either as the main objective of certain human rights violations or it was used as an instrument of repression, torture and punishment. Across The Gambia, females were disproportionately affected by violations including sexual violence, torture, inhumane and degrading treatment, arbitrary arrests, detention and forced labour.
- 2) Some of the more appalling incidents examined by the Commission include (i) the sexual violence and abuse of participants of scholarship pageants and “protocol girls”; (ii) rape and sexualized torture by state security officials of male and female detainees; (iii) violations committed as part of the infamous purge of “witchcraft” and (iv) sexual violence during “the Presidential Alternative Treatment Program” (PATP). These violations were perpetrated mainly by security agents and former government officials. The Commission received credible evidence that **Yahya Jammeh** himself committed some of the most egregious of these violations against women and girls through a “sophisticated system” using state institutions and resources.
- 3) Silence usually surrounds sexual violence and this leads to impunity and eventually its normalization. There are multiple barriers to reporting SGBV ranging from stigma, shame, societal attitudes which privileges men over women, victim-blaming to fear of retaliation. This, in turn, meant that SGBV was pervasive, under-reported and remained in the shadows throughout the mandated period. Worldwide, under reporting of sexual violence remains a phenomenon, but the shroud of secrecy surrounding sexual violence in The Gambia at this time was exacerbated by fear of the **Jammeh** regime’s brutal suppression of dissent and impunity for violators. As **Professor Abdoulaye Saine** testified, “*fear and a so-called “culture of silence” enveloped the entire country and ordinary citizens were not spared Jammeh’s wrath*”. Impunity was the order of the day, particularly for sexual and gender-based violence, during the **Jammeh** regime.
- 4) Despite the full gamut of support and protection that was made available to victims and witnesses, many were still reluctant to speak out and to participate in the TRRC processes. As a nation, we must endeavor to find ways to break down those barriers, which prevent victims coming forward, and when they do, from telling their whole story. We have an obligation, through appropriate legislative and policy reform, and through a shift in social attitudes, to craft a system which promotes accountability for violence against women and for sexual and gender-based violence.
- 5) The Commission heard testimony after testimony about the impact of these crimes – about the trauma, shame and misery that scores of women and girls have had to live with for so many years. Through its work, the experiences of Gambian women and the abuse that they were subjected to have been made visible and must continue to remain so until perpetrators are held to account.

- 6) In 2015, the CEDAW Committee noted that despite the adoption of the Sexual Violence Act and the Domestic Violence Act in 2013, violence against women was widespread in The Gambia. The Committee also noted that the lack of support and rehabilitation services available to victims of violence was preventing them from gaining access to justice effectively. There was also a lack of official disaggregated data relating to violence against women and girls, including on the number of investigations, prosecutions, convictions and sentences, as well as out-of-court settlements. The Committee was also deeply concerned about (i) the persistence of patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and in society and (ii) the very high prevalence of harmful practices, in particular female genital mutilation, child marriage, polygamy and levirate.
- 7) FGM was officially banned in The Gambia in 2015 with the enactment of the Women's (Amendment) Act of 2015 in December 2015. The Children's (Amendment) Act of 2016 also outlawed child marriages. In addition to eliminating the practice, the law introduces prison sentences for men who marry underage girls, the parent of the girl, and the official who presided over the marriage.

B. FINDINGS

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

5. Men, women and girls were victims of SGBV. Men were victims most often in detention settings and during interrogations. The Commission also finds that victims came from all age groups, including children and older women and men.
6. Women were also secondary victims of violations inflicted on the men. When their husbands were killed, widows found it difficult to support the family and women whose husbands were subjected to sexual violence were denied the ability to have sexual relations with their spouses.
7. There was an organisational policy at the NIA to strip detainees naked especially in cases where detainees were arrested for their perceived opposition to **Yahya Jammeh**. This happened to both male and female victims alike.
8. Victims most often did not report the violations due to fear of reprisal, having nowhere to report since the perpetrators were from the security agencies and sometimes highest-ranking State Officials. These victims also did not have access to medical care or psychological support.
9. Women and girls faced systemic discrimination in public and private spheres despite reforms to policies, applicable laws, enactments of women-centric legislations and ratification of key international instruments during the mandated period. The Commission finds that through the application of customary laws and patriarchal norms, women faced discrimination when it came to their right to own land, inheritance rights and their status in judicial processes.
10. The culture of fear that existed under the **Jammeh** regime and the cultural and social norms in Gambia's patriarchal society suffocated the rights of women and girls to their detriment and silenced the crimes they were subjected to. Sexual violence was not reported due to the stigma and shame that accompanies disclosure and the pressure to place family honour at the centre and above one's own suffering. Access to justice was absent in a repressive **Jammeh** regime for sexual violence committed by the Head of State and senior government officials.
11. **Accessories to SGBV:** The Following individuals were named as either having directly committed or were **accessories** To SGBV:
 - i. **Former President Yahya Jammeh** committed *inter alia* the rape against **Fatou Jallow** (Toufa) and sexual violence against some Protocol girls including DB18. He ordered the Junglers to give the *full treatment* to a Protected witness FB17 which meant to rape the witness which was done. **Jammeh** knew that the NIA was raping and sexually assaulting detainees and did not do anything to stop it. During the PATP **Jammeh** and his aides during massage sessions inappropriately touched the private parts of the patients without their prior consent and in a manner viewed as degrading by the victims. **Jammeh** knew that sexual assault and/or forced nudity was regularly used at the NIA as a tool to humiliate and break detainees. **Jammeh** ordered the witch hunting exercise during which there was sexual violence and forced nudity of those accused as witches and wizards.

- ii. **Jimbee Jammeh**, Former Protocol Officer and relative of **Yahya Jammeh**, accused of having aided and abetted **Yahya Jammeh** to commit rape, sexual assault and sexually exploit young women. Accused of having forced some of the women to abort their pregnancies. Left with **Yahya Jammeh** to Equatorial Guinea in 2017 and is currently said to be residing in Sweden at the time of mention. The Commission finds that **Jimbee Jammeh** headed the unit of the Protocol Girls which was special unit of young beautiful girls that fascinated **Yahya Jammeh**. While the Commission finds that **Jimbee** procured the girls for **Yahya Jammeh** there is no evidence that she knew that **Jammeh** was raping or sexually assaulting them.
- iii. **Lamin Manga**, a former Communications Officer at State House and Director at **Gambia Radio Television Services (GRTS)** has been accused of procuring girls for **Jammeh**. While the Commission accepts that this was indeed the case, there is no evidence that **Lamin Manga** knew that **Jammeh** was raping or sexually assaulting any of the girls he procured for **Jammeh**.
- iv. **Tamsir Mbowe**, former Minister of Health and Director of the Presidential Treatment Program aided **Jammeh** in massaging the patients.
- v. **Ousman Sonko** former Minister of Interior, accused of rape by **Binta Jamba** and sexual abuse, harassment and rape of female prison officers, rape of Victim D 15 year old in 2015 in the area of Lamin Daranka , rape of Victim F and others.
- vi. **Yankuba Colley**, the former Mayor of Kanifing Municipality Council and National Mobiliser of APRC. Accused of arbitrary detention of at least 40 civilians including **Fatoumata Camara**, **Kafu Bayo**, **Nogoi Njie** and **Falang Sonko** in April 2016. However, there is no evidence that he was involved in sexual violence as a perpetrator or accessory.
- vii. **Badjie** of Police Intervention Unit officer (PIU), mentioned by **Sainabou Camara** and accused of torturing, including on her genitals, during the April 2000 student demonstrations. First name unknown.
- viii. **Daba Marenah** (deceased) former Director of the NIA, accused of arbitrary detention and torture, mentioned by **Batch Samba Jallow** (Head Teacher) in his partial nudity state.
- ix. **Kawsu Camara (Bombardier)**: A **Junglers**. Mentioned by **Sainey Faye** as having had kicked and assaulted Georgiana Kosso Taylor on her crotch.
- x. **Foday Barry**: Former agent NIA. Accused of arbitrary detention and torture.
- xi. **David Colley**: Former Director General of The Gambia Prison Services. Accused of arbitrary arrest and detention of Juguna Susso, Accused of sexual harassment and exploitation of female prison officers.

- xii. **Solo Bojang**: Soldier in The Gambia National Army, GNA, second in command of the death squad team “the Junglers”. Accused of leading the team for the witch hunt capture and arrest and detention. Further accused of men and women being forced stripped naked and bathed.
 - Oxiii. **Saikou Jallow**: Former orderly for **Yahya Jammeh** who was responsible for arrest, detention, torture, sexual abuse and administering of poisonous concoctions to alleged witches which caused the deaths of (forty one) 41 victims.
12. **Institutional Failures:** In terms of institutional failures, the Commission finds that:
- i. The Gambia is a signatory to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and has committed and is obliged to take concrete steps to eliminate all forms of discrimination against women. Article 1 of CEDAW defines sexual violence as “violence which is directed against a woman because she is a woman or that affects women disproportionately;” sexual violence thus includes gender-based violence and constitutes a human rights violation.
 - ii. Despite these legal protections, during the dictatorship, there was widespread sexual violence, which was largely underreported due to fear of retribution or social stigma. In cases that were reported, perpetrators largely escaped punishment because of failures in the law enforcement and justice systems. While these offenses are explicitly prohibited under The Gambia Sexual Offences Act, victims of these crimes have difficulty accessing justice for social, cultural, and institutional reasons. This, in turn, further entrenches a culture of impunity for sexual violence. Further the perpetrators were organs of the state who would protect each other and not arrest or charge each other because they used the sexual violence as a weapon against the citizens of The Gambia. In order to change the systems that have been implanted in the institutions of The Gambia the evidence received at the Commission it to be considered and a mechanism be put in place for safeguarding which shall provide a safe space for persons to report SGBV issues and get redress.
 - iii. The information and evidence received by the Commission underscores the reality that The Gambia is particularly afflicted by the widespread lack of knowledge and understanding of SGBV, which means that such violations and crimes are not properly identified, prevented, managed and/or subject to effective accountability. This has led to widespread impunity and horrifying incidents of SGBV against all genders and age groups, particularly girls.
13. As highlighted by expert testimony, there are various myths about SGBV in The Gambia, including the beliefs that:
- i. only individuals who dress inappropriately are sexually violated;
 - ii. wife battering is not gender based violence but rather normal and acceptable practice and, in some case, religious;

- iii. *when family members such as parents and/ or siblings sexually violate each other, it is not a crime;*
 - iv. *men, boys and adult women cannot be victims of sexual violence; delayed reporting means that a victim/ survivor's narrative is false.*
14. There are misconceptions about SGBV held by the public as well as many law enforcement officials who are responsible for handling SGBV. This results in multiple factors that make it even more difficult for victims/ survivors to report SGBV. Further it's harder for law enforcement to address it effectively due to certain factors such as:
- i. *underreporting by victims/ survivors; victim blaming and shaming which often forces victims/ survivors into silence; stigmatisation and ostracization of victims/ survivors and their family members;*
 - ii. *protecting alleged perpetrators especially when they are relatives; prioritising family "honour" over seeking assistance and accountability for victims/ survivors;*
 - iii. *inaction against prominent or powerful members of society; and negotiating marriage between the alleged perpetrator and victim/ survivor in exchange for silence and impunity thereby normalising such violence and further traumatising victims/ survivors.*
15. Furthermore, the various complaints mechanisms such as police stations, health facilities, social welfare, child protection alliance and various civil society organisations and the legal system are faced with serious challenges ranging from:
- i. *the lack of sufficiently trained personnel (psycho-social/ counselling officers, police officers, lawyers and judges;*
 - ii. *limited or no psycho-social or counselling support; lack of privacy and confidentiality; inadequate infrastructure;*
 - iii. *lack of gender-sensitive approach to caring, investigating and prosecuting such crimes at various levels of the legal process from the police station to the court-room;*
 - iv. *victims being forced to constantly repeat the same traumatising narrative at each stage of the process;*
 - v. *limited/ no shelters to provide temporary safe havens for victims, particularly when they live with their alleged perpetrators; slow and inadequate investigations;*
 - vi. *inadequate/ improper collection of forensic evidence when available; and lengthy court cases.*
16. These factors lead to undesirable results such as withdrawal of cases and low rates of conviction, which further discourages other victims/ survivors from reporting new cases and entrenches a culture of impunity for SGBV.
17. Expert testimony highlighted the multi-faceted nature of the impact ... Economic- economic cost on families – medical bills, cost of legal services,(transport fees) affects productivity. Psychological –depression, separation, stigma, re victimization, abortion, baby dumping

- among others. Health consequences-Injuries STIs, unplanned pregnancy, illegal abortion. Obstetric complications.
18. The Police Gender and Child Protection Unit: The Police Child Welfare Unit was established by section 206 and its sub-sections under the Children's Act 2005. Due to increasing demands on the nature of the work, the Unit was renamed the Gender and Child Protection Unit in 2012. The mandate and objectives of the unit includes: tasked with handling juvenile offences and ensuring that children are protected while in police custody and investigation of criminal cases involving children; investigations of SGBV cases; act as liaison between The Gambia Police Force and the Department of Social Welfare; advise the Crime Management Coordinator on matters relating to Gender and Child Welfare; and provide analytical reports on SGBV. The Unit is headed by an Assistant Commissioner who is answerable to the Crime management Coordinator with desk officers in all the regions. All cases involving children nationwide are administered at the Head office for further investigation and onward transmission to the prosecution unit. The staff consists of fifty (50) trained investigators and four (4) social workers.
19. 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, however, some victims did not testify before the TRRC.
20. The evidence shows 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.

C. RECOMMENDATIONS

The Commission recommends as follows;

1. Prosecution of Yahya Jammeh and or his role in committing rape, other forms of SGBV.
2. Prosecution of Ousman Sonko for his role in committing rape, other forms of SGBV.
3. Prosecution of Solo Bojang and Saihou Jallow for their roles as superior officers in directing and supervising the witch hunting exercise during which SGBV occurred.
4. For the state to make tangible efforts for the identification of Badjie, a PIU officer implicated by Sainabou Camara and accused of torturing, including on her genitals, during the April 2000 student demonstrations with the view to prosecuting him for the crime..
5. Prosecution of Foday Barry, Baba Saho, Kawsu Camara (Bombardier), Alagie Martin, Solo Bojang and Sheikh Omar Jeng for the multiple crimes they committed including the sexualized tortures they carried out and investigated under this theme.
6. Daba Marenah, Sainey Manneh and Manlafi Corr are all deceased and thus no recommendations are made against them.

7. David Colley shall be banned from taking up a government appointed position for 10 years for his roles in the violations and abuses described above.
8. The government through the department of Social Welfare should provide and run facilities such as one-stop centres with more trained staff and adequate facilities to receive and assist victims;
9. Establish a mechanism to implement a Victim Support Fund in compliance with its obligations (e.g. Section 9, of the Domestic Violence Act 2013 establishes the Domestic Violence Support Fund);
10. Government should establish proper and functioning Safe spaces and shelters for victims of sexual and gender-based violence especially female victims. The Commission understands that there is a government run shelter at Bakoteh which is woefully under-utilised and ill equipped.
11. Government to make it mandatory for all institutions, including private and civil society to put in place policies against sexual abuse and harassment as required by the Women's Act 2010 and the National Women's Policy.
12. Expand the One Stop Centre approach for the management of SGBV; Improve on the reporting mechanism by introducing a toll-free hotline which is accessible to all; The security sector reform should include: Thorough education of law enforcement officials in dealing with SGBV cases; Enforcing institutional policy and laws of the land regardless of who is involved;
13. Government to provide funding for key and strategic units of law enforcement agencies to ensure timely response and investigation of reported cases; Government to where possible provide subvention to key CSOs working in the area of sexual violence;
14. There should be special focus on research, education, and training in building capacities and expanding supports to the communities that need assistance while targeting behavioral change. The University of The Gambia should consider partnering with agencies in researching this area and setting up a program in social work where people could study to become licensed clinical social workers — continued education and training for law enforcement and the justice system on the right based framework to development and better documentation of cases.
15. Gender and Child Protection Unit is not independent because it is under the Crime Management Coordinator (CMC). There is no budgetary allocation for the unit, no counseling rooms, no gender friendly or child friendly detention facility, inadequate forensic equipment for evidence gathering, DNA is not available in The Gambia, confidentiality is another challenge due to unavailability of separate interview rooms, recording of SGBV cases in the station diary and crime complaint register which is not only limited to
16. Gender and Child Protection officers. The unit is challenged with cultural and traditional norms (culture of silence) and pressure from communities for withdrawal of cases (which make survivors reluctant to pursue their cases). There is no funding policy that can assist in carrying out the unit's mandate especially with regards to victims/survivors. The Government should ensure sufficient funding to the unit, capacity building of the staff, construct a separate

- structure that will reflect the new trend, hire experts such as psychologists, interpreters, social workers, vehicles and fuel should be allocated to enable the unit to embark on sensitization at all times to prevent SGBV Crimes.
17. Police Stations should have friendly spaces for persons that have suffered SGBV. Police stations should have sexual harassment policies in place even though officers are free to report cases of such when it occurs and they deem it necessary to do so. Build capacity through training; funding; SOPs; policies – e.g. prevention; re: internal cases; internal sexual harassment policy and independent complaints mechanism. Special diaries (not the general Station dairy) should be kept to ensure confidentiality of cases (use of codes).
 18. The government should ensure and put in law systems and structures for the enforcement of laws that protect the rights of women, such as the 2010 Women's Act 2010 and the Sexual Offences Act 2013 so as to ensure that the violations that happened in the past do not recur.
 19. The government and civil society organisations should educate and sensitise all relevant government institutions and The Gambian people in general about their rights and responsibilities and on sexual and gender-based violence through community-based outreach activities, civic education, and women's empowerment

THEME 12

President's Witch-Hunt Exercise

A. OVERVIEW

1. Yahya Jammeh had a strong belief in superstition and supernatural activities. So, he used the powers of the state to carry out a state sponsored witch hunting exercise which he believed would purge the country of witches and wizard. The witch hunting exercise started in Kanilai and Sintet in 2008 and it was expanded to government institutions and surrounding villages in the Kombos in 2009. People were abducted from Sintet, Jambur, Essau, Barra, Makumbaya, Galoya as well as villages in foni. Other reported Witch-hunting exercises occurred at The Gambia Armed Forces Headquarters (HQ), National Intelligence Agency (NIA) HQ, Gambia Police Force (GPF) HQ, Banjul Fire Brigade and the Abuko *abattoir* (GAMTEL).
2. The witch hunters carried out the exercise with the assistance of the APRC militia group called the green boys and girls, armed police and military officers. They wielded considerable power and authority in the different locations they visited which was demonstrated by compelling the compliance of local government authorities, security forces, villagers and victims. The victims were generally elderly, however, there was a rare case of a pregnant woman and a student. Victims were forcefully detained for several days and forced to drink bitter or unpleasant herbal concoctions believed to have been made from “Kubejara” a local hallucinogenic plant which is poisonous and very harmful to the body. Some victims were reported to have tortured to force them to comply with the witch hunters. The witch hunting exercise was one of the most wide spread and heinous violation which targeted the older and less privilege members of society. For this reason, the TRRC held three public sittings in the most affected communities, in order to give the victims the opportunity to narrate their ordeal.
3. The hearings on the Witch-hunting started on 11th November until 5th December 2019, during the tenth (10th) session of the TRRC with the largest number of witnesses heard. This theme was one of the longest recorded sessions with thirty nine (39) sittings and forty three (43) witnesses including those adversely mentioned.
4. During the hearings on this theme, the TRRC conducted sittings in line with its victim-centered approach in the most affected regions i.e. Jambur, Kombo South District, West Coast Region, Sibanor, Foni, West Coast Region and Essau, Lower Niumi District, North Bank Region., Some of the witnesses from The Gambia Police Force (GPF) HQ in Banjul and a few other witnesses from Makumbaya testified at the TRRC premises.
5. The Commission was able to grasp the nature, gravity and the various forms of violations suffered by the victims from different works of life.

B. FINDINGS

The Commission finds that:

1. Former **President Yahya Jammeh, Solo Bojang**, the security forces, Witch Hunters and Green Boys are all individually and collectively responsible for ordering the persecution, arbitrary arrest and detention, torture, inhumane and degrading and sexual gender-based violence treatment of hundreds of persons, leading to about 40 deaths during the 2009 witch-hunting exercise. These persons have been incapacitated and many are still suffering from physical and mental ailments as a result of the concoctions they drank and the terrible treatment meted out against them. Branding them as Witches and Wizards has resulted in them being stigmatised and discriminated against for the rest of their lives.
2. **Yahya Jammeh** is held responsible for the forced labour of several people in the Fonis and other areas in his home village Kanilai. Some individuals who assisted him deserve special mention and must also be held responsible for their role in the witch-hunts. These are:
3. **Solo Bojang** and those soldiers who participated in the unlawful beating of his aunt/stepmother after accusing her of Witchcraft thereby resulting in her unlawful death.
4. **Tambajiro. Solo Bojang, Sulayman (Solomon) Manga and Toffee Manga** are held individually and collectively responsible for ordering the persecution, arbitrary arrest and detention, torture, inhumane and degrading treatment of hundreds of persons during a series of Witch-hunts in Sintet in 2008 under the instructions of Jammeh.
5. **Saihou Jallow** unlawfully assaulted, and tortured **Lamin Ceesay** and participated in the Essau and Barra Witch hunts under the instructions of Jammeh.
6. **Ensa Badjie**, participated in the Banjul Police Force witch hunt with the security forces, Witch hunters and Green Boys under the instructions of Jammeh and he should be held responsible for ordering the persecution, arbitrary arrest and detention, torture, inhuman and degrading treatment of police officers during the 2009 witch-hunting exercises who have been incapacitated, sick and are suffering, in pain, stigmatised and branded as Witches and Wizards for the rest of their lives.
7. **Omar Jawo** as the most senior member of the police in the North Bank Region participated in the Witch-hunt **and** unlawful arrests, detention, assault and beating and torture of **Lamin Ceesay** leading to the persecution, arbitrary arrest and detention, torture, inhuman and degrading treatment of hundreds of persons, leading to forty-one (41) deaths or even much more during the 2009 witch-hunting exercises who have been rendered incapacitated, sick, suffering, in pain, stigmatised and branded as Witches and Wizards for the rest of their lives.
8. **Tamsir Bah** the OC of Sibanor Police Station in 2009 unlawfully arrested and detained **Nyima Jarju**, and her mother-in-law **Fatou Bojang** in 2009 during the Sintet Witch Hunt.
9. From the testimonies of Witnesses, the drinking of the concoction administered by the Witch hunters and assisted by the green boys has led to death and life threatening diseases.
10. The witch hunt exercise brought out to the open an entrenched belief in the notion of witchcraft, witches and wizards resulting in the stigmatization and discrimination against victims.

C. RECOMMENDATIONS

Based on the evidence gathered, the Commission recommends the following:-

1. The prosecution of **Yahya Jammeh, Solo Bojang and Saikou Jallow** for the murder, manslaughter of forty one (41) individuals (**Jamburr 18, Sintet 13, Makumbuya 2 and Essau**) who died as a result of being targeted and forced to drink toxic concoctions which resulted in all the deaths.
2. The prosecution of **Yahya Jammeh, Solo Bojang, Ensa Badjie, Tambajiro, Saikou Jallow, Omar Jawo** for the inhumane and degrading treatment and torture inflicted on the victims during the witch hunting exercise.
3. The referral of **Tamsir Bah** to The Gambia Police Force high command for disciplinary measure for his role in the unlawful arrest and detention of **Nyima Jarju**, her baby and her mother-in-law **Fatou Bojang** in 2009 during the Sintet Witch Hunting exercise.
4. **Ensa Badjie, Omar Jawo** and should be banned from serving in the security services or holding any public office in the civil service or government in general.
5. Consideration be given to passing of legislation to criminalise labelling individuals as witches because of the societal stigma attached to it.
6. Training of security personnel to be able to know and appreciate the negative impact of witchcraft in society and how damaging it is to persons being accused of being witches/wizards.
7. The National Council for Civic Education (NCCE), Ministry of Basic and Secondary Education (MOBSE) and Civil Society Organisations engage in advocacy and awareness programmes to sensitize the public and local communities to change the mindset and attitudes regarding the stigma attached to Witch Craft so as to remove negative impacts against persons accused of being witches, wizards and witchcraft.
8. That guidelines be provided to prevent security forces being used to carry out unlawful orders.

THEME 13

Enforced Disappearances

A. OVERVIEW

1. In July 1994, **Yahya Jammeh** took over power in a Military Coup and hijacked The Gambia's longstanding democracy. The Junta made pronouncements that they were "soldiers with a difference," and they will be guided by the principles of transparency, probity and accountability. However, it was not long before the Junta would demonstrate to Gambians that their rhetoric's did not match their actions as what they did contradicted the principles, they promised to anchor their governance style on.
2. During **Yahya Jammeh's** twenty-two (22) years of dictatorship, *The Gambia became a country where mothers feared that midnight knock on their doors, which took away their sons and husbands forever; where civil servants went to work every morning saying goodbye to their families as if it was the last time they would see them ever again because coming back home to them was never a certainty; where torture was widespread and routine; enforced disappearances of political opponents were common place.*
3. Between 1994 and 2017 when **Jammeh** was forced out of power, many Gambians and non-Gambians alike have either been forcibly disappeared or extra-judicially killed. Most of those "disappeared" were critics of the government, opposition activists or, those believed to be witches, and those suspected of orchestrating to topple his government, especially the members of the armed and security forces.
4. The enforced disappearances are characterized by arrests or abductions by law enforcements officials including the Police, National Intelligence Agency, the Junglers, the Prisons and the Drug Law Enforcement Agency to a lesser extent. The abductions are followed by prolonged detentions before they were finally disappeared in clandestine ways designed to cover up, to prevent family members from knowing the fate and whereabouts of their loved ones.
6. The complicity of the government in these crimes explains why during the period under inquiry, there were systematic state policies and agenda to cover up crimes through concealment. **Yahya Jammeh** secretly carried out these disappearances to silence and neutralise perceived political opponents and critics in order to instill fear in the minds of the people. These abducted or disappeared persons were often killed and buried at Military Barracks or **Yahya Jammeh's** farms. Such activities were usually carried out at odd hours of the night to minimise discovery of these serious human rights violations.
6. From November 11 1994 until 2016, cases of enforced disappearances and extrajudicial killings were mutually linked and perpetrated by the Junglers on the orders and directions of **Yahya Jammeh**.

B. FINDINGS

The Commission finds, that:

1. **Former President Yahya Jammeh** caused the enforced disappearance of all those who were detained incommunicado, tortured and/or killed by the Junglers as detailed in the report.
2. **Yahya Jammeh** used enforced disappearance as a tool and an effective *modus operandi* to neutralize his critics and perceived enemies by putting them outside the reach of the law.

3. There is a need to further investigate the fate and/or whereabouts of missing persons. The Commission was able to establish the fate of all disappeared victims except for the following, **Modou Lamin Nyassi, Buba (Bubai) Sanyang, Kanyiba Kanyi and Ebrima Manneh (Chief Manneh)**.
4. There is lack a of knowledge amongst the security forces and those working in the justice sector about the phenomenon of enforced disappearances and recognizing how it may be used by the State to silence critics and dissenters.
5. **Yahya Jammeh** used his personal properties as burial places for victims of extrajudicial killings to hide his crimes. However, the Commission was unable to discover any human remains in the farms it visited due to the lack of necessary equipment and technology.
6. The Commission received evidence suggesting that **Yahya Jammeh** had disappeared babies. However, the Commission was unable to fully investigate these allegations to establish the veracity of these claims.

C. RECOMMENDATIONS

Based on the evidence gathered the Commission makes the following recommendations:

1. Prosecute **Yayha Jammeh** and the Junglers for the unlawful disappearances and killing of the victims.
2. Set up a taskforce to inquire and investigate the fate and whereabouts of persons who remain missing and the whereabouts of those who have been found to be killed but their whereabouts still remain unknown and other persons who are missing but have not been reported to the Commission.
3. To provide training to security and justice sector personnel on the phenomenon of enforced disappearance.
4. The establishment of a taskforce comprising of seasoned investigators, medical personnel, social welfare officers and forensic experts and wildlife officers to investigate allegations of:
 - a. Missing babies (the identities of these babies, circumstances of their disappearance and where they disappeared to and by whom)
 - b. The disposal of the bodies and whereabouts.
 - c. To investigate the crocodile ponds in Kanilai in order to determine whether babies and other human remains were disposed or dumped there.

THEME 14

The Killing of the West African Migrants

A. OVERVIEW

1. The Gambia has been a country of destination and transit for economic migrants from the West African sub region for decades. In the past 20 years, it also became a significant country of origin for migrants and refugees travelling to Europe and North America. Economic hard times have also resulted in persistent migration and The Gambia is proportionally one of the biggest exporters of economic migrants to Europe.
2. The number of migrants from West Africa seeking asylum in European Union member states almost quadrupled in the last two decades and countless more have taken the perilous journey through North Africa, arriving in Europe on overcrowded boats through the Mediterranean Sea. Perilous journeys on small boats in the rough waters of the Atlantic Ocean for greener pastures became an unprecedented phenomenon in West Africa. African youths from these shores embarked on these dangerous journeys. Many have died in transit, while others became stranded in Libya and other countries in and around the Sahara Desert area. The phenomenon became known as the “back way”, a term derived from the irregular nature of the migration.
3. On July 22, 2005, more than 67 economic migrants from West Africa, a large proportion from Ghana, started their journey with the hope of getting to Europe through the Mediterranean Sea. They were told that they had to come to The Gambia to board a boat that would take them to Europe. Unfortunately, when they arrived, they were abandoned by their agent in The Gambia.
4. After the arrests and detention of these West African migrants at various places, they were handed over to the Junglers. While bodies of some of the migrants were found in Tanji, with visible signs of being massacred and hacked to death, many were driven in a bush in Casamance and executed at point blank range by the Junglers.
5. Following the brutal massacre and execution of the migrants, the state embarked on deliberate cover-ups and concealment of facts and evidence.

B. FINDINGS

1. The Commission underscores the consistency of the witnesses in relating the details of the arrest, enforced disappearance, and extrajudicial execution in The Gambia of over sixty seven (67) unarmed West African economic migrants who the **Jammeh** regime perceived as mercenaries. All the witnesses who testified about this incident provided consistent accounts of the events which occurred in July 2005 and the subsequent period with a great degree of similarity. The Commission thus concludes that the witnesses’ testimonies in general ought to be believed and that they are credible.
2. The Commission is aware that economic migrants from various parts of West Africa embark on dangerous journeys by small boats with the hope of getting to Europe through the Atlantic Ocean and Mediterranean Sea, a phenomenon which became known as the “back way”. The incident concerned begins in July 2005, when a group of economic migrants from West Africa, predominantly from Ghana, were told that they had to come to The Gambia to connect to a boat that would take them to Europe.

3. On 21 July 2005, their boat set off from Mbour in Senegal and reached a place near Barra in the morning of 22 July 2005. Between five and seven passengers jumped off the boat, swam to the shore and entered Banjul. The rest of the group tried to make contact with their agent in Gambia, but to no avail. When the migrants started looking for boats to cross over to Banjul to connect to the boat that would take them to Europe, police officers arrested and took them to Barra police station, where the names of the arrested migrants were recorded in the police station diary. The arrested migrants were not told why they had been arrested.
4. By late night on the same day, the arrested migrants were transferred by boat from the Barra police station to the Navy Headquarters in Banjul. Numerous high-ranking officials gathered on that night at the Navy Headquarters, including Police Operation Commander **Biran Mbye**, former Navy Commander, **Assan Sarr**, Deputy Inspector General of Police **Abou Njie**, **Ngorr Secka**, **Foday Barry**, **Baba Saho**, **Saddy Gassama** and other senior NIA officials. The notorious Jungler **Kawsu Camara (Bombardier)** was also there. Many of these officials subsequently participated in the cover-up of the massacre.
5. The Commission received evidence that this incident coincided with the 22 July “Revolution Day” celebration, the anniversary of the military takeover on July 22 1994 led by **Yahya Jammeh**. **President Jammeh** and other high-ranking officials were attending the festivities at the July 22 Square in Banjul when he was informed that migrants had been apprehended. **Yahya Jammeh** was a paranoid leader because of the reoccurrence of attempted coups. In each of those failed coups, he dealt brutally with the coupists. All throughout his presidency, **President Jammeh** was on guard and determined to crush any form of threat to his rule by all means necessary and in the most brutal manner for reasons of deterrence. It may be concluded that when on July 22 2005 he was informed of migrants been found ashore, the fear and paranoia about a new possible coup gripped him, leading him to make a rushed decision, believing that the migrants were mercenaries or coup-plotters, to give direct orders to the Junglers to summarily execute the defenseless harmless migrants.
6. Multiple witnesses testified that nothing in their appearance or behavior suggested that they were more than migrants. The police officers who initially arrested them treated them as migrants and obtained their details. They were carrying small travel bags and it became obvious to the authorities that they were not mercenaries and not posing any threat to Gambia’s security. The Commission observes that even if they were criminals or in any other way breached Gambia’s laws, due process ought to have been followed. However, **Yahya Jammeh** and the state apparatus under his control had already made up their minds, namely to extra-judicially execute them without any regards for the law and human life.
7. Numerous witnesses testified that when more officers and members of the Marine Unit, police, the NIA and the Junglers arrived at the Navy Headquarters, they started beating and brutalizing the detained migrants. The handcuffed migrants were then forced onto buses and taken to various locations, including Kairaba police station and **Baba Jobe**’s residence. Upon arrival at Kairaba police station, the names of the migrants were similarly recorded in the station diary.
8. Some of the apprehended migrants were taken to the Police Headquarters in Banjul. Among those detained in Banjul and later at Kairaba police station was **Lamin Tunkura**, The Gambian agent that was linked to the migrants and who disappeared without a trace. Another

- migrant detained in Banjul told the Commission that, on one occasion, he was electrocuted on his genitals to force him to confess that he was a mercenary.
9. Later that night, three of the most notorious Junglers, **Solo Bojang**, **Malick Jatta** and **Sanna Manjang**, drove to **Baba Jobe**'s residence, tied twenty (20) migrants up with ropes, forced them onto two pickup trucks and took them to a place in the forest approximately two kilometers away from **Yahya Jammeh**'s Kanilai residence. The evidence shows that **Solo Bojang** was that night in regular communication with **Yahya Jammeh** who directly ordered him to execute the migrants. When the pickup trucks stopped in the forest, one of the captives, **Martin Kyere**, the sole Ghanaian survivor of the massacre, jumped off the back of the pickup truck and ran away. The Junglers shot the other migrants one by one and pushed them into a well. When they returned to Kanilai, one of the Junglers went to **Yahya Jammeh**'s residence and debriefed him.
 10. The following day, the Junglers returned to **Baba Jobe**'s residence, tied up another group of 20 migrants and forced them onto the same pickup trucks and took them to a place in the forest named Bunubor Garden near Kanilai village. One of the Junglers said that their captives were mercenaries who came to overthrow the government, even though during the execution that occurred the day before, some of the ill-fated migrants were saying that they merely wanted to travel by taking the "back way". The Junglers executed all the 20 migrants and threw them into a well. From there, they drove straight to **Yahya Jammeh**'s residence in Kanilai to brief the President on the completed operation.
 11. On July 23, 2005 the bodies of eight migrants were found near Brufut village and the Tanji Bird Reserve and it was reported to the police. Multiple witnesses testified that when the bodies were discovered they were still bleeding from their mouths, noses and ears, and their skulls were fractured and faces were had injuries consistent with hacking. In order to conceal this egregious crime, two police officers from the nearby Ghana Town police station, acting on instructions from their Commander (Inspector), buried two bodies at the Tanji Bird Reserve, without any investigation into the cause of their death or their identities. The Commission received evidence that two of the Ghanaian migrants managed to escape during this time and sought refuge in Ghana Town near Brufut village but were turned over by local leaders to the police. They have not been heard from since.
 12. One migrant managed to escape from the execution and reported the matter to the Ghanaian authorities. The Ghanaian authorities wrote to The Gambia requesting a joint investigation of the case. Even though The Gambian authorities promised to investigate the matter, they covertly set out to cover up the evidence prior to the arrival of the Ghanaians. This was calculated and deliberate to mislead and conceal evidence so as to exculpate the culpability of **Jammeh**'s regime.
 13. The brutal killing of the innocent migrants sparked considerable national outrage and an international cry for justice and accountability for these victims in Gambia, Ghana and in the international community. The state-sanctioned massacre was followed by an extensive state-manufactured cover-up campaign. Knowing that the massacre would be investigated, the authorities decided to destroy and conceal the diaries of the police station where the migrants had been detained.

14. The Commission received credible evidence that high-ranking officials, such as Inspector General of Police **Ousman Sonko** and Crime Management Coordinator **Yankuba Sonko**, issued direct instructions to police officers of Barra and Kairaba police stations, Navy Headquarters and Police Headquarters in Banjul to copy the entries from the old diaries into new diaries leaving out all the entries concerning the migrants. The officials accordingly withheld the authentic old diaries. Moreover, they threatened with death the agents who falsified the diaries if they were to disclose the details of what they did.
15. In 2005, soon after the incident, The Gambian authorities, in their attempts to create their own alternative truth on the events, set up an investigation panel, which was primarily, engaged in cover-ups and debunking the public statement about the massacre made by **Martin Kyere** upon his return to Ghana. Witness **Malamin Cessay** confessed before the Commission that he presided and directly participated in a sham and whitewash investigation and the fabricated panel's report that resulted from it. He admitted that it was all part of a collective and massive statewide campaign aimed to cover up and exonerate **Yahya Jammeh**'s regime from its responsibility for these brutal killings.
16. In August 2008, at the request of the governments of Gambia and Ghana, the UN and the ECOWAS set up a joint investigative team to investigate this crime, which resulted in a report issued in April 2009 which was never made public. The Commission received credible evidence that, shortly before the ECOWAS/UN fact-finding mission arrived in The Gambia, high-ranking officials, such as **Yankuba Sonko**, who had been involved in the case since 2005, warned the members of the task force set up to facilitate the foreign investigation team against revealing anything that would incriminate **Jammeh**'s regime. **Yankuba Sonko** directly instructed witnesses to not cooperate with the UN investigators who were about to arrive to The Gambia. Furthermore, under the supervision of the members of the task force, police officers re-wrote more station diaries leaving out the incriminating information concerning the migrants.
17. The Commission finds that the task force was created and tasked to deliberately mislead and manipulate the ECOWAS/UN investigation. The members of the task force knew fully well that their objective was not to assist the ECOWAS/UN investigation but rather to mislead and manipulate the investigation by reinforcing the government systematic cover up. They were fully aware of the purpose of the mission with which they were entrusted and they all became willing tools of a massive scheme to cover up a national shame.
18. Their efforts paid off when the report that resulted from the ECOWAS/UN investigation, which was inevitably based at least in part on falsehoods and fabrications provided by the task force, concluded *inter alia* that while there were some "rogue elements" within The Gambian security services that were to blame for the deaths and disappearances of the migrants, The Gambian government was not to blame in any way for the incident.
19. Once the task force completed its devious mission, some of its members were rewarded by being promoted, such as **Numo Kujabi** who became Director General of the NIA and **Yankuba Sonko** who became Inspector General of the Police, while a junior police officer

from the Barra police station who had been involved in copying diaries told the Commission that to keep him quiet, he was detained without charges and transferred to a remote police station.

20. The Commission concludes that **Yahya Jammeh** is responsible for the killings, enforced disappearance and torture of more than 67 West African economic migrants by giving direct orders to the Junglers to summarily execute them in July 2005. **Yahya Jammeh** is also responsible for subsequently organizing and coordinating, through the state apparatus under his control, a massive and systematic cover-up campaign in order to exonerate himself from responsibility for these crimes. **Yahya Jammeh** is responsible for these crimes on the basis of the following:

- i. *The confessions by the Junglers, who were under **Yahya Jammeh**'s direct command and control, that they carried out the extrajudicial killings of the West African migrants on his direct orders.*
- ii. *The Junglers' confession that they had directly briefed **Yahya Jammeh** shortly after they executed 39 migrants at Kanilai and Bunubor.*
- iii. ***Yahya Jammeh**'s failure to take any measure within his power to prevent or repress the commission of the crimes or to submit the matter to the competent authorities for investigations and prosecution, as well as the failure of the government to genuinely investigate and prosecute these crimes.*
- iv. ***Yahya Jammeh**'s substantial efforts to ensure that relevant parts of the state apparatus and security forces under his control were involved in a massive and systematic cover-up of the incident.*
- v. *The scale of the cover-up for crimes of such gravity and the extent of senior officials' and state agents' involvement therein could not have been done without instructions from **Yahya Jammeh**.*

21. All these factors taken together and in conjunction with other acts establish clear and sufficient indicia by which responsibility for these crimes can be placed squarely on the shoulders of **Yahya Jammeh** and the **Junglers**.

22. Furthermore, the Commission concludes, based on the credible evidence it received, that state officials, civil servants and state agents from the relevant parts of the state apparatus and security forces bear responsibility as accomplices who contributed to and facilitated the completion of these crimes. This includes responsibility for their individual and collective roles in destroying, tampering with and concealing evidence and eliminating traces of the crimes committed by the principal perpetrators to shield them from justice. It is noted that the station diaries presented by the IGP to the Commission were in dilapidated conditions as a result of poor data and information storage system.

C. RECOMMENDATIONS

1. The Commission underscores the need for accountability and importance of bringing to justice those who bear responsibility for the crimes committed against the West African migrants who landed on the shores of The Gambia on July 22, 2005. The Commission, therefore, recommends as follows:

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

- (a) **Yahya Jammeh**
- (b) **Ousman Sonko**
- (c) **Solo Bojang**
- (d) **Malick Jatta (Alfidie)**
- (e) **Sanna Manjang**
- (f) **Kawsu Camara (Bombardier)**
- (g) **Tumbul Tamba**
- (h) **Bai Lowe**
- (i) **Nuha Badjie**
- (j) **Landing Tamba**
- (k) **Alieu Jeng**
- (l) **Omar .A. Jallow (Oya)**
- (m) **Buboucarr Jallow**
- (n) **Lamin Sillah**

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

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

- a. *To without delay identify the exact locations where the victims were buried, including the wells and graves mentioned by the witnesses that are located in both The Gambia and also in Cassamance, Senegal.*
- b. *The Joint Forensic Investigation Team should take all reasonable steps to ensure the security and full protection of all the sites where the remains were buried and yet to be exhumed for the purposes of protecting the human remains therein and from tampering with the evidence.*

- c. *The Joint Forensic Investigation Team should be given the mandate to exhume and conserve the remains of the victims that may be found in those wells or graves.*
 - d. *The Joint Forensic Investigation Team shall be given the full cooperation of The Gambian authorities, including full access to all documentary, testimonial and physical information and evidence in their possession that the Joint Forensic Investigation Team deems relevant to the inquiry;*
 - e. *The Government of The Gambia to undertake without delay the steps, measures and arrangements necessary for the speedy establishment and full functioning of the Joint Forensic Investigation Team, including recruiting impartial and experienced staff with relevant skills and expertise.*
 - f. *The Government of The Gambia to establish procedures for carrying out the activities of the Joint Forensic Investigation Team taking into account The Gambia's relevant laws and judicial procedures.*
4. Provide training to the members of the security forces on the relevance of ECOWAS human rights instruments and their applicability.
 5. Put in place modern mechanisms, procedures and facilities for all security institutions to ensure that all vital data and information collected by the police in the course of investigations are properly maintained and preserved.

THEME 15

INSTITUTIONAL HEARINGS : *National Intelligence Agency*

A. OVERVIEW

1. Immediately after the July 22, 1994 takeover, the Military Junta promulgated several draconian decrees limiting fundamental rights and freedoms. This was the beginning of the junta's plans to rule by fear and entrenching itself in power. To achieve this goal, Decree No. 13 was passed in 1994 establishing the National Intelligence Agency (NIA), replacing the National Security Service which under **President Sir Dawda Kairaba Jawara** was primarily concerned with intelligence and state security. Initially under the Junta, the NIA's role was advising the Council on State Security matters. However, Degree 45 was subsequently promulgated repealing Decree 13. This served as the springboard of the rebranding of the role of the NIA and its entire *raison d'être*. The NIA was given sweeping powers, including powers traditionally exercised by only the police to investigate or intervene in matters of national security as well as private matters.
2. Decree 45 of 1995 gave the NIA almost unfettered powers in the exercise of its functions and a new mindset of allegiance to **Jammeh** and the junta rather than the country as a whole. This was the beginning of the NIA changing from its natural intelligence gathering role to becoming a machinery to further **Yahya Jammeh's** objectives to remain in power by terrorizing whoever was seen as a threat to the Junta's plan to remain in power. This is contrary to their claims of being soldiers with a difference.
3. Former **President Yahya Jammeh** exploited the law to appoint individuals to the NIA whose principal tasks were to do his bidding. The power to appoint and remove individuals to key management positions in the NIA at will gave **Jammeh** leverage to manipulate the institution to suit his own political goals.
4. As **Jammeh** pushed to perfect his dictatorship and control the whole machinery of government and public life of the country, he intensified the NIA's work in terms of spying on the public, arbitrary arrests and detention of people without justification or recourse to law. It was common for the NIA to detain political opponents, critics, senior civil servants or public officials who have fallen out of favour with Jammeh.
5. Over time, the NIA became synonymous with fear due to the powers they wielded and the brutality and tortures they meted out on detainees at their Headquarters and other detention facilities across the Greater Banjul Area and the Kombos. Gradually, the NIA as an institution epitomized the brutality of Jammeh's dictatorship as an instrument of oppression through torture, cruel, inhumane and degrading treatments. By the end of **Jammeh's** twenty year (22) -year grip on power, the NIA was used more than any other institution to instill fear in the population and in so doing, stifled dissent. The NIA Headquarters became **Jammeh's** torture chamber and the notorious "*Bambadinka*" cell represented cruelty, pain and suffering. The NIA was strategically and deliberately used to discredit, humiliate and break down opponents while at the same time signaling to the public, the terrible tortures and other punishments that awaited anyone who dared oppose **Jammeh's** authority or defied his orders.
6. The Special Operations Unit of the NIA was set up in 2007, with broad powers to carry out **Jammeh's** personal agenda of stifling dissenting voices, intimidating and persecuting business partners who have a fallen out with him, spying on, arresting and torturing detainees, fabricating evidence to frame opponents and using such evidence to maliciously prosecute

and convict perceived enemies. That was all part of his agenda for self-perpetuation. Such was the notoriety and impunity under which the Unit operated. Increasingly it became enforcers of agreements and debt collectors on behalf of private individuals. The Unit became tools for hire by private citizens. Over the years, NIA in general became engaged in framing innocent people, cover-ups of illegal activities, instilling fear, torturing detainees and being guns for hire. At the latter part of Jammeh's regime, the NIA worked closely with the Junglers and the Bulldozers (a joint taskforce that conducted investigations using torture and other unlawful means) to intimidate, terrorize, extract confessions by torture and defying court orders to unlawfully detain accused persons granted bail by the Courts.

B. FINDINGS

The Commission makes the following findings that:

A. FARAFENNI ATTACK

The Farafenni military barracks was attacked by rebel forces who intended to use that as a springboard to overthrow the military government. The evidence reveals that during the attacks, the rebels including **Yahya Drammeh, Ballo Kanteh, Omar Joof Dampha, Sulayman Sarr** and **Essa Baldeh** killed some Gambian soldiers during their unlawful attack on Farafenni Barracks. The Commission notes that the aforementioned rebels were arrested from various locations and taken to the NIA Headquarters in Banjul.

1. **Ballo Kanteh, Omar Joof Dampha, Sulayman Sarr** and **Essa Baldeh** and others illegally attacked Farafenni barracks with the intention of overthrowing the government and in their cowardly act, killed innocent Gambian soldiers defending the territorial integrity of this country.
2. Much as that is the case, it must be stated very clearly that the attack on Farafenni barracks is not the subject of the Commission's inquiry. The Commission's focus is the actions and conduct of security personnel after the apprehension of the rebels. On that account therefore, the Commission finds, that:
3. Ballo Kanteh was tortured at the NIA premises during his interrogation by **Lamin AMS Jobarteh (Babadinding)** and others including **Captain Samsideen Sarr** (second in command in the army at the time) who kicked **Ballo Kanteh** several times.
4. Even though **Samsideen Sarr** denied involvement in the torture of **Ballo Kanteh**, there is an audio of him in relation to the Farafenni incident that he sent to of the Freedom Newspaper requesting an interview in which he admitted that he kicked Ballo Kanteh twice.
5. In his response (dated April 6, 2021) to the notice of adverse mention served on him by the Commission, **Samsideen Sarr** denied participating in the torture of **Ballo Kanteh**. The Commission believes that the voice in the audio belongs to **Samsideen Sarr** which was a clear admission of his participation in torture of Ballo Kanteh. On that account therefore, the Commission finds it incredible that **Samsideen Sarr** would later turn around and deny what he had previously admitted. The Commission finds further that **Samsideen Sarr** participated in the torture of **Ballo Kanteh** and his subsequent denial is simply an afterthought designed to extricate himself from responsibility.

6. **Ballo Kanteh** and **Yaya Drammeh** were further tortured by **Harry Sambou**, **Salimina Drammeh**, **Foday Barry** and an unidentified man referred to as **Ninja**. The Commission finds that torture for the purpose of extracting confessions was a regular tool used by the NIA at the time.
7. **Ballo Kanteh** was subjected to further humiliation and torture when he was stripped naked in front of his father and sister and severely beaten. The Commission further finds that during one of the said torture sessions, one of **Ballo's** nipples was cut-off by **Babadinding Jobarteh**. Even though this was denied by **Babadinding Jobarteh**, the Commission:
 - a. *Notes that **Babadinding Jobarteh** was not truthful when he initially said that he never met **Ballo Kanteh** or tortured him as he was out of the jurisdiction when **Ballo** was arrested and tortured at the NIA.*
 - b. *Cannot see any reason why **Ballo Kanteh** will single-out **Babadinding Jobarteh** and accuse him of causing such serious injury if indeed the latter was not the perpetrator. Further, the witness showed his chest with the missing nipple and scars consistent with the torture he described.*
8. *The Commission finds the evidence of **Ngorr Secka** and **Ebrima Jim Drammeh** that **Foday Barry**, **Baba Saho**, **Salimina Drammeh** and **Babadinding Jobarteh** tortured the **Farafenni** attackers as credible and consistent with the other witness accounts.*
9. **Omar Dampha** was severely beaten and electrocuted by **Foday Barry**, **Salimina Drammeh** and **Harry Sambou**.
10. Even though **Harry Sambou** was accused only by **Omar Dampha** of being complicit in his torture which he denied, the Commission is convinced by **Dampha's** evidence that whenever **Harry Sambou** entered the room in which he was being tortured, his torture intensified. The Commission cannot conclusively state that **Sambou** physically participated in the tortures. However, it strongly believes that he instigated the intensification of the tortures through his actions and utterances and therefore ought to be held responsible like his colleagues who took part in the tortures.
11. **Ebrima Jim Drammeh** was only mentioned by **Harry Sambou** as having participated in the tortures which he denied. In the absence of other evidence linking him to the tortures, the Commission is not convinced that he participated in the torture of the **Farafenni** attackers.
12. That **Yahya Jammeh** knew or had reason to know of the torture of the captured men during the course of the investigations at the NIA. **Yahya Jammeh**, **Foday Barry**, **Salimina Drammeh**, **Babadinding Jobarteh** and **Baba Saho** are culpable for the tortures of **Ballo Kanteh**, **Omar Dampha** and **Baldeh** at the NIA.

B. 2000 COUP PLOT

1. **Lt. Lalo Jaiteh**, **Lt. Omar Darboe**, **Ebrima Barrow** and **Ebrihima Yarbo** and **Dumo Saho** were arrested in 2000 in relation to an alleged coup plot.
2. **Lt. Omar Darboe**, **Ebrima Barrow** and **Lt Lalo Jaiteh** were brought before the investigative panel that was constituted.
3. **Omar Darboe** was tortured twice by soldiers at the NIA on the orders of **Foday Barry** in the presence of **Sukuta Jammeh** (deceased) and others with a view to extracting a confession from him.
4. **Ebrima Barrow** was subjected to sexualized torture and severe beatings by **Edrissa Jobe (Alagie Morr)** on the orders of **Biran Jobe** in the presence of other members of the investigative panel, namely:
 - a) **Tijan Bah**
 - b) **Baba Saho**
 - c) **Foday Barry**
 - d) **Ousman Jallow**
 - e) **Salimina Drammeh**
 - f) **Ousman Sowe**
 - g) **Sukuta Jammeh (deceased)**
5. The Commission notes that all members of the NIA listed above who appeared before the Commission (**Baba Saho**, **Foday Barry**, **Ousman Jallow**, **Ousman Sowe**, **Salimina Drammeh**) all denied being present when **Ebrima Barrow** was being tortured. **Ousman Sowe** for his part claimed that he never worked with **Edrissa Jobe (Alagie Morr)**. The Commission is unanimous in its view that the stories of **Lt. Omar Darboe** and **Ebrima Barrow** are to be believed for the following reasons:
 - i. *Torture was a modus operandi for the NIA to extract confessions from suspects during that time.*
 - ii. **Edrissa Jobe (Alagie Morr)** gained notoriety as a torturer for the NIA especially in cases in which **Yahya Jammeh** had interest.
 - iii. *That there is no evidence that the two witnesses had any incentive to fabricate lies against the persons they identified as their torturers.*
 - iv. *During their trial, **Ebrima Barrow** also accused the same set of persons for his torture thereby maintaining consistency in his account.*
6. In view of the above, the Commission finds that the statements of the NIA officers are not truthful as they intended only to seal themselves from responsibility.
7. Insofar as the suspected 2000 coup plot was concerned, only **Lt. Darboe** and **Ebrima Barrow** were tortured during interrogations at the NIA.

C. TORTURE OF NAWEC STAFF

1. The NIA deployed operatives to sensitive installations and government offices to spy on the citizens with the view to strengthening **Yahya Jammeh's** grip on power. The NIA operatives deployed in these locations were very powerful and committed numerous rights violations and abuses against the citizens with impunity.
2. Between 2001 and 2003, **Omar Cham**, an NIA operative was posted to NAWEC. During this period, he admitted to the Commission that he tortured the following NAWEC staff; **Gibril Wakka, Musa Oldie Jawo, Famara Naso, Simon Grant and Sainabou Keita**. Although **Omar Cham** denied torturing **Ebou Khan** and **Bakary Saho**, the Commission does not believe him. However, the Commission notes that **Lamin Cham** apologised and reconciled with three (3) of his victims.

D. 2006 FAILED NDURE CHAM COUP

1. In March 2006, the then **CDS Ndure Cham** planned to overthrow the government of **Yahya Jammeh**. The coup failed. **Lang Tombong Tamba**, Deputy CDS ordered the arrests of several soldiers suspected to have been involved in the attempted coup. Investigations into this failed coup were held by a panel established for that purpose by **Yahya Jammeh** and the panel sat at the NIA headquarters. In the process of the investigations, the suspects were tortured to confess to the planned coup on national TV. The footage was to also be used for the successful prosecution of the coupist. The Commission now finds as follows:
 2. The Panel members were drawn from the Army, the Police and the NIA. These included: **Harry Sambou, Foday Momodou Hydara, ASP Demba Sowe, Lamin Cham, Abdoulie Sowe, ASP Malamin Ceesay, Corporal Boto Keita and Sergeant Sainey Ndure (deceased), Foday Barry, Nuru Secka, Yusupha Faye, N'fally Jabang, Ousman Bojang, CDS Lang Tombong Tamba, IGP Ousman Sonko, Alagie Martin, Manlafi Corr (deceased), Musa Jammeh (maliamungo, deceased), Baba Saho, and Tumbul Tamba (deceased)**
 3. The function of The Panel was to interrogate the suspects and record their statements. The Panel had statement takers from the Police and two civilians who served as Independent Witnesses for all the confessional statements that were recorded. The Panel did not work alone in its investigations. It worked together with the Junglers from State House who performed two functions during the process. Namely:
 - (i) *To escort the suspects from Mile II Central Prisons to the NIA Headquarters and back.*
 - (ii) *To torture the suspects to confess to the allegations and to force them to answer questions to the satisfaction of the Panel*
 4. **Babou Loum** from Barra and **Lamin Ceesay** from Sukuta served as Independent Witnesses for the purposes of recording the confessional statements of the suspects in relation to the 2006 **Ndure Cham** coup as well as other cases involving the NIA. The Commission notes that this system of "hired independent witnesses" used by the NIA is improper and ought to be stopped.

5. **Omar Colley (Jah Guide)** was stationed at Mile II Central Prisons for the purposes of ensuring the transfer of detainees to the NIA for the purpose of interrogation and torture by the junglers. The transfer and tortures occurred at night.
6. **The national media service, Gambia Radio and Television Services (GRTS)** was occasionally brought to the NIA to record and broadcast confessions of suspects.
7. Following the failed coup by **CDS Ndure Cham**, as was typical with how **Jammeh** reacts to incidents of this nature, the key planners, accomplices and those who had knowledge of the coup but failed to report it to the authorities were swiftly arrested by the Junglers and paraded before a specially constituted panel comprising the NIA, police and army (from the State Guards) tasked to investigate the incident.
8. **Bunja Darboe, Wassa Camara, Yaya Darboe, John Pierre Mendy, Pharing Sanyang, Momodou Babady Sarr, Momodou Alieu Bah and Abdou Karim Jah**, were officers of The Gambia Armed Forces who were arrested in connection with the attempted coup.
9. **Sheikh Omar Faal (Marabout), Alieu Jobe, Demba Dem and Tamsir Jasseh, Musa Dibba, Mariam Jack Denton, M.C Cham and Sheriff Mustapha Dibba** were some of the civilians arrested in connection with the attempted coup.
10. The arrests were done by members of The Gambia Armed Forces including the Junglers.
11. The evidence reveals that the suspected coupist were made to appear before the panel often sitting at odd hours of the night at the NIA Headquarters. The suspects were interrogated by members of the Panel under intimidating circumstances. Some of the suspects including **Bunja Darboe** and **Wassa Camara** were assaulted or threatened during their interrogation. The Commission accepts the testimony of the witnesses that the interview environment was very threatening and under the circumstances, any confessions obtained would be involuntary and therefore inadmissible as evidence in court.
12. On the basis of the testimonies and evidence received by the Commission, the Commission is satisfied that **Yahya Jammeh** had complete power and authority in the appointment of individuals to the ad-hoc investigation panels set up to probe the coups. Therefore, since he exercised overall command over both the personnel selection and work of the NIA, **Jammeh** is responsible for the human rights violations that were committed by the NIA in collaboration with other security institutions, during the panel investigating into the 2006 coup attempt by **Ndure Cham**.
13. From the evidence, **Yahya Jammeh** not only directed the constitution of the panel and which personnel should sit on the panel, he was directly kept abreast of the work of the panels (including tortures) through **Musa Jammeh (Maliamungu)** and other **State Guard personnel** who were part of the investigations.

14. When **Bunja Darboe** appeared before the Panel, **Alagie Martin**, representing **Yahya Jammeh** in the Panel slapped him for not answering questions satisfactorily. The Commission accepts the evidence of **Bunja Darboe** that thereafter, the members of the Panel asked the Junglers to take him away. The Commission notes that consistent with the pattern of conduct or *modus operandi* of the Junglers, **Bunja Darboe** was taken downstairs to a secluded area within the NIA premises where they put a plastic bag over his head and he was beaten with whips and belts. The following individuals were involved in the torture of **Bunja Darboe** - **Alagie Martin, Nuha Badjie, Bora Colley, Mustapha Sanneh, Tumbul Tamba** (deceased) and **Modou Jarju (Rambo)**.
15. On another occasion, **Bunja Darboe** was taken to the NIA at night. **Tumbul Tamba** (deceased) lit a plastic bag and caused it to drip on his body. Cigarette butts were also extinguished on his body.
16. After appearing before the Panel, **Wassa Camara** was also beaten with whips and wires by the following Junglers: **Malick Jatta, Amadou Badjie and Mustapha Sanneh**.
17. The Commission notes that **Yaya Darboe** did not appear before the Panel. However, he was taken to the NIA at night, a plastic bag was placed over his head and he was beaten with wires by **Modou Jarju (Rambo), Michael Correa** and other junglers. On another occasion, **Yaya Darboe** was placed in a bag which was suspended in the air, swung around and dropped on the ground. This was done several times by the Junglers
18. When **Tamsir Jasseh** appeared before the Panel, the Panel was not satisfied with the answers he provided. The Junglers were ordered to take him to another room where they placed a plastic bag over his head and he was beaten with sticks by **Malick Jatta, Michael Correa** and other **Junglers**.
19. When **Pierre John Mendy** appeared before the Panel, **Baba Saho** slapped him for providing an answer he was not satisfied with. According to **Pierre John Mendy, Foday Momodou Hydara** ordered the Junglers to take him down and torture him. He was beaten with sticks, wires and hose pipes by: **Sanna Manjang, Malick Jatta, Mustapha Sanneh, Michael Correa, Noah Badjie** and **Modou Jarju**.
20. On another occasion, **Pierre John Mendy** was taken to the NIA at night where he was beaten, electrocuted and his skin was peeled off with a plier. This according to him was done by **Sanna Manjang, Malick Jatta** and others he could not recognise.
21. After his interrogation by the Panel, **Serign Omar Faal** was taken downstairs by the Junglers. A plastic bag was placed over his head, he was beaten, his beard was forcefully shaved off and a knife was placed on his neck as if they were going to slaughter him. He only recognized **Malick Jatta** amongst his torturers.
22. After appearing before the Panel, **Aliou Jobe** was taken downstairs by the Junglers, a plastic bag was placed over his head and he was beaten with sticks by **Sanna Manjang, Michael Correa, Modou Jarju (Rambo)** and **Tumbul Tamba** (deceased)

23. The purpose for the torture was to obtain confessions from the suspects. Hence the reason why they were all paraded on TV to confess to their involvement in the foiled coup and to seek for pardon from former **President. Jammeh**. When **Bunja** appeared before the Panel, the purported speech which was alledgedd to have been prepared by the coup plotters was dictated to him by the panel members. However, **Lang Tombong Tamba** and other members of the panel who appeared before the Commission denied this assertion.
24. The Commission notes that the 2006 investigation panels were engaged in manufacturing evidence. Suspects were coerced to write confessional statements which conformed to what the panel wanted. The statements were signed by an independent witness who was not present during the writing of the confessional statements and in many cases, the confessions were attained through torture.
25. The Commission notes that the removal of the alledgedd coupists from Mile II Prisons at odd hours of the night, to appear before the panel contravenes the Prisons Act, which stipulates that: *“Prisoners shall not be admitted into or removed from prison beyond 6:00p.m”*.
26. The Commission notes further that some members of the Junglers confessed that their group were sent to the NIA to torture the supscets of the 2006 coup plot as well as the persons arrested in relation to the Freedom Online Newspaper Saga. Those included **Manlafi Corr, Tumbul Tamba, Musa Jammeh (maliamungu), Michael Sang Correa, Momodou Jarju (Rambo), Nuha Badjie, Mustapha Sanneh, Malick Jatta, Amadou Badjie, Sanna Manjang, Omar Jallow (Oya), Solo Bojang, Bora Colley and Saikou Jallow**.
27. The evidence shows that members of the Panel knew that the suspects were being tortured by the Junglers. They did not stop the tortures and accepted confessions that they knew were gained through beating and electricution of the suspects.
28. **Yahya Jammeh** knew that the suspects were being tortured. In fact, he sent the Junglers to the NIA purposely to torture the suspects. They gave him regular reports and sometimes live updates during the sessions. In several instances, Yahya Jammeh himself will call and give instructions regarding the tortures. For instance, when **FB17** was taken to the Junglers from the Panel, Yahya Jammeh called the Junglers. **FB17** recognized his voice and she overheard him telling the Junglers to give her the “FULL VIP TREATMENT” immediately after that the Junglers raped the victim. The suspect understood **Yahya Jammeh’s** statement to mean orders for the Junglers to rape her.
29. In other instances, **Yahya Jammeh** would ask that the Junglers carrying out the tortures put their phones on speaker or video so that he could hear the screams and agonies of the victims.
30. **Yahya Jammeh** and his band of Junglers including **Manlafi Corr, Tumbul Tamba, Musa Jammeh, Michael Sang Correa, Momodou Jarju (Rambo), Nuha Badjie, Mustapha Sanneh, , Malick Jatta, Amadou Badjie, Sanna Manjang, Omar Jallow (Oya), Saikou Jallow, Solo Bojang, Bora Colley Alagie Martin (eyes and ears of Yahya Jammeh)** as well as the members of the Panel **Harry Sambou, Foday Momodou Hydara, ASP Demba**

Sowe, Lamin Cham, Abdoulie Sowe, ASP Malamin Ceesay, Corporal Boto Keita and Sergeant Sainey Ndure, Foday Momodou Barry, Yusupha Faye, N'fally Jabang, Ousman Bojang, CDS Lang Tombong Tamba, IGP Ousman Sonko, Alagie Martin and Baba Saho, were responsible for the tortures mentioned above.

31. **Alagie Martin**, the following Junglers: **Manlafi Corr**, **Tumbul Tamba (deceased)**, **Musa Jammeh (MaliaMungu, deceased)**, **Michael Sang Correa**, **Momodou Jarju (Rambo)**, **Nuha Badjie**, **Bora Colley**, **Mustapha Sanneh**, **Malick Jatta**, **Amadou Badjie**, **Sanna Manjang**, **Omar Jallow (Oya)**, **Nuha Badjie**, **Saikou Jallow**, **Solo Bojang**, **General Sulayman Badjie**, **Ismaila Jammeh** participated in the physical torture of the 2006 alleged coupists.

E. TORTURE OF SAM KAMBAI AND OTHERS (MFDC REBELS) 2007

1. **Sam Kambai**, **Kebba Secka**, **Mouminy Baldeh** and **Kemo Conteh** were arrested in connection with some alleged arms dealing with about 10 MFDC rebels who were also arrested and detained at the NIA. A panel was established to investigate the allegation against **Sam Kambai** and others. The Panel comprised **Sheriff Wadda**, **Baboucarr Jallow**, **Baboucarr ARK Jallow**, **Samba Gajaga**, **Lamin Darboe**, **Edrissa Jobe (Alagie Morr)** (all NIA operatives), as well as **Salifu Nyang** and **Boto Keita** (police officers).
2. The Commission notes that Panel applied the modus operandi of previous investigative panels at the NIA of using Junglers or NIA Personnel to torture witnesses and elicit confessions from them. The Commission accepts the evidence of **Kebba Secka**, **Mouminy Baldeh**, **Kemo Conteh** and **Sam Kambai**, as well as the MFDC rebels were severely tortured by NIA officers including **Edrissa Jobe (Alagie Morr)** and **Lamin Darboe**.
3. **Sam Kambai** was tortured on multiple occasions and forced to sign a confessionary statement prepared by the investigators comprising of **Lamin Darboe**, **Musa Kinteh**, **Alagie Morr** and others. The Commission thus finds that **Lamin Darboe**, **Musa Kinteh** and **Edrissa Jobe (Alagie Morr)** tortured **Sam Kambai** in order to extract a manufactured confession from him.
4. The Commission notes the severity of the sexualized torture of **Sam Kambai**, who was forced without success to sign a prepared confessionary statement.

F. ALLEDGED LANG TOMBONG TAMBA COUP (2009)

1. The evidence reveals that the 2009 coup was a plot to purge **CDS Lang Tombong Tamba** from the army and as a result, witnesses were bribed by former President **Yahya Jammeh** to give false testimony against **Lang Tombong** and others in an attempt to fabricate and convict him.
2. The operations of the 2009 investigative panels as with the 2006 panel which were set up at the NIA included the use of torture against accused persons who were brought before the panel in relation to either of the alleged coups. The Commission also finds that the members of the panel of investigators in 2009 namely: **Numo Kujabi**, **Ensa Badjie**, **Numo**

Kujabi, **Solo Bojang**, **Bora Colley** or **Saul Badjie**, **Sukuta Jammeh (deceased)**, **Alhagie Camara**, **Edrissa Jobe (Alagie Morr)**, **Sainey Ndure (deceased)**, **Lamin Cham**, **Omar Colley**, **Louise Gomez (deceased)**, **Lamin S Sanyang**, **Jerreh Gomez**, **Yankuba Badjie**, **Sheriff Gassama** and **Buba Beyai** were aware of the torture of witnesses and therefore culpable for same. Many members of the panels testified as to use of torture to obtain confessions.

G. TORTURE OF SUSPECTED DRUG DEALERS

1. **Babou Cham** and others were suspected to be drug dealers. They were brought to the Special Operations Unit of the NIA where they were tortured through severe beatings, electrocution as well as being stripped naked by the following panel members, namely **Ebrima Jim Drammeh**, **Lamin Darboe**, **Sukuta Jammeh (deceased)** and **Edrissa Jobe (Alagie Morr)** to confess.
2. Premised on the confession of **Ebrima Jim Drammeh** as to his participation and torture of **Babou Cham** and others and on the evidence of **Babou Cham** himself, the Commission finds that **Sukuta Jammeh (deceased)**, **Jim Drammeh**, **Edrissa Jobe (Alagie Morr)** and **Lamin Darboe** are responsible for the torture of the suspects.

H. TORTURE OF LAMIN KARBOU AND OTHERS

1. **Lamin Karbou** was tortured at the NIA and it was so severe that he ran naked in the afternoon from the NIA to the police headquarters.
2. The Commission does not believe the evidence of **Ebrima Jim Drammeh** that he did not order **Edrissa Jobe (Alagie Morr)** to torture **Lamin Karbou**. This is because **Ebrima Jim Drammeh** was the head of operations at that time and he had control over operational matters. During his testimony, he had earlier stated that he did not torture anyone at the NIA and later, he confessed that he tortured **Fernando Co** and others. He was also hesitant to state that **Lamin Karbou** was stripped naked just like the others. **Lamin Karbou** on the hand was consistent throughout his testimony as to this incident, premised on the above, the Commission believes **Lamin Karbou's** version of the incident.
3. Based on **Lamin Bo Baaji's** own admission that he was aware of the torture of **Lamin Karbou** and others although he failed to investigate the incident and or bring to account the perpetrators. The Commission finds that the detention of **Lamin Karbou** at the NIA for two weeks without a court order was unlawful and **Lamin Bo Baaji** was complicit in the torture and unlawful detention of **Lamin Karbou** and others.
4. Even though **Ebrima Jim Drammeh** admitted that **Momodou Hydara**, Deputy Director General of the NIA at the time was present while **Fernando Co** and others were tortured, he did nothing to stop it or punish the perpetrators.
5. During this period there was a prevalent culture of not only torturing, but humiliating detainees by striping them naked to expose their private parts. Considering the cultural context of The Gambia, the Commission finds that the purpose of stripping the detainees was to demoralise them and make them confess to whatever they wanted from them.

6. The Special Operations Unit of the NIA was set up to execute the “Executive Directives” of **Yahya Jammeh** in relation to his personal business deals, arresting and handing over senior government officials and any other issue that he perceived to affect his personal security and self perpetuation in power.

J. TORTURE OF ABASS JARJU AND OTHERS

1. **Yahya Jammeh** issued operational orders for the arrest of **Abass Jarju, Jogo Sowe, Saidou Sowe, Ebrima Camara** and Wurry in order to confiscate their money (which turned out to be counterfeit). Consequently, the above suspects were tortured by the following members of the Special Operation Unit- **Lamin Darboe, Gibril Kanyi** and **Alasana Baldeh** to elicit information as to the whereabouts of the money. Based on the confession of **Basiru Sey** as to his groups’ participation in the torture of the above persons, the Commission finds that: **Basiru Sey, Lamin Darboe, Gibril Kanyi** and **Alasana Baldeh** are responsible for the torture of the above persons.
2. **Lamin Darboe** was not truthful when he said he ‘never gave orders’ for suspects to be tortured at the Special Operations Unit. This is because his subordinates **Basiru Sey, Gibril Kanyi** and **Alasana Baldeh** all stated that he gave orders as to the nature of the punishment that was to be meted on persons under their custody
3. Given that **Basiru Sey** confessed to his involvement in the tortures that were carried out by Special Operations team, the Commission believes that he did not shield himself from any responsibility or diminish his participation in the tortures. The Commission also notes that **Basiru Sey** apologised to and reconciled with his victim at the TRRC.
4. The Commission also finds that former President **Yahya Jammeh’s** use of the NIA as his personal tool, made it possible to create a loophole that could be exploited by NIA officers to use the agency to resolve civil issues and make money out of it, as evident in the testimony of **Basiru Sey** and **Lamin Darboe**.

K. TORTURE OF DARU HAIRU MARABOUT AND OTHERS

Based on the testimony of **Basiru Sey**, members of the Special Operation Unit are responsible for the tortures of an ex-soldier, a cattle rustler and the Daru Hairu Marabout who had a problem with .Jammeh

L. TORTURE OF UDP SUPPORTERS -2016 DEMONSTRATIONS

From the totality of the evidence of the UDP witnesses who testified, as to how and where they were arrested and beaten during the demonstrations of April 14 2016. The Commission finds as follows, that:

1. The suspected leaders of the demonstration were first taken to NIA and tortured and the others were brought at night to the NIA from Mile II Prison and tortured. It is evident that the beatings meted on the UDP supporters was as a result of the demonstration against the proposed electoral law.

2. The following UDP supporters were victims of torture at the NIA in April 2016:

- i. *Alasana Beyai*
- ii. *Kafu Bayo*
- iii. *Lamin Camara*
- iv. *Fatou Camara*
- v. *Ebrima Janko Ceesay*
- vi. *Buba Ceesay*
- vii. *Alhagie Fatty*
- viii. *Ebrima Jabang*
- ix. *Ebrima Jadama*
- x. *Bubacarr Jah*
- xi. *Bubacarr Jaiteh*
- xii. *Alhagie Jammeh*
- xiii. *Lamin Jatta*
- xiv. *Fatoumatta Jawara*
- xv. *Momodou Lamin Jawneh*
- xvi. *Lamin Marong*
- xvii. *Nogoi Njie*
- xviii. *Ousman Njie*
- xix. *Modou Ngum*
- xx. *Sader Secka*
- xxi. *Lamin Sonko (Fa lang)*
- xxii. *Baboucarr Touray*
- xxiii. *Ebrima Touray*
- xxiv. *Modou Touray*
- xxv. *Baboucarr Touray*
- xxvi. *Kalilou Sailykhan*
- xxvii. *Kekuta Yarbo*

3. **Ousman Sonko** and **General Saul Badjie** were present at the NIA and knew that the UDP detainees were being tortured but failed to prevent or investigate same or punish the perpetrators.
4. Most of the torturers were wearing face masks to conceal their identities. However, witnesses, such as **Nogoi Njie**, identified **Sheikh Omar Jeng** and **Tamba Masireh** as among those involved in the torture.
5. By providing medical treatment to the UDP detainees in order to hide the evidence of their torture prior to their court appearance, the commission finds **Dr Lamin Sanyang** is complicit in the torture of the UDP detainees.

M. TORTURES AT HOLLGAM

The evidence reveals that **Ebrima Keita, Musa Fofona** and **Pa Alasan Jallow** were detained at Hollgam. Both **Ebrima Keita** and **Musa Fofona** were consistent in their testimony, as to their detention and torture torture, expect for when they both described **Amadou Bojang** differently. This is immaterial as Amadou Bojang admitted that they were detained

at Bulldozer under his command. The Commission does not believe the testimony of **Amadou Bojang** that he and his men did not torture **Musa Fofana, Ebrima Keita and Pa Alasan Jallow**. Thus, the Commission holds that **Amadou Bojang, Ebrima Ceesay, Babucarr Trawally, Alpha Bojang and Babucarr Singhateh** are liable for the torture and unlawful detention of **Pa Alasan Jallow, Ebrima Keita and Musa Fofana**.

N. UNLAWFUL DETENTION OF FAMILY MEMBERS OF THE DECEMBER 30, 2014 ATTACKERS OF STATE HOUSE

In the aftermath of the December 30, 2014 attack on State House, several military personnel and family members of those that absconded were detained at the NIA. During their detention, the Commission finds that:

1. The suspected December 30 attackers, including **Sarjo Jarju**, were tortured by some members of the Junglers at the NIA premises to confess to their participation in the attack. Premised on the testimony of **Ousman Jallow** and statement of **Sarjo Jarju** as to his torture, the Commission finds that **Pa Ousman Sanneh, Mustapha Sanneh, Mo Badjie, Sulayman Sambou, Micheal Jatta, Saikouba Jarjue, Omar Jallow (Oya)** and **Momodou Jarjue (Rambo)** participated in his torture under the direction of **Nuha Badjie**.
2. **Lamin Darboe** and his team participated in the torture of the suspects of the December 30, Attack on State House under the direction of the then Director General of the NIA **Yankuba Badjie**, and the Deputy Director General, **Louise Gomez (deceased)**. Thus, the Commission finds them culpable in the torture of the December 30, attackers. The Commission does not believe the testimony of **Lamin Darboe** that he was not present during the torture of the suspects.
3. **Fatou Sonko** mother of **Dawda Bojang** together with her husband and about thirty family members of the suspected attackers on State House, including a teenager were unlawfully detained at the NIA for a lengthy period to lure their relatives that absconded as confirmed by the Amnesty International Report.

O. ENFORCED DISAPPEARANCES

1. The evidence reveals that **Yahya Jammeh** ordered the killing of scores of people generally perceived as opposed to him. Many of the victims disappeared without trace. Evidence from the Junglers reveal that they were secretly killed on the orders of **Yahya Jammeh** and buried in old wells and graves in properties/farms belonging to him in Foni and the Foni/Cassamance border. Apart from some of the victims killed and buried at Yundum Barracks, the Commission had been unable to identify the exact locations of the graves and thus unable to exhume or recover the remains of the victims. As such, they remain disappeared.
2. The evidence also reveals that **Chief Ebrima Manneh, Kanyiba Kanyi, Momodou Lamin Nyassi, Bubai Sanyang** have also been disappeared at the hands of the security agents of the State. Their whereabouts have still not been uncovered.

P. TORTURE OF TUMANI JALLOW & ABDOULIE GAYE

1. **Alpha Jallow**, a PIU Officer was arrested for the burning of voters' cards at the APRC headquarters in Kanifing. He is the only witness that testified with respect to their arrest and torture sometime in 2016 after the burning of the APRC. He indicated that **Sheikh Omar Jeng** and other NIA operatives participated in torturing him, **Tumani Jallow, Alhagie Badjie, Matar Ceesay and Sgt Jariatou Badjie** at the NIA.
2. The Commission received credible evidence from **Omar Jallow (Oya)** that **Sheikh Omar Jeng** handed over **Tumani Jallow and Abdoulie Gaye** to him and other Junglers including **Pa Sanneh, Saikouba Jarju, Sulayman Sambou, Michael Jatta, Nfansu Nyabally, and Malick Manga**. This group of Junglers took the duo into their vehicles and killed them by strangulation as they were driving towards Mandinaba.
3. **Sheikh Omar Jeng** is responsible for the torture of **Tumani Jallow and Abdoulie Gaye, Alhagie Badjie, Matar Ceesay and Sgt Jariatou Badjie**

Q. DESTRUCTION OF MATERIAL EVIDENCE

Ousman Sowe, current Director General of the NIA deliberately presided over the destruction of material evidence when he secured the renovation of the NIA premises including rooms and facilities that were obvious to be of interest in an investigation into the NIA. In spite of clear legal advice from his legal officer (A M O Badjie) against this action, **Ousman Sowe** deliberately and with willful intent went ahead with the renovations. He is therefore responsible for concealment and or destruction of material evidence.

3. RECOMMENDATIONS

The Commission recommends that:

1. **Yankuba Badjie**, the former Director General of the NIA and **Sheikh Omar Jeng** be prosecuted for their complicity in the unlawful detention and torture of **Tumani Jallow and Abdoulie Gaye** at the NIA and for their roles in handing over **Tumani Jallow and Abdoulie Gaye** to the Junglers knowing reasonably well that they were highly likely to be tortured and killed.
2. **Yankuba Badjie, Sheik Omar Jeng and Tamba Masireh** be prosecuted for their role in the torture against **Solo Sandeng** and the April 14th 2016 UDP demonstrators at the NIA.
3. **Edrissa Jobe (Alagie Morr)** be prosecuted for the torture against **Lamin Karbou** and others at the NIA.
4. **Lamin Darboe**, the head of the Special Operations Unit, prosecuted for his role in all the tortures committed by Special Operations at the NIA.
 - i. *Basiru Sey, Alasan Baldeh and Gibril Kanyi be reprimanded for all the tortures they committed as members of the Special Operations Unit.*
 - ii. *Lt.Col Amadou Bojang, Ebrima Ceesay, Babucarr Trawally, Alpha Bojang and Babucarr Singhateh be reprimanded the torture and unlawfull detention of Pa Alasan Jallow, Ebrima Keita and Musa Fofana.*

5. **Ousman Sowe**, the current Director General, be banned from holding public office with the government of The Gambia for a minimum period of 10 years for destruction and concealment of evidence at the NIA
6. The following present and past NIA officials who directly and indirectly participated in the torture of detainees and other gross human rights violations and abuses must be banned from holding any office with the government of The Gambia for a minimum of ten (10) years which the Commission believes commensurate with the severity of their actions:
 1. *Lamin Bo Baaji*
 2. *Tejan Bah*
 3. *Foday Barry*
 4. *Ebrima Jim Drammeh*
 5. *Salimina Drammeh*
 6. *Momodou Hydera*
 7. *Ousman Jallow*
 8. *Lamin A.M.S Jobarteh (Babadinding)*
 9. *Baba Saho*
7. That **Harry Sambou** and **Samsideen Sarr** be banned from holding public office for five years for their participation in the torture of **Omar Dampha** and **Ballo Kanteh** respectively.

INSTITUTIONAL REFORMS

8. The NIA must be completely overhauled and re-orientated to ensure that its principal function and duties are limited to its traditional intelligence gathering role and such related responsibilities.
9. The NIA must be completely stripped of its policing powers which allowed the institution to concern itself with ordinary matters that traditionally falls within the jurisdiction of the police in the exercise of its law-and-order duties.
10. The Special Investigations Unit of the NIA which over the years had been used to oppress and brutalise perceived opponents of **Yahya Jammeh** and those who befell the misfortune of coming into contact with the NIA, must be disbanded immediately.
11. The extensive legal powers given to the NIA to investigate and concern itself with the private issues and lives of citizens and businesses must be removed immediately. This is important to fulfill, observe and protect citizens constitutional right to privacy and confidentiality and to completely depart from the unlawful practice of the agency misusing its powers and authority by unnecessarily intimidating and harassing private citizens especially persons that are of interest to the state socio-politically.
12. The recruitment process of NIA personnel must be over-hauled (revised) and more stringent essential requirements at the minimum must be introduced to ensure the institution hires individuals who possess minimum academic qualifications and professional experience to effectively and competently carry out the required functions of the institution.

13. All detention facilities at the NIA must be removed to ensure that the culture of arbitrarily detaining suspects completely ceases. This is important in shifting the mindset and direction of the NIA to an intelligence-based institution and not a policing and detention centre.
14. All NIA staff must undergo adequate and comprehensive training to inculcate the culture of discipline and values that promote respect for fundamental human rights and freedoms and upholding the rule of law in a democratic system. This is integral to any reconstruction efforts to end the culture of impunity that characterised the NIA as an instrument of torture and oppression during **Jammeh's** twenty two (22) years of dictatorship.

THEME 16

INSTITUTIONAL HEARINGS :

Prisons

1. OVERVIEW

A. BACKGROUND

- 1 The Gambia Prison Services was one of the three institutions that the TRRC investigated to gather information and receive evidence that would inform its recommendations for putting in place appropriate institutional reforms. The Prison Services was identified as an institution that had committed many human rights violations during the period under review (July 1994 to January 2017) and therefore the Commission deemed it necessary to conduct institutional hearings on the Prison Services.
- 2 Prisons are an important part of the criminal justice system. They have four major functions which are; retributive justice, denunciation, rehabilitation and incapacitation. Retributive justice is when a person is made to pay a debt to society by deprivation of his liberty for a specified time span for a crime committed. Denunciation serves as a deterrent by signalling to others who may be inclined to commit acts similar to those the imprisoned person committed, that such acts will not be tolerated and the consequences can be dreadful. Rehabilitation offers the imprisoned person the opportunity to correct their behaviour and to acquire new skills that enable them to be integrated back into society. Incapacitation targets the offenders to prevent them from committing crimes in the future by removing their ability to commit such crimes.
- 3 The Gambia is a party to the human rights instruments including the (a) the International Covenant on Civil and Political Rights (ICCPR) in 1979 (b) International Covenant on Economic, Social and Cultural Rights (ICESCR) (c) and the Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT) The Basic Principles for the Treatment of Prisoners, adopted and proclaimed by UN General Assembly resolution 45/111 of 14 December 1990, provide under Article 1, that “All prisoners shall be treated with the respect due to their inherent dignity and value as human beings”. Article 5 of The Basic Principles holds further that, except for limitations that are made demonstrably necessary by the condition of their imprisonment, all prisoners must be afforded the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights as well as the ICESCR, the ICCPR and other rights found in other United Nations covenants.
- 4 The Gambia Prison system however, to all intents and purposes does not meet these commitments neither does it comply with the United Nations Standard Minimum Rules for the Treatment of Prisoners. In June 2020 the TRRC started its special institutional hearings on The Gambia’s Prisons Services during the twenty two (22) years period from July 1994 to January 2017. The public hearings paint a picture where The Gambia’s Prison Services over the years have become unfit for their purpose.
- 5 Instead, it was turned into an oppressive institution characterised by human rights abuses and inhumane degrading treatment of prisoners and even prison officers in some cases. Like all the other state and security institutions, The Gambia’s prisons system was used as a tool to facilitate former president Yahya Jammeh’s authoritarian machinations. He used the prisons as a tool for instilling fear and inflicting punishment on those who oppose him or fall out of favour with him. He effectively wielded the threat of sending people to his “five-star

hotel” (meaning Mile II Central Prison) to discourage dissidents and any form of opposition. The horrendous conditions of Mile II Central Prison were well known and no one wanted to go there.

- 6 The public hearings and the visit by the Commission to the prisons on the 18th January 2019, revealed the horrendous situation of the prisons but particularly the Mile II Central Prison which can be attributed in part to the location and infrastructure but also to poor management exacerbated by low calibre of directors and prison officers. The poor physical conditions of the cells in the Security, Remand and Main Yard Wings, particularly the Security wing where most detainees were held in solitary confinement in cramped, dark, mosquito- rat- and vermin infested cells were totally unfit for human beings. Built by the Colonialists in 1920 in a swampy area, dampness on the walls and leaky roofs constitutes a serious health hazard to prisoners and staff alike. The poor sanitation and diet and the rudimentary health care facility have serious impact on health resulting in deaths of detainees and prisoners due to neglect. The theft by prison officers of rations meant for the prisoners led to food shortages. The sexual harassment, abuse, and discrimination against female prison officers was rife.

B. PRISON MANAGEMENT

- 7 Leadership plays an important role in the development of any organisation and especially the prisons service, which is a very complex organisation that require the leader to not only to carry out the core mission of the prison services but also to ensure order, safety and security in the facility for both staff and prisoners. It is important therefore that the men and women who work in the Prison Service hold the relevant educational qualifications; be competent and knowledgeable in the in the field of correctional services and demonstrate high standards of professional ethics and ethical behaviour. This is not an easy task as the correctional leader has to manage prison staff that is greatly outnumbered by the prison population many of whom have low educational qualifications and training, are poorly paid and are generally dis-satisfied with their conditions of service.
- 8 To ensure that the Prison Services served his purposes, **Yahya Jammeh** used *loyalty* as a basis to appoint the Director General of the Prison Services. Family and community relationships and ethnic ties were the basic considerations for measuring this loyalty. Qualification did not count. What mattered was that he could entrust the position to someone who would carry out his unlawful instructions without questions. Thus, he appointed **David Colley** to the position of Director General in 1997. In his own testimony, **David Colley** attested to being: “a Grade 9 graduate”. This is far below the educational qualifications required for the position.
- 9 Despite the lack of qualification and the fact that he was removed from the position on two occasions and even incarcerated in the Prison that he headed, **David Colley** was recycled and reinstated and became the longest serving Director General (DG) of The Gambia Prison services. He managed to remain as DG for so long because he carried out **Yahya Jammeh’s** directives to the letter, without questions and simply turned a blind eye to human rights violations that were taking place in the prisons under his watch. To ensure that was able to get what he wanted, Jammeh appointed persons from his ethnic group or close community and group of associates that he believed would be loyal to him to hold leadership positions in the Prison Services. The educational qualification or competence did not matter. All he wanted

was someone to carry out his instructions. He got this in the person of **David Colley** who helped him (**Yahya Jammeh**) make the Prison Services of The Gambia and in particular Mile II Prison a place of severe punishment and untold hardship. Staff recruitment and promotions were mostly based on ethnicity and nepotism. Furthermore, **David Colley** recruited and promoted to key positions only people close to him through blood ties, ethnicity or were from Kanilai. These officers were allowed to operate with impunity, perpetrating gross violations of the rights of prisoners through both physical and psychological torture (beatings and stripping naked of prisoners as well as over-intrusive anal search).

10. The non adherence to proper procedures in the appointment of prison officers had an impact on the behaviour of prisons staff. Those who were recruited without due process were more likely to follow unlawful instructions. According to witness testimonies, “those who did not come into the prisons administration through the right channels were more prone to just follow what those who brought in instructed them to do rather than what the law, regulations service and training requires.”

C. PROCEDRES FOR DETENTION

- 11 As a justice sector institution, the prisons and prison administration is governed by both constitutional and statutory law (the Prisons Act) provisions. These laws provide for the manner of deprivation of the liberty of any person in The Gambia. A prisoner to be admitted either on remand or on conviction, cannot be legally admitted unless a remand warrant, warrant or order of detention, warrant of conviction or a committal warrant, or order of a Court Martial is presented. However, the situation changed in 1994. Many innocent victims including security officers, politicians, business persons, journalists and advocates were detained at Mile II Central Prisons without due process. They were subjected to inhumane and degrading treatment, tortured and some died as a result. The Standard Minimum Rules for the Treatment of Prisoners, developed by the United Nations Commission on Crime Prevention that contained provisions protecting the human rights and personal liberties of detainees were not applied.
- 12 They were simply brought in and detained at Mile II for indefinite periods of time in the Security Wing. Detainees that were brought in based on Executive Orders/Directives from the Office of the President could not be rejected by the prison officers because if they did, they would have a problem. The witnesses testified to the Commission that when these detainees were brought in they were compelled to comply with the executive orders and receive and detain them at Mile II Prison, as refusing to do so would lead to them being charged and dismissed for refusing orders. Under the direction of the former president, many arrests and detentions in the prisons were conducted outside of any legal framework. Many detainees were imprisoned without any warrant for their detention, without being booked or recorded in the records of the prisons.
- 13 Besides admitting persons to the prisons without due process and in contravention of the laws governing the prisons, stipulating the times when arrestee can be interned or removed from the prisons, the prison authorities, the NIA and other state institutions and agents also engaged in a number of gross human rights violations in their handling of prisoners. The NIA and Junglers (private torture and assassination squad of **Yahya Jammeh** comprising

soldiers from the State Guard) enjoyed unrestricted access to the prisoners and could inflict any sort of treatment on prisoners without interference by the prison authorities under whose authority they were in. **David Colley** testified that despite being Director General of the prisons, he had no choice but to surrender his authority to the NIA and the State Guard who brought prisoners in and out of his prisons without seeking his authorisation

D. CONDITIONS OF THE PRISONS

- 14 The Security Wing where the detainees were kept was unfit for human beings according to all the security detainees who testified before the Commission. According to **Ebrima Ismaila Chongan**: “*the cells were 2m x 1.5m with a steel door painted black. They were bare except for a 1.90m and 40cm wooden plank bed, a chamber pot for toilet and a one litre plastic bottle for water*”. This was confirmed by many other witnesses including **Abubacarr Sulayman Jeng, RSM Baboucar Jeng, Captain Momat Cham** (all security detainees) and **Ansumana Manneh** (current Director General) said that the ‘*Wing was unfit for human beings and detaining anyone under such conditions was inhumane.*’ According to him, the condition of the Mile II Prison was so harsh and deplorable that even the staff were not immune to its effect.
- 15 The horrid conditions were not limited only to the Security Wing but extended to the Main Yard and Remand Wings. According to witness testimonies, the conditions of the Remand Wing was so overcrowded that some prisoners could not sleep and had to sit up for the entire night, while others spent the nights in the toilets. **Malang Tamba**, a prison officer confirmed the horrendous situation of the Remand Wing which was so overcrowded that after opening the doors in the morning the officers would have to stand aside to wait for the stench to blow away. All the witness testimonies indicate that the conditions of the entire prisons system was terrible across the board, including in the other two prisons, Jeshwang and Janangbureh. Testifying about the Bambadinka Cells at Jeshwang Prisons where some detainees and convicts were kept, **Jombo Jallow** (prison officer) said that these cells were custom built for the purpose of keeping prisoners in solitary confinement.
- 16 In addition the TRRC noticed that there were many young people in detention or remand for simple crimes that did not require custodial sentence. Without rehabilitation services and putting them in the same space as hardened criminals many of these young people run the risk of developing anti-social behaviours. There were also several persons who were languishing in detention without their cases ever being taken before the courts. The Commission observed that the conditions of detention in prison cells were a gross violation of the right to the minimum of space, hygiene, privacy and security necessary for a humane and dignified existence.

E) TREATMENT OF PRISONERS AND DETAINEES

(i) Lockdown and Shackling

17. Life in Mile II is made even more unbearable by the harsh treatment meted out against the prisoners. The political prisoners who were also mainly detained in the security wings in Mile II, often had 23 hours confinement with limited interaction with the general prison

population. The 1994 Security Detainees were subjected to complete lockdowns. The first lockdown was for a week and took place immediately after their detention and the second was for a month after the night of the mock executions. They were locked up for 24 hours a day throughout the period of lockdown with no access to bathing, sanitation or change of clothes. In relation to the treatment of the legally convicted prisoners and those on remand, testimonies have shown that the prison officers were grossly neglectful of the condition of prisoners contrary to general modern standards for the treatment of prisoners. Several witnesses (**Soriba Conde, Samba Doro Bah, Lamin Jah** amongst others) who testified before the Commission indicated that some of the prisoners were subjected to solitary confinement for extremely long periods in addition to being shackled and handcuffed (in some cases for up to 2 years). In such cases, the extreme punitive measure of restricting the movement of the prisoners resulted in paralysis for some. Such treatment is clearly inhuman and degrading treatment of convicted prisoners.

(ii) Torture

18. In contravention of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) which states that: “*all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times*”, the Commission received evidence that prisoners and detainees were beaten and tortured inside and outside the confines of the prison. Several witnesses testified that **David Colley**, the Director was aware of the beatings and torture and did nothing to stop them. In addition the Prison authorities turned a blind eye to or participated in the activities of the Junta members and NIA in Mile II Prison. These include the mock executions of the Security Detainees on the 6th September 1994. The torture of **Sanna B. Sabally** and **Sadibou Hydara** on January 29, 1995 and the removal of prisoners such as **Pierre Mendy** and others and being taken to the NIA for torture sessions shows the complicity of the prison hierarchy in the perpetration of serious human rights violations. Prison officers such as **Bakary Tamba** were also taken to the NIA to be tortured.

F. FOOD

19. Witness testimonies also indicated that the prisoners’ diet was terrible and, in most cases, not fit for human consumption. The food at Janjanbureh Prison was purportedly better (maybe due to the smaller size of the Prison Population) than at Mile II Prison. The unwholesome nature of the food resulted in malnutrition and *beri-beri* (Vitamin B-1 deficiency also called Thiamine deficiency). Witness testimonies indicated that *beri beri* was the leading cause of morbidity and mortality at Mile II.
20. Witnesses also reported that sometimes they were served with rotten fish or meat or that the food was simply off due to poor preparation or storage. The Commission heard testimony about the infamous dead cow incident. According to the witnesses, **David Colley** instructed some of his staff to collect an already dead cow and bring it back to the prison to be fed to the prisoners, resulting in severe ill health and reportedly, some deaths. Apart from the se-

rious health implications this also seriously violated the rights of Muslim inmates who are not allowed to eat meat that is not properly killed. This points to gross negligence by **David Colley**, for the welfare of the prisoners under his charge.

G. HEALTH AND SAFETY

21. Cases of communicable diseases such as tuberculosis were not quarantined thus exposing other prisoners and staff to infections. There was a lack of care of prisoners with mental health issues putting both the mentally ill person and other prisoners in the same cells thus putting them at risk from violent attacks. A prisoner slit his throat to get attention for medical assistance and some inmates suffered mental illness as a result of the ill treatment and poor conditions. Access to medicine and medical care was inadequate and prisoners had to depend on illegal sources for acquiring medicine. The kindness of **Fatou Sanneh** and **Buba Jatta**, the medic who only had *G. V. Paint* to apply on wounds were appreciated for their humanity. In the midst of darkness, these were acts of kindness.

H. CORRUPTION IN PRISON SERVICES

22. Corruption was fueled by the very low salaries of the prison officials and the willingness of family members to bribe officials to ameliorate the suffering of their loved ones. Dealing in contraband by prison officers was pervasive at Mile Two Prison. Prisoners were known to have access to cannabis, unauthorized medicines, mobile phones and other materials. This happened mainly through the assistance of prison officers, who were ready to traffic in these materials for a fee or profit.

I. SEXUAL GENDER BASED VIOLENCE IN MILE TWO PRISONS

23. The Commission examined the issue of Sexual and Gender Based Violence (SGBV) in the Mile Two Prison. Contrary to the general trend, the Commission received good news that female prisoners were well treated in the Mile Two Prison relative to their male counterparts. During its visits, the Commission found only 11 female inmates at Mile Two, 1 at Janjanbureh and zero at Jeshwang, which by every standard is a low prison population. The Commission received no evidence of SGBV or exploitation of female inmates.
24. In a private session at the TRRC, the Commission was informed that in January 2007, **David Colley**, former Director General of The Gambia Prison Services, took along with him five female officers of the Prison Services on a familiarization tour with the then newly appointed Interior Minister **Mr. Ousman Sonko**. The purpose of the trip was to help acquaint **Mr Sonko** with security installations across the country. The intention of taking the female prison officers on the trip was for them to provide sex services for senior members of other security units including the National Drug Law Enforcement Agency. The plans did not work and the girls faced severe discrimination in the work place.

2. FINDINGS

Considering all of the evidence that is presented above and on the participatory observation by the Commissioners during the site visits to all three prisons in The Gambia, the Commission finds that:

1. During the period July 1994 to January 2017 The Gambian Prison Services gained notoriety for the cruel, inhumane and degrading treatment with which prisoners and detainees were treated.
2. **Former President Yahya Jammeh** used the prison system to punish his opponents (perceived or real) and sent them to his “*five star hotel*” the notorious Mile II Prison which he knew to be a dirty, damp, mosquito and vermin infested place. Such conditions are equivalent to inhumane and degrading treatment and a violation of the rights of prisoners.
3. To ensure that the prisons were under his control he appointed a Director General with no qualifications and who would thus beholden to him and obligated to carry out his illegal orders. Prison Officers were recruited with little or no educational qualification, which made them prone to manipulation. The eligibility criteria was based on ethnic and community considerations and nepotism and ethnicity informed the recruitment and promotion of persons in the prisons service.
4. The Prison Service was used as a tool for oppression and formed part of the tentacles of state control over every aspect of life of Gambians. Detainees were incarcerated into Mile II without due process and they were not allowed family visits or access to their lawyers.
5. Between 1994 to 2016 a special category of prisoners not recognized by law under the classification “detainees “were kept at security wing of the Mile II Prisons pursuant to executive directives and on orders of the former **President, Yahya Jammeh**. They were subjected to all forms of ill-treatment, abuse and stripped of all their fundamental human rights.
6. Detainees were deprived of food, water, clothing, basic sanitation and health care and this violated their right to the minimum of space, hygiene, religious worship, privacy and security necessary for a humane and dignified existence.
7. The ill treatment, abuse and torture of prisoners and detainees through a range of methods was prevalent and was carried out by non-prison officers such as the Junta Members, the Junglers and the State Guards and by Prison officers. This included mock executions, torture and corporal punishment.
8. The 1995 Faferrenni attackers and the 2014 suspected December coupist were kept in shackles for lengthy periods under the instructions of former president **Yahya Jammeh**, resulting to paralysis in some cases and one reported case of an amputation. The Commission is aware of a letter written by the first President of the country, **Alhagie Sir Dawda Kairaba Jawara** issued directives outlining the inhumane nature of the use of shackles and outlawing their use.
9. The NIA would come in at night and remove prisoners or detainees from the Prison and take them to the NIA to be tortured by the Junglers and returned back to Mile Two Prisons after

- the torture sessions. The Junglers were mostly implicated in the rights abuses at the prison and are alleged to have carried out the most grievous crimes.
10. Prisoners **Lamin Jah, Soriba Conde, Babagalleh Jallow, Fallou Ceesay** were tortured by the following Prison Officers - **Ebrima Jammeh (chief torturer), Yahya Jarju, Saikouba Jarju, Muhammed Jabbi, and Malang Tamba.**
 11. Prisoner **Makodey Jahateh** was tortured to death by the following Prison Officers - **Ebrima Jammeh (chief torturer), Yahya Jarju, Saikouba Jarju, Muhammed Jabbi, and Malang Tamba.**
 12. Prisoner **Ous Nicol** was tortured till he became mad by - **Ebrima Jammeh (Chief torturer), Yahya Jarju, Saikouba Jarju, Muhammed Jabbi, and Malang Tamba.**
 13. **David Colley** knew about these tortures as they were taking place outside his office and did nothing to stop them.
 14. The group of torturers - **Ebrima Jammeh (Chief torturer), Yahya Jarju, Saikouba Jarju, Muhammed Jabbi, and Malang Tamba** were referred to as the “royal family”, due to their connection with former **President Jammeh**. They acted with impunity and in total disregard of the Prisons Act.
 15. From 1994- 2016, prisoners were often denied medical treatment which often led to several deaths in prison. Many persons died of neglect including **Gumaneh Touray, Abdoulie Jallow** (a Guinean National) and **Buba Ceesay**.
 16. The Prison has rudimentary health facilities with no provision for mental health issues.
 17. The food at the prisons was unfit for human consumption and lacked the necessary nutrients necessary for a healthy life resulting in malnutrition and other diseases such as beriberi. Resulting to high morbidity and mortality in the prisons. It is estimated that 36 people died of beriberi at Mile 2 Prisons. The prison management had knowledge of this and did not take any steps to change the diet of the prisoners from 1994 to 2016 or to provide the necessary medication.
 18. Overcrowding is a major problem in the prison system in The Gambia. The Commission notes that it is particularly horrendous to require prisoners to sleep in toilets, sometimes in standing position and where they are lucky to have beds, they are packed therein like sardines.
 19. The many young persons were incarcerated in the Prison system for petty crimes such as stealing mobile phones or possession of small quantities of cannabis.
 20. The absence of corrective and rehabilitation programs is quite apparent in all the prisons.
 21. In 2006 the Director General **David Colley** brought to feed the prisoners resulting in sickness on the part of many who ate the meat.
 22. **David Colley** and prison staff were reported to have been stealing the rations of prisoners which contributed to the inadequate and poor standard of food being fed to prisoners.
 23. Corruption is rampant in the prison system. Prison officers regularly take bribes and peddle contrabands leading to unequal treatment of prisoners.

24. Female Prison Officers suffered significant sexual harassment from **David Colley** and other senior government officials when they were part of a delegation that accompanied the Minister of Interior **Ousman Sonko** on a Familiarisation Tour in 2007. They were punished by withholding their promotions and other privileges for refusing to comply with his instructions and the demands of the others.

C. RECOMMENDATIONS

1. Appointments to all positions in the Prison Service, in particular leadership positions, should be based on merit and appropriate academic qualifications. An approved Schemes of Service should be developed for the Prison Services detailing the minimum qualifications for each position and providing all categories of staff equal opportunity to progress in the service without any form of discrimination.
2. To repeal and replace the existing archaic prison laws with more human rights oriented and progressive laws that meet the requirements of a modern democratic society and the United Nations Standard Minimum Rules for the treatment of Prisoners.
3. The housing facilities in Mile II Prison are substandard, degrading and not fit for human habitation. Considering the cost and complications of rehabilitating the facilities, the Commission deems it imperative to build new facilities that would be suitable for prisoners in a modern democratic society.
4. It is inhumane and cruel to have prisoners sleep in toilets or be jampacked like sardines. The government should provide enough facilities to cater for the requirements of the prison population.
5. The Jeshwang Prison for young offenders should be geared towards rehabilitating rather than punishing and should be resourced with recreational, educational and counselling facilities.
6. Janjanbureh Prisons is also in need of rehabilitation. Whilst the female prison population is small a proper cell needs to be provided for the female inmates.
7. Long periods of pre-trial detention have been a major problem in all the prisons in the country. The government should put in place a system that would ensure that pre-trial detainees are tried within a reasonable period of time and in a manner respecting all their rights.
8. The government should provide adequate subvention to the Prison Services to ensure proper provision and maintenance of food and the general upkeep of the prison system.
9. All cooks and food handlers who work in the prison should always be given the appropriate training necessary to be able to discharge their responsibilities effectively and efficiently. The government should put in place a system to provide regular medical check-ups for cooks and food handlers in order to ensure that they are not transmit communicable diseases.
10. Provide modern cooking facilities in all prisons.

11. The Prison Service should enter into Memorandum of Understanding with the Ministry of Health to attach qualified health personnel in the various prison clinics and provide adequate/appropriate training for prison staff attached to the clinics.
12. All prisons should be provided with adequate quarantine cells to contain infectious diseases or persons suffering from these diseases should be removed from prison and placed under adequate care until they recover to continue their prison term. This is even more critical now in view of the COVID 19 Pandemic.
13. The government should ensure inspection of prison facilities by competent persons at regular intervals to ensure that the facilities are clean, safe and fit for human habitation.
14. All prisons should have an ambulance for quick and easy referrals to the nearest health facility.
15. Justice sector personnel should conduct capacity building training for their staff to fast-track remand and appeal cases so as to ensure that persons in remand do not spend more time than is necessary in jail and to reduce overcrowding in the prisons.
16. Review and revise existing sentencing guidelines in order to avoid imposing long custodial sentences for misdemeanors and other petty offences, especially those committed by young persons.
17. The state should develop alternative systems to imprisonment to ease overcrowding in prison such as probation, community service etc.
18. The Prison Service should provide effective rehabilitation programmes aimed at educating, training and re-training inmates. In addition to livelihood skills the programme should include **life skills** training to help the prisoners make decisions about their everyday life experiences and help them to integrate back into society after they are released and prevent re-offending particularly among young offenders.
19. **David Colley, Ebrima Jammeh (Chief torturer), Yahya Jarju, Saikouba Jarju and Muhammed Jabbi** should be persecuted for tortures meted out on prisoners such as **Samba Doro Bah**. It is noted that **Malang Tamba** has apologized to his victim and reconciled with him in a reconciliation activity at the TRRC.
20. The female prison officers who were denied incentives and promotions for refusing to submit to sexual violence by the DG of Prisons **David Colley** and senior government officials in 2007 should be promoted to the levels of their colleagues who were not subjected to any form of harassment or unfair treatment.
21. The NIA or any other security institution shall not be given direct administrative responsibility over a prison or any part of it, except administrative oversight thereof.
22. The government should put in place rules in order to ensure that the prison service is not used as an institution for torture and that no one should be given access any prisoner or Prison except in accordance with the law.

23. Review and restructure the salary levels of the Prion Services to bring them to the same level of the other security services.
24. **Fanta Sanneh** and **Buba Jatta** should be recognized and rewarded for the good services rendered.
25. **Women Prisoners:**
 - *There should be a remand wing for the female prisoners isolated from the Female Wing.*
 - *Female prisoners should be held in the least restrictive environment possible.*
 - *Mother and children's units should be developed and expanded.*
 - *A proper cell needs to be provided for the female inmates in Janjanbureh Prison.*
 - *Skills learning facilities should be provided for the female prisoners.*

THEME 17
INSTITUTIONAL HEARINGS :
Justice Sector

A. OVERVIEW

1. The former President of The Gambia, **Yahya Jammeh** during his twenty two (22) -year rule used major State institutions to entrench himself in power. He created a modus operandi in which he ran *a cabal of criminally-minded military or civilians and officials whose primary objective was to use the state and its repressive structures to suck the blood, or vital economic resources of the country. This mafia-like regime has little to no oversight since the state and its institutions, and especially its civil and bureaucratic structures had been reconfigured primarily to serve the economic and security interests of Yahya Jammeh*". Essentially, **Yahya Jammeh** ran a military/security vampire state.
2. In this context, **Yahya Jammeh** personified the state, he hijacked relevant justice sector institutions such as: the National Intelligence Agency (NIA), the Ministry of Justice and the Judiciary and the Prison Service to do his bidding.
3. He created a system to purge, punish or brutalize his perceived enemies by using the abovementioned four institutions to achieve his purposes. First, the NIA would instill fear in the general public, unlawfully arrest his opponents or perceived enemies, fabricate evidence against them to incriminate them in crimes, torture them to confess to those crimes, used paid professional independent witnesses to give the confessions a clop of legality and submit a dossier with confessionary statements to the MoJ for prosecution. Second, The Ministry of Justice would arrange to prosecute suspects according to **Yahya Jammeh's** wishes and dictates and in connivance with the NIA, they would seek to improperly corrupt witnesses to testify in favor of the case the state would present. Third, the case would be put before a compliant judge who would ensure the conviction and imprisonment of the accused person in spite of legal deficiencies that maybe present in the case. Fourth, the convicted person would be sent to Mile II Prison to wallow in serious inhumane and degrading conditions.
4. The Commission has in other themes examined that **Yahya Jammeh** had used the NIA and the prison service for his own ends or purposes. This section examines how he had used the Ministry of Justice and the Judiciary for his own ends.
5. The Commission heard testimonies from different witnesses who expressed how former **President Jammeh** used the Judiciary by interfering with the impartiality of the Judges and the judicial process; state law officers were used to persecute political offenders and opponents of the former President without sufficient evidence or on cases with no merits; Police Officers were encouraged to engage in unlawful arrest and detention; extra judicial killings by the Junglers was acceptable; and laws were violated to satisfy the whims and aspirations of the former president.
6. The actions of the former President led to the failure of these State institutions. Gambians lost hope and trust in their government and international partners started boycotting the country. The principles of rule of law, good governance which are essential in every democratic society were honored more in their breach than in their observance.

B. FINDINGS

The Commission finds as follows, that:

1. Former President, **Yahya Jammeh** abused his authority under Section 141 (2) (c) of the 1997 Constitution of The Gambia to appoint and terminate the appointment of judges by (a) appointing judges without the necessary screening to determine their suitability and qualification for appointment as judges; (b) appointing judges without consultation with the Judicial Services Commission as required by law and (c) terminating the appointment of judges whom he believed were not working in his interest in total disregard of established procedures.
2. Former President **Yahya Jammeh** established a system of appointing unqualified and unvetted non-Gambians to judicial positions “mercenary judges” on short term contracts so that they would be beholden to him, they would in turn become compliant judicial officers who would deliver favourable rulings in matters of interest to him.
3. That it was mostly judicial officers appointed by former President **Yahya Jammeh** on short term contracts who were complaint to his demands as compared to their counterparts seconded to The Gambia by the Commonwealth. The Commonwealth Judges have demonstrated integrity and decorum expected of judges sometimes with severe consequences.
4. Former President **Yahya Jammeh** interfered with the Judiciary by giving directions to the Chief Justice on his desired outcomes on cases of interest to him and to which judge certain cases may be assigned to.
5. Former President **Yahya Jammeh** had complete control of the Judiciary to the extent that he ensured that government officials could defy court orders considered unfavorable to the former President with impunity.
6. Under our Constitutional arrangements the functions /powers of the Attorney General and Minister of Justice are wielded by one and the same person. During the **Yahya Jammeh** era, political considerations outweighed legal imperatives in decisions of the Attorney General.
7. The execution of the nine death row inmates in August 2012, and the manner in which it was carried out procedurally was unlawful, as it was not conducted in accordance with provisions laid down under the Criminal Code. The Commission further finds that the Attorney General and Minister of Justice, **Lamin A.M.S Jobarteh (Babadinding)** participated in organizing the executions of nine death row inmates, without paying due regard to the law and without ensuring that the necessary safeguards were adhered to. Even in the face of these blatant violations the erstwhile Attorney General and Minister of Justice on several occasions publicly defended these unlawful executions.
8. **Amie Bensouda** and **Fafa Mbai** by virtue of their positions as Solicitor General and Attorney General and Ministers of Justice respectively contributed to the drafting of some of the draconian Decrees for the Junta. These Decrees were used by the Junta to violate the rights

of Gambians. Including especially, Decrees No. 2 & 3 which were used by the AFPRC to retrospectively legitimize the arrest of both security personnel and civilians; Decree No. 4 which was used to violate the political rights of individuals and the right to freedom of speech and expression and Decree No. 11, 14, and 15 which were used to target officials of the **Sir Dawda Kairaba Jawara’s** government and to seize their properties of individuals. The Decrees were saved by Section 7 (c) of the 1997 Constitution of The Gambia. These decrees have no place in the laws of a democratic society.

9. Former President **Yahya Jammeh** used three laws to attack public servants he perceived were not acting in his interest. These include the section criminalizing abuse of office and neglect of official duty. The second giving false information to a Public Servant and the third the Economic Crimes Decree. The President used these laws as weapons to punish his opponents unfairly.
10. In dealing with the human rights violations of April 10th and 11th 2000, the National Assembly and then President directed the amendment the Indemnity Act of 1982. This amendment extended the application of the Act to the security and public officers who were responsible for the deaths, torture, physical and sexual abuse of the students during the demonstration. The effect of this law is intended to shield the President and his subordinates from responsibility for these massive human rights violations. These indemnity laws are not permissible in a democratic society as they are contrary to customary international law.
11. Former President **Yahya Jammeh** saw The Gambia Bar Association (GBA) as a threat to his plans to entrench himself in power. Consequently, he tried to weaken the Association by encouraging the setting up of a rival group. This interference rendered both groups less effective in their efforts to hold the government accountable to upholding human rights and freedoms and respect for the rule of law. He also targeted individual lawyers who he believed were working against his interests and subjected them to gross human rights violations.
12. That during the 22 years of the Jammeh regime, Human Rights Defenders, journalists and media practitioners were targeted, arrested, detained for long periods without access to lawyers or the courts and subjected to gross human rights violations to the extent some of them left the country for fear of further/being persecuted. The Gambia was not fulfilling its Universal Periodic Review obligations during this time and Special Rapporteurs were denied access to the Mile II Prisons.
13. The termination of **Justice Na Ceesay Sallah-Wadda** in 2016 was unlawful as it did not follow due process. Her reappointment in 2017 instead of reinstatement significantly impacted her standing in terms of seniority in the Court of Appeal. This is serious injustice considering her long service both at the Ministry of Justice and the Judiciary. **Justice Sallah-Wadda’s** (twenty five) 25 years-service accrued benefits in terms of seniority was wiped out by the termination and the reappointment as opposed to reinstatement did not restore her to the position, she would have been had the termination not occurred.

14. The extension of the term of Parliament by the National Assembly members in January 2017 was an implicit attempt to extend the term of Jammeh's presidency. The extension was aimed at subverting the sovereign will of Gambians who voted **Yahya Jammeh** out in the December election and this was akin to a constitutional *coup d'état*. Notwithstanding, since the Commission did not inquire into the role of **Mama Fatima Singhateh** in Parliament's attempts to usurp the democratic will of the people and in the absence of sufficient evidence relating to this issue, the Commission is unable to make conclusive findings against her on this matter.

C. RECOMMENDATIONS

THE COMMISSION RECOMMENDS THAT:

1. Section 141 (2) (c) of the 1997 Constitution which grants power to the President to dismiss Judges should be repealed as this provision encourages interference by the executive in the Judiciary. This will also ensure that there is security of tenure for Judges.
2. The Constitutional provisions on the qualification for appointment of Judges should be adhered to and an independent committee should be set up and supervised by the Judicial Service Commission to screen candidates for the appointment of Judges.
3. Guidelines regulating the appointment of foreign judges should also be introduced.
4. The government should undertake to at all times respect the Constitutional provisions on judicial independence and the principles of separation of powers as enshrined in the Constitution of The Gambia.
5. **Justice Agim, Justice Fagbenle, Justice Wowo, Justice Paul, Justice Nkea, Justice Ikpala, Justice Amadi, Justice Abeke, Justice Kayodeh, Justice Alagbeh** as they were then known and all judges who fall under the realms of 'mercenary judges' should be banned from holding any public office in The Gambia.
6. The government should review the law on refusal to obey court orders by public officials with a view to putting in place a more stringent regime that would ensure compliance.
7. The government should study the implications of the fusion of the two positions of Attorney General and Minister of Justice and consider the potential benefits of separating the two functions for more effective administration of justice.
8. In view of the conduct of the former Attorney General and Minister of Justice, **Lamin A.M.S Jobarteh (Babadinding)** in the unlawful execution of the 9 Mile 2 death row inmates, the General Legal Council should petition **Lamin A.M.S Jobarteh (Babadinding)**, interrogate his conduct and revoke his practising licence.

9. The government should study the subsisting Decrees saved by Section 7 (c) of the 1997 Constitution with a view to repealing those Decrees that are antithetical to a democratic society.
10. The 1997 Constitution is deeply flawed due to the number of amendments that were made to the original and needs to be replaced with one that meets the aspirations of The Gambian people.
11. The retroactive effect of the Indemnity Act should be repealed.
12. The government should put in place institutional arrangements that would ensure greater access to justice by all citizens in the country especially those in the rural areas.
13. Justice **Na Ceesay Sallah-Wadda** should be reinstated and her reinstatement be back dated to 2017. The reinstatement should substitute the reappointment. Reinstatement will be in line the rules of restitution and this is consistent with natural justice and fairness and taking into account her long standing service in the justice sector both as State Counsel and Judge.

REPARATIONS

THEME 18

Reparations and Reconciliation

A. OVERVIEW

1. **Reparations to victims is a key element of the Gambian Transitional Justice Process.** The right to reparations for victims of gross violations of human rights is well founded in the 2017 TRRC Act taking cue from the AU Transitional Justice Policy and from international law. Those who have suffered human rights violations deserve acknowledgement of these violations and appropriate action taken to provide redress.
2. Under Article 20 of the TRRC Act, the Commission is required to grant reparations to victims, and it may issue regulations in furtherance of this objective. The TRRC Act, 2017, stipulates that the Commission: “may grant reparations to an applicant who is a victim upon consideration of the evidence received or obtained, in order to restore the human and civil dignity of the victim” (Article, 20:1) and (Article, 20: 2) that it “may make regulations for the granting of reparations under the Act“.
3. In compliance of these very important provisions in the Act, and with regard to the Section 18 of the TRRC Act and the Rules of Procedures of the Commission a Reparations Committee was established consisting of **Adelaide Sosseh** (Vice Chair of the TRRC as Chair) and Commissioners, **Manyima Bojang**, **Bishop James Odico**, **Imam Abdurahman Sey**, **Lamin J. Sise** (Chair TRRC). The Committee received strong legal and technical support from the Secretariat, the Victim Support Unit (VSU) and the Legal Unit.
4. To enable the Commission carry out its work on Reparations in a transparent, accountable, equitable and gender sensitive manner a Reparations Policy and Regulations were developed with the support of partners. This included the Africa and West Asia Programme of International IDEA (AWA IDEA), the Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Development Programme – The Gambia, the Institute for Integrated Transitions (IFIT) and International Centre for Transitional Justice (ICTJ) and the Ministry of Justice of The Gambia.
5. Following the adoption of the Reparations Policy and Reparations Regulations, the Ministry of Justice gazetted the TRRC Regulations on Reparations. A User’s Guide was produced and widely disseminated to inform victims about the five forms of reparations - compensation, satisfaction, restitution, rehabilitation and guarantees of non-repetition and urgent interim measures and how to access final reparations.
6. The Medical Board set up by Government in 2018, greatly assisted the TRRC in providing urgent medical care to victims who were in urgent need of assistance and whose quality of life had been severely affected as a result of the violation meted against their person. These included the elderly particularly those who were suffering from physical and mental ailments; children and youth who have been orphaned or disabled as a direct result of the violation and have inadequate material support to meet their immediate emotional and material needs and women particularly SGBV Victims.

7. Through the expert advice of the Medical Board the TRRC was able to support in-country treatment for over one hundred and twenty four (124) victims for various ailments. Through the Victim Participation Support Fund established by the United Nations Peacebuilding Fund, the UNDP and OHCHR the victims were “supported to a maximum of \$1000 per for non-recurrent costs for their medical aids and interventions. Welfare also included costs associated with the protection of informants, victims, and witnesses and safe and protected housing has been provided for at least three (3) victims.
8. Under the urgent medical treatment component victims that could not be treated in the country were sent abroad for treatment. Four (4) victims went to Turkey in December 2019 under the framework of the Bilateral Agreement between the Republic of Turkey and Republic of The Gambia (2014) for their medical treatment with varying levels of success. Another three (3) had successful surgeries in Dakar in October 2020.
9. Psycho social support has also been provided for three hundred and eighty nine (389) individuals that were offered this support. Mass atrocities leave deep psychological, emotional and physical scars on survivors. For many of the victims and their families the psychological harm done to them is apparent and post TRRC they will continue to need support. To reduce the negative impacts of re-traumatisation, psycho-social support was provided for both victims and perpetrators and their families throughout the duration of the public hearings to witnesses that testified before the TRRC. The psychosocial support staff have also assisted in the pre-assessment of victims for the medical review process. Psycho social education on trauma and how it can affect individuals and communities has also been provided during outreach activities of the TRRC.
10. From 2019 to date the TRRC has facilitated the re-entry of sixty nine (69) students back to school ranging from the Lower Basic to Tertiary Level. Of these 44 (64%) are female and 25 (36%) are male. Other forms of educational support came from the sponsors directly to the students. The on-going educational support provided by the following individuals and institutions is acknowledged with appreciation - **Anya’s Wish, Unique Solutions, MOKI AID, Majula Dabo and New Vision.**
11. Livelihood support has also been supported to two victims with the support of **NABAM**. Seventeen (17) women were supported with sustainable business initiatives including mentoring and training Funding provided by Irish Fund of the United Nations Transitional Justice Programme in The Gambia.
12. On October 8, 2019 the government of The Gambia through the Ministry of Justice disbursed an initial sum of D50 million for Reparations, and pledged to provide another D50 million. The additional D50 million was not provided.
13. In compliance with the Financial Provisions of the TRRC Act, Part 5, 27 (1) (b) which allows the Commission to access funds from “donations from any lawful source not inconsistent with the functions of the Commission under this Act,” the TRRC undertook a number of actions that were intended to augment the funds available for Reparations. The Diaspora

Engagement that took place in August and September 2019 provided an opportunity for the TRRC to fundraise and a total sum of D895, 141.32 was raised for Reparations from Gambians and friends of The Gambia in the Diaspora. The support to the TRRC Reparations Process continued after the engagement in 2019. A Fund Raising Policy was developed and a Resource Mobilisation Committee set up to assist the process in a transparent and accountable manner.

14. In granting final reparations a rigorous process was implemented adhering to the TRRC Regulations. On June 28, 2021 the Commission having considered the submission of the Committee on Reparations to grant final reparations to victims approved the list of victims presented by the Committee and also approved the grant of reparations in the amounts as per the list. The Decision also requested the Executive Secretary to implement the decision forthwith. A total number of one thousand and nine (1009) victims including the West African Migrants qualified for final reparations. These decisions were communicated to the Attorney General and Minister of Justice in a letter entitled, ‘Submission on Payment Plan for Final Reparations to Victims’ dated, 06 July 2021, Ref/TRRC/REPS/MOJ/06
15. The funding gap in the granting of Reparations to victims was also communicated to the government pursuant to Section 15(5) of the TRRC Act, the government is requested to pay the additional outstanding cost of the Final Reparations amounting to D168, 820,831 (*One hundred and sixty eight million, eight hundred and twenty thousand, eight hundred and thirty one Dalasis*) out of a total Reparations bill of D205, 820,780 (*Two hundred and five million, eight hundred and twenty thousand, seven hundred and eight Dalasis*), to victims in order to complete the final reparations package for all the victims as soon as possible.

B. FINDINGS

1. The TRRC has within the limits of its mandate put in place the necessary structures and mechanisms to ensure that Reparations are granted in an equitable and transparent manner. Victims’ organisations were involved at all the stages of developing these instruments. Urgent Interim Measures have been provided to victims needing urgent medical care or those whose schooling were interrupted. It is evident that many of these victims will need long term care and continued support as the damage to their physical and mental health is permanent in many instances.
2. Final Reparations orders have been granted and in the absence of a survey on victim satisfaction it is difficult to know the level of satisfaction on the part of those who have received compensation. The TRRC has made a request to the government to pay the outstanding balance to victims who were granted reparations on a pro-rata basis. This is critical to ensuring that they get the totality of the reparations. It is important that the government pays the outstanding balances on those that are on pro-rata payments as soon as possible.
3. The TRRC received over 1500 statements out of which only 1009 were eligible for victim status under the mandate of the TRRC. The right to reparations for victims of gross violations of human rights and abuses is well founded in TRRC Act, 2017. Section 20 (2) of

the Act requires the Commission to grant reparations to victims, and to issue regulations in furtherance of this objective. Those who have suffered human rights violations deserve acknowledgement of these violations and appropriate action taken to provide redress. To this end and acting in accordance with their mandate, the TRRC developed a Policy on Reparations and the Reparations Regulations which were Gazetted by the Ministry of Justice in February 2021.

4. In discharging its responsibility to grant reparations to victims and to respond to the needs of the victims of gross human rights violations and abuses the Government on October 8, 2019, gave the TRRC D50 000 000 for reparations with a promise to give an additional D50 000 000. Out of the D50 000 000 that was given, the Commission paid approximately D13 000 000 for urgent interim reparations in medical assistance for the victims who needed urgent medical attention. In a decision made by the Commission on June 28, 2021 the balance of the D50 000 000 was allocated to 955 (nine hundred and fifty) victims or their families. This was not enough to meet the total monies to be granted to victims as final compensation based on guidelines developed by the Commission for the granting of reparations to victims.
5. It is evident that many persons do not understand the mandate of the TRRC and were interested only in getting redress for what they perceived to be a violation of their right to employment or to land. In addition, many victims have not publicly testified or submitted a written complaint to the TRRC. This is particularly true for victims of sexual and gender-based violence, people living with HIV/AIDS, persons accused of witchcraft. Even though the TRRC has set in place confidentiality and anonymity mechanisms for taking testimonies, these are not clearly understood by the victims many of whom have decided not to testify or whose families or communities have prevailed on them not to testify. Many have chosen to remain silent for fear of reprisals. It is important that the new entity on reparations is cognizant that there are laggards and that their cases are considered when they do decide to make a complaint. As a census of victims was not done during the start of the TRRC it is not possible to ascertain the number of victims in the Gambia and the violations they have suffered.
6. The search and identification of disappeared persons has proven difficult so far. The remains of about seven (7) persons have been recovered through exhumations in Yundum Barracks and these are yet to be identified through DNA for handing over to their respective families. The lack of proper forensic facilities is a major impediment to the realization of this important goal. Other persons buried in Tintiba Forest and other sites are yet to be found.
7. It is important that memorialization initiatives feature predominantly in the country's transitional justice process, as a form of satisfaction to victims and as a guarantee of non-recurrence for Gambian society. Survivors of the 22 years of tyranny in The Gambia have narrated their stories to the TRRC and to a wider audience through the public hearings. It is important that their stories are preserved and retold in a manner that is befitting, compelling, meaningful and appropriate so that they resonate with future generations, while remaining sensitive to the victims and being mindful of their interests.

C. RECOMMENDATIONS

1. Put in a place a mechanism to identify the burial sites of victims and conduct proper identification of their remains to be given to their families for proper burial.
2. Post TRRC the new entity on Reparations should adopt all necessary measures to ensure the universal registration of victims in order to know the full extent of victimhood in the country and provide them with reparation.
3. Ensure that victims for reparations should continue beyond the conclusion of the work of the TRRC to ensure all victims are part of the reparations programme, even if they make a complaint at a later stage.
4. Reparations: As a result of the funding gap in the granting of Reparations to victims the Commission now herein with reference to Section 15(5) of the TRRC Act, requires the Government of The Gambia to pay the outstanding amounts as indicated below to complete the final reparations package for all the victims as soon as possible.
 - i. *Pay the outstanding cost of the pro-rata payments for final Reparations amounting to D168, 820,831 (One hundred and sixty eight million, eight hundred and twenty thousand, eight hundred and thirty one Dalasis) out of a total Reparations bill of which stands at D205, 820,780 (Two hundred and five million, eight hundred and twenty thousand, seven hundred and eight Dalasis),*
 - ii. *Pay the sum of D32, 400,000 (Thirty two million, four hundred thousand Dalasis) to the West African Migrants and other non-Gambian nationals. This amount is not reflected in the outstanding payment indicated in 1 above. These reparations payments to these victims are to be paid through their respective governments as soon as possible.*
 - iii. *Recognise the supplementary list of victims provided and grant them reparations in line with the provided guidelines on reparations*
5. Victims who are permanently incapacitated and are suffering from physical and mental conditions should be provided with free medical care in public facilities for the rest of their lives.
6. Scholarship schemes should be provided for students who have had their schooling interrupted to enable them complete their education and become productive and self-reliant members of society.
7. The Gambia National Army should grant honorable discharges to those officers who were unlawfully dismissed from the army.
8. The personnel management office should look into the cases of those civil servants who were unlawfully dismissed and denied their pensions and make arrangements so that they get their pension benefits.

10. Engage with the international community to seek technical assistance in providing support to accelerate the identification of new mass graves and provide the necessary equipment to detect their location, as in several areas the identification of mass graves was not possible.
11. Seek support to provide capacity building and develop technical and human resources on forensic investigations. This capacity-building should include training and certification for personnel on forensic anthropology, in accordance with international standards.

RECONCILIATION

A. OVERVIEW

1. Section 13 (a), (i) of the Truth, Reconciliation and Reparations Commission (TRRC), Act 2017 mandates the Commission to “*promote healing and reconciliation.*” The TRRC is also mandated to “*prevent a repeat of the violations and abuses suffered by making recommendations for the establishment of appropriate preventive mechanisms including institutional and legal reforms.*”(Section 13 (a), iv).
2. In line with its mandate, a Reconciliation Committee consisting of **Imam Ousainou Jallow, Chair of the Committee and Commissioners Jammeh Ceesay, Lang Kinteh, Bishop James Yaw Odico. Lamin Sise (Chair of the Commission) and Adelaide Sosseh was established to foster social cohesion and national healing in order to achieve reconciliation.**
3. A Reconciliation Unit (the Unit) provided technical support and backstopping to the Reconciliation Committee to lay a foundation for development, peace, and security through a transitional justice framework by:
 - a) *Ensuring a nationwide understanding of reconciliation within the TRRC’s reconciliation process for public ownership.*
 - b) *Engaging with different stakeholders and amplifying the “Never Again” Campaign.*
 - c) *Raising public awareness about the mandate of the TRRC to promote social cohesion and healing as well as to clear misconceptions about the reconciliation process.*
 - d) *Disseminating the aims and objectives of the work of the Unit to a wide audience.*
4. The key stakeholders for the Reconciliation Committee were the victims and perpetrators, Government and non-governmental organisations, political/religious and traditional leaders, influential individuals, victims’ groups, civil society organisations (CSOs), community based organisations (CBOs), children, youth and women’s groups, Gambians in the Diaspora and international organisations.

5. The Reconciliation Committee with technical support of the Reconciliation Unit carried out the following activities:
 - i. *Interpersonal reconciliation.*
 - ii. *Community reconciliation.*
 - iii. *Engaging with Faith Based Organisations to promote reconciliation.*
 - iv. *Politics and reconciliation.*
 - v. *Socio-cultural factors in the wider society.*
 - vi. *Capacity building of the Commissioners and staff on peace building and social cohesion.*
 - vii. *Social cohesion for national unity and peace-building.*
 - viii. *Partnerships and networking.*
6. A number of inter-personal reconciliation activities were conducted at the premises of the TRRC and these were initiated by the perpetrators in order for them to apologise and to seek forgiveness from their victims. The victims in turn consented to these requests and the apologies were accepted and they reconciled at the TRRC under the supervision of the chairperson of the Reconciliation Committee, **Commissioner Imam Jallow.**
7. **One inter-personal reconciliation that was largely misunderstood by the public was the reconciliation between the two former Vice Chairmen of the Junta. Sanna Sabally and Edward Singhatey. The reconciliation was initiated by Sanna Sabally himself and the Reconciliation Committee was obligated to facilitate it based on two considerations. First, lessons learnt from other countries which show that reconciliation, is very much forward-looking in nature and may require different efforts to deal with grievances and injustices in the past. Second, from the perspective of the Never Again agenda of the TRRC which needed to bring to the open the willingness of two persons who had played a pivotal role in bringing so much of harm to the country and who were now willing to openly reconcile and acknowledge the wrongs that they did to the country. In addition, the definition of reconciliation as “restoring the right relationship between people” should not be misconstrued to going back to the period of tyranny when mistrust, anger and hatred prevailed.**
8. Community Reconciliation was facilitated for the communities of Jambur in the West Coast Region and Si-Kunda in the Lower River Region. In the context of building community relationships it assumes a need, a will, or an actual effort made on the part of an individual or a group of people to live side-by-side in peace with a person or another group they had considered to be their enemies in the past. In this regard reconciliation lies at the heart of building and maintaining peace especially in promoting local reconciliation initiatives between divided communities. Such was the case when the Reconciliation Unit under the su-

pervision of the Committee facilitated the request of the community of Jambur to reconcile at the TRRC premises. This was a community that was deeply divided by the witch-hunt exercise and their willingness to reconcile was a step in direction of building community relationships. In the case of Si-Kunda observing the deteriorating trend of community relationships and the possibility of it escalating into conflict the Chair of the TRRC Reconciliation Committee, **Imam Ousainou Jallow**, tasked the Unit with the responsibility of approaching the Community to set the ground for the reconciliation. This was carried out successfully at Si-Kunda when the Chief apologised to the Community and they accepted his apology and they reconciled.

9. Cognisant of the fact that religion plays a very important role in the socio-cultural dimensions of Gambian society, the Reconciliation Committee supported by the Unit engaged with mosques and churches in the West Coast and Greater Banjul Areas during the Holy months of Lent (March-April 2019) and Ramadan (May-June 2019). These periods were chosen for the engagement due to the emphasis that both Christianity and Islam place on forgiveness and reconciliation during these times. In the Muslim communities *Iftar was broken with the congregations to show that apart from the symbolic act of breaking the fast with these communities the spiritual dimensions of Iftar were also taken into consideration to demonstrate to the religious leaders and their communities that traditional and religious practices, values and norms are also important to the TRRC.*
10. In line with its mandate of “*promoting national healing and reconciliation*” the TRRC in collaboration with the UNDP held a very successful Stakeholders Meeting in the TRRC Conference Room on February 14, 2020 to prepare for a National Dialogue on Social Cohesion, Security and Peace. The meeting brought together the top leadership of the leading political parties in the country, religious and traditional leaders, representatives of civil society and victims organizations, national security institutions and agencies, UNDP and the TRRC. Discussions around the three main divides- politics, ethnicity and religion - that have the potential of leading the country into conflict resulted in some very significant recommendations.
11. Apart from the political divide in The Gambia a consultative research conducted by the Reconciliation Unit of the TRRC and the Conflict Development Analysis conducted by WANEP in 2019, revealed that The Gambia is deeply polarized and requires collective actions for peace and stability. These divisions include ethnic, religious, gender and wealth divides. It can be argued that inclusiveness and equality are at the heart of our national reconstruction process. For the country to move from the atrocities of human rights violations of the past twenty two years (1994-2017) people need to adopt a culture of tolerance, forgiveness and healing. The key stakeholders for this process include the National Human Rights Commission, religious and traditional leaders, youth and women groups, educational institutions, NGOs/CSOs, the media and victims organisations.
12. Social cohesion is the state of a society’s convergence, or the common bonds that unify different people and groups that share space and territory. In July 2019, the Catholic Relief Services (CRS) organised a two (2) day (18 and 19) Bridging Training for Social Cohesion for Commissioners and staff of the TRRC to build their capacity in promoting social cohesion. The training was so useful that the TRRC incorporated it into its ways of working. A step

down training was conducted in the different regions of The Gambia. The training in Koina and Garawol in the Upper River Region, was held from September 8 -12, 2020.

13. Dialogue is an important first step in enabling people to embrace tensions in the process of reconciliation. Dialogue can take place in many settings including within communities across divisions of race, religion, or gender. Dialogue can be held in schools, communities, prisons, the work place and at the national level through conferences and symposia. For dialogue to be effective, it has to include: Genuine exploration of self and the “other,” address the roots of conflict, build closer bonds between individuals and groups and promote systemic and structural change. These factors were highlighted at the Nansen Centre for Peace and Dialogue in Oslo during the Diaspora engagement and the Centre expressed willingness to work with the TRRC on implementing this model in The Gambia.
14. Partnership are important for reconciliation. To ensure continuity of the TRRC’s post agenda work “*on social cohesion, peace and reconciliation to address polarisation and grievances amongst the people of The Gambia,*” the TRRC with the support of the UN Transitional Justice Project in The Gambia facilitated the signing of a memorandum of understanding with the following institutions so that they continue the process of reconciliation post TRRC. The signing of the MoU between the Women Affairs Unit of the TRRC with ten Women Civil Society Organizations in The Gambia is an important contribution to the post TRRC agenda on reconciliation. The MoU dated July 13, 2020 is signed by the following organisations: **Think Young Women, Network Against Gender Based Violence, Women In Liberation and Leadership (WILLS), West Africa Network for Peace building- The Gambia (WANEP), The Girls’ Agenda, Gambia Federation for the Disabled, Forum for African Women Educationist Gambia, (FAWEGAM), Female Lawyers’ Association Gambia (FLAG), Women’s Association for Victims Empowerment (WAVE) and Gambia Centre for Victims of Human Rights Violations.**
15. The victims are a major and the most important stakeholder in the reconciliation process. Healing is important for victims to overcome trauma and this needs to be addressed at individual and collective level. Suitable interventions include trauma counselling, victim support and advocacy groups. The Victim’s Support Unit has provided this support during the TRRC process and has worked with the Reconciliation Committee to provide the necessary psycho-social support to both victims and perpetrators and their families during the reconciliation process. It is important for the personal safety and security of the victims that there is reconciliation at the inter-personal and community levels as the safeguards that the TRRC had provided such as “safe houses” for the protection of the victims will no longer be available. It will be necessary for Victims Organisations and other groups to continue the support.

B. FINDINGS

1. **Misconceptions about the meaning of reconciliation: The concept of reconciliation is not understood by many Gambians. For many reconciliation is synonymous with forgiveness - that perpetrators seek forgiveness after committing atrocities to victims.** For those working to promote forgiveness and reconciliation like the TRRC it is important to remember that a person can choose to forgive but not to reconcile.

2. **Lack of consensus on the reconciliation process: Within the context of the TRRC while** there is agreement that through the truth processes reconciliation must acknowledge the wrongs of the past and the proper standing of victims, and through its Never Again agenda that these wrongs must not recur there is little agreement or convergence on what process of reconciliation is adopted in a given context and on how to measure effectiveness of these processes.
3. **Witnesses constrained to come forward to testify either publicly or privately to the TRRC:** Ethnic, religious, family and gender considerations influenced many witnesses not to participate in the TRRC processes. Misplaced loyalty, fear of reprisals, stigmatisation and discrimination as well as family honour prevented both men and women from testifying before the TRRC even though systems were in place to protect their identities. Without their stories being told it would be difficult for them to engage in any type of reconciliation.
4. **Positive traditional practices that promote reconciliation:** Joking relationships still play an important role in maintaining peaceful relationships and averting conflict. This emerged during the public hearings and in the banter that went on between Commissioners, staff, legal team and witnesses and perpetrators. This mechanism is understood by Gambians and is an important tool that can be used in reconciliation activities.
5. **Lack of/inadequate resources:** Planned reconciliation activities could not be implemented due to lack of or inadequate resources.
6. **Participation of women and children:** Only men participated in the reconciliation activities facilitated by the TRRC. There were no reconciliation activities between perpetrators and the women and children. Women suffered greatly as the grandmothers, mothers and wives of the unlawfully killed and disappeared. Children became orphans and lost their fathers or mothers or a loved one who took care of them. They also needed closure. Some women are still taking care of the sick and the disabled with very little or no support. This is a long term problem for caregivers of the mentally sick and physically handicapped and apart from reconciliation they need systems in place that will give them the support to lead lives of dignity.
7. **Truth-telling can promote forgiveness.** When **Sanna B. Sabally** testified on the 10/11 November 1994 killings one of the widows of the victims sent a message to the lead counsel saying that on behalf of her family and herself she forgave him. For years they were in the dark about what happened to their loved one. Now that they knew that he was dead they forgave him for telling the truth and for taking responsibility for his actions.
8. **Decline of Social Networks in Rural Gambia:** That villagers in rural Gambia who previously had shared so much in common due to their multiple relationships and social and economic networks had now broken down into separate units and were not talking to each other out of fear for the other person or the perception that they were ‘the enemy’ and so on. Rebuilding relationships in such spaces will be a daunting task but not insurmountable.
9. **Capacity of Commissioners, staff and communities** have been built in social cohesion and other ways of bringing society together. The knowledge and skills acquired have to be utilised to ensure cohesive societies.

10. **Reconciliation** generally requires multiple interventions. No single intervention is likely to solve all problems but collectively diverse approaches could help build reconciliation. However, inadequate time and resources can impose constraints on what can be done; political and other considerations can also influence reconciliation processes.
11. **Reconciliation** is both a process and an outcome. It is a long-term process that entails bringing about profound changes in attitudes, and thus cannot be rushed. It applies not just to victims and perpetrators but to everyone in society, and takes place at all levels from national to grassroots.
12. **Lustration** can be an alternative or supplement to retributive justice by disqualifying agents/officials of the former regime responsible for the human rights violations by excluding them from public service and disqualifying them from holding political office.

C. RECOMMENDATIONS

1. The Government should establish a Peace and Reconciliation Commission with a clear mandate to promote peace, reconciliation and healing and foster social cohesion. The Commission should have structures at the decentralised level to ensure that all parts of the country are involved.
2. The institutional reforms proposed by the TRRC should be implemented as they are an important component in the reconciliation processes of the country.
3. The National Council for Arts and Culture (NCAC) and the National Council for Civic Education (NCCE) should work together to revitalise the joking relationships culture to enhance indigenous knowledge of shared norms and values that are central to peace making and to averting conflict.
4. The faith based organisations should play a frontline role in promoting healing and reconciliation in The Gambia.
5. Partners who have signed MoU’s with the TRRC need to respect the agreements in their respective MoU to ensure that the gains made are not lost and that the country heals and reconciles.
6. The National Youth Council should promote national healing and reconciliation through its peace organisations and networks.
7. Gambian organisations in the Diaspora need to follow-up on agreements and recommendations emanating out of the 2019 Diaspora engagement.
8. The United Nations system in the country and the international community who have invested so much in the TRRC processes have an important monitoring role to ensure that post TRRC agreements and mechanisms are implemented.

MISCELLANEOUS RECOMMENDATIONS

1. STATEMENT AND RECOMMENDATION ON AMNESTY

It is provided in Section 19 of the TRRC Act, 2017 that the Commission may recommend the granting of amnesty under the terms and conditions established by the Commission on the application by a person who makes a full disclosure of his or her involvement in human rights violations or abuses and expresses remorse for their acts or conduct. The Act further provides that where the Commission has refused an application for amnesty, it shall as soon as reasonably practicable give reasons for its refusal in writing to the applicant and to any other person who in relation to the offence is a victim.

The Commission and the TRRC Secretariat proceeded intensely through public hearings, statement taking and research and investigations to gather information and other evidence from the victim. The submission review and granting of amnesty could not be undertaken until that process ended.

RECOMMENDATIONS

In the light of the above, the Commission recommends the following-

1. That the Amnesty Committee be continued post -TRRC to establish, in consultation with the Attorney General and Minister of Justice, the terms and conditions for granting amnesty pursuant to the relevant provisions of the Act. The Attorney General and Minister of Justice shall decide when the Amnesty Committee shall conclude its work.
2. Taking into account the relevant provisions of Section 19 of the Act, the Amnesty Committee may make recommendations to the Attorney General and Minister of Justice regarding the granting of amnesty to the applicants.

2. STATEMENT AND RECOMMENDATION ON MEMORIALISATION

Memorialisation is a vital component of the TRRCs Reparations mandate as it contributes to the preservation of historical memory, restoration of the dignity of victims, the recognition of victims as rights-holders and guarantees of non-repetition. It also forms a crucial component of the National Strategy for Transitional Justice in The Gambia (2017-2021). As a medium of symbolic reparations, memorialisation can play a pivotal role in moving societies towards reconciliation and transformation by providing opportunities for dialogue, understanding, apologizing, acknowledging and addressing past violence between divided societies. Thus, memorialisation initiatives have a significant potential to prevent recurrence of past violations.

During its tenure the TRRC was unable to fulfill this very important component of its mandate. Plans to rename Arch 22 Memorial Arch did not materialise. From a historical, socio-cultural, educational and locational perspective, no site or space can be a better location for a memorial dedicated to the victims of the violations and abuses and human rights during the Jammeh era than the Arch 22 space. The Arch is located strategically at the entrance of the Gambian capital and is visible to all persons entering and leaving the city. It is also a popular site for tourists and schools and lends itself easily to keeping the memory regarding the victimisation of Gambians and other nationals alive.

Renaming Arch 22 is intended to honour all victims of human rights abuses and to serve as a constant reminder to all persons passing under the Arch of the gross human rights violations that occurred in the country and motivate them to commit to non-recurrence. By renaming the arch and using its spaces to exhibit and commemorate events that happened, the victims will be recognized, their suffering acknowledged, their stories retold and the wider public and future generations will be sensitized and educated about the violations that occurred in the country in the 22 (twenty two) years under Jammeh.

The National Council for Arts and Culture (NCAC) is the natural body for the implementation of this very important project. The TRRC has worked extensively with the NCAC in the planning of this very important project. In 2002, the management of Arch 22 was put under the control of the NCAC. Earlier in 2000, the Arch was Gazetted as a National Monument which according to Gambian law makes it a protected site of national significance. As the NCAC is the body responsible for the Arch, the TRRC recommends that:

1. ARCH 22 BE RENAMED MEMORIAL ARCH.

2. **The NCAC be given overall responsibility for the management and execution of the project.**

3. **After the renaming by the Government, the NCAC will**

(i) erect a permanent plaque on the Arch with the names of victims who have lost their lives and

(ii) set up exhibitions of relevant themes covered by the TRRC for continuous sensitisation and awareness creation.

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

STATEMENT AND RECOMMENDATION ON THE NATIONAL HUMAN RIGHTS COMMISSION (NHRC)

In December 2017, the Gambia Government passed a series of laws setting up a Constitutional Review Commission (CRC), a Truth, Reconciliation and Reparations Commission (TRRC) as well as a National Human Rights Commission (NHRC). These instruments and institutions interlinked form the broader framework of the Transitional Justice Process intended to enable the country to transition from the Jammeh dictatorship – during which Gambians suffered gross violations of human rights to a democratic dispensation.

The TRRC had a limited time span to carry out its mandate of investigating and establishing an impartial historical record of the nature, causes and extent of violations and abuses of human rights committed during the period of July 1994 to January 2017 and to consider the granting of reparations to victims and for connected matters. The NHRC however is a permanent independent body with mandate to promote and protect human rights and fundamental freedoms in The Gambia, investigate human rights violations and provide redress and remedial actions to victims.

From the mandates of both the TRRC and the NHRC, it seems logical to assume that the NHRC, is the natural body to monitor implementation of the TRRC recommendations to ensure that Never Again in the history of The Gambia will such human rights violations and abuses occur.

The NHRC's promotion and protection mandate (Section 12 of the NHRC Act 2017) includes monitoring, receiving, investigating and considering human rights violations in The Gambia as well as assisting the Government in formulating appropriate policies with respect to human rights

In the process of implementing its mandate the TRRC has accumulated a wealth of materials which can contribute not only to building the impartial historical record of what happened in The Gambia during the period July 1994 to January 2017 but can also be used for research by academia and for other countries to learn from The Gambia experience.

It is in this regard, therefore, that the TRRC recommends the following:

1. That the NHRC be given the responsibility of monitoring the implementation of the TRRC recommendations and in that capacity reports on the status of implementation and provides an annual report to National Assembly.
2. That the NHRC be responsible for the archiving and digitalisation of documents, information and materials emanating from the TRRC to help in the preservation of the impartial historical record of human rights violation that the TRRC was mandated to establish.

