

# REPARATIONS FOR SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE



## COUNTRY BRIEFING THE GAMBIA

**Official Register of Survivors of conflict-related sexual violence (CRSV):** Yes, a national register of all the victims of Yahya Jammeh's dictatorship which includes victims of sexual violence.

**Commonly cited number of CRSV Survivors:** The Truth Reconciliation and Reparation Commission (TRRC) has identified at least 25 survivors of sexual violence as of August 2021.

**Estimated Real Number of CRSV Survivors:** The study alone included interviews with 77 survivors of sexual violence of the Jammeh regime, and numbers are likely to be significantly higher.

**Domestic Legal Framework for Administrative Reparations Programme:** Yes, the TRRC has elaborated a reparations policy and a set of regulations that were validated by the government in December 2020, which includes provisions of administrative reparations for some victims of sexual violence of the dictatorship. The government is currently drafting a victims reparations bill and has initiated a series of consultations with victims including SGBV survivors.

**Mechanism to implement Administrative Reparations Framework:** Yes, the TRRC has the power to grant reparations, but its mandate ends on September 30th 2021, which will create a vacuum in the legal framework for reparations.

**Domestic Avenues for Reparations through Courts:** Yes, direct reparations orders through criminal courts. Decisions remain at the discretion of the judge, who also determines the amount based on their assessment of the harms.

**Approximate Number of Survivors having received any formal Reparations for CRSV:** The TRRC lists [1,000](#) victims as entitled to reparations but does not specify how many are survivors of sexual violence under the Jammeh regime. From our consultations, 38 out of the 77 survivors interviewed have received some monetary compensation so far from the TRRC.

**Survivor Perception regarding state of implementation of Reparations:** Survivors have high expectations for reparations, but distrust the government's capacity to deliver. They were disappointed in the lack of consultation about the reparation process and that they were only being offered symbolic reparation, which will not significantly address their needs.

**Ongoing CRSV:** No, but non-conflict or regime-related sexual violence is ongoing.



## Nature and Scope of CRSV

Sexual violence was a common feature among the many human rights violations committed by the regime used to consolidate power under former President Yahya Jammeh's dictatorship for over two decades. These violations targeted women, girls, men, and boys, particularly those opposed to the ruling party or in marginalised populations. Throughout the dictatorship, victims of unlawful arrest, arbitrary detention, and forced labour were subjected to forced nudity, sexual assault, rape, or sexual torture. Women were particularly susceptible to forms of sexual and gender-based violence in association with other crimes, and were targeted for breaching gender norms by stepping into traditionally masculine roles, including activism and politics.

In 2007, Jammeh publicly claimed to have found a cure for HIV/AIDS and began subjecting women and men to humiliating and invasive 'treatments' which included forcing victims to cease taking antiretroviral drugs and drink herbal concoctions that often made them violently ill. These concoctions were also forcibly applied to victims' partially nude bodies. Treatment sessions were broadcast on national television without victims' consent, some of whom had not informed their family and friends about being HIV positive or having AIDS.

In 2009, Jammeh launched a [campaign](#) to rid The Gambia of 'witches' and 'wizards'. Villagers, primarily elderly women and men were rounded up by 'witch doctors' who forced them to drink hallucinogenic liquid and dirty water concoctions and made them confess to killing people. Victims were stripped naked, grouped, and bathed together by young men; some victims were raped during the process.

Sexual slavery was commonplace at the President's residence. Young women were recruited as civil servants to work in the State house, specifically in the Protocol Department, leading to their designation as "[protocol girls](#)." Other young women were also invited to the house under various pretenses, such as promises of obtaining scholarships to study abroad or congratulatory visits for winners of national competitions, such as a beauty pageant organised by the Ministry of Education. These young women were then subjected to sexual assault and rape by Jammeh. A culture of oppression, silence, and deeply entrenched patriarchy enabled these widespread violations against women. In their daily lives, women and girls were subject to harassment, intimidation, and threats. Violence against women has been normalised in The Gambia to such an extent that several women victims who participated in [workshops led by ICTJ](#) were not aware that they were survivors of severe acts of sexual violence under the dictatorship. As a result, sexual violence has and continues to go severely underreported.

### FACTS AND FIGURES

- 77 victims of sexual violence under Jammeh regime (65 female and 12 male) were interviewed from North Bank Region (Essau and Sabach Njien), Upper River Region (Basse), Central River Region (Brikama-Ba), West Coast Region (Sintet) and Greater Banjul.
- Rape, sexual assault, sexual abuses and forced nudity suffered by the victims interviewed were committed during the witch hunt campaign (54%), unlawful arrest and detention (39%), and fake HIV treatment (6%).
- In July 2021, the TRRC started the full reparation process. It is due to end in September 2021.
- 1,000 victims are entitled to receive reparation, but the number of victims of sexual violence under the repressive regime has not been shared by the TRRC.

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

*"Since all this started for me, it is from one problem to another because I cannot do anything meaningful with my life. I just came from the hospital. I experience physical pain and can hardly do manual work, I used to be involved in farming but now I can barely weed a small-scale farm. As I am sitting here, I am feeling sick, I just have to manage."*

*"My most pressing need is my health. I always have miscarriages; that alone is painful. As a married woman, not being able to conceive children or having to deal with still birth is heart-breaking. My waist also disturbs me a lot, I can't be seated for a long time. I am managing the survival of my children, everything is on me; their education, shelter and everything is on me."*

Survivors of CRSV



## Harm caused to Survivors, Families and Communities

Victims report long-lasting psychological, social, physical, and economic consequences of sexual violence under the repressive regime suffered under the dictatorial regime. For many, the stigma associated with sexual violence, witch hunts, and HIV has led them to self-isolate within their communities. Survivors face ridicule, exclusion, and a loss of respect and dignity. Shame and stigma can extend beyond the survivor's standing in the community; often, family relationships are damaged as well. Many of the survivors we spoke with reported having suicidal thoughts due to the trauma they continue to suffer.

***“The most embarrassing thing is the stigma and discrimination I face in the society, which is an unbearable pain honestly. There are certain pains that an individual might go through that make you prefer to die than bear the shame.”***

Survivor of CRSV

The nature of sexual violence under the dictatorship left many survivors with overlapping and persistent physical injuries and complications. Survivors report high blood pressure, overall pain throughout their bodies, including abdominal pains, urinary difficulties, and for some, disrupted HIV treatment. Their precarious health has led many survivors to lose their jobs and as a result they live in poverty and are unable to care for their families. They are unable to pay for basics such as accommodation, food, and education for their children, and are unable to afford medical care to treat lingering physical injuries. These challenges put a strain on the family unit and can exhaust familial support. Some of the survivors reported that their children dropped out of school to be able to help generate income. The precarious socioeconomic positions of many women victims have been exacerbated by the COVID-19 pandemic, which has disrupted the meager means of subsistence they rely on.

Harms caused to survivors are compounded by a lack of rehabilitation programmes or spaces to share their feelings or demands. They live with a constant sense of injustice, feeling that the state has not only violated their rights and dignity, but is also unable to restore such rights or to protect them.



## Survivors' Perspectives

### Needs and Expectations

Approximately 76% of the survivors interviewed have a basic to moderate knowledge of reparations. They generally defined reparations as a variety of measures with the goal of achieving reconciliation and improving victims' lives. While reparations are somewhat linked to offenses committed, they are not perceived by many women as a right. Some even view reparations as a gift, a donation, or humanitarian assistance. Survivors identified a variety of needs, including healthcare - especially regular check-ups and ongoing access to medication where needed - and financial support as 24% of survivors interviewed have no income generating activity and 76% have an informal and small-scale income generating activity, such as farming. To address these needs, survivors recommend holistic forms of material assistance to help alleviate the physical, social and economic consequences of past sexual violence under Jammeh's regime. Women victims have expressed a need for gender-sensitive reparations, which should include provision towards childcare and access to education for children, compensation paid in regular installments and economic empowerment. Survivors also request psychosocial support to both manage stigmatisation and ongoing trauma and process the psychological impact of their inability to provide for their loved ones.

Survivors also emphasise the need to pursue criminal accountability and to receive guarantees of non-recurrence, not least through the enforcement of laws intended to protect against sexual and gender-based violence.

Survivors also speak of the need to improve victim participation at all levels of the transitional justice process in the country, from the design to the implementation and the appraisal. They do not recall taking part in any reparations initiative organised by the TRRC, only the numerous outreach activities organised by the [Center for Victims of Human Rights](#) (Victims Center), the ICTJ, and other NGOs.



## Survivors' Initiatives

In a context where a majority of victims are illiterate and live in remote areas where risks of stigmatisation are high, it is difficult to document all dimensions of violations against female victims without the commitment of civil society organisations, including victims' organisations. Civil society organisations have contributed immensely to women victims' experiences being considered in the truth seeking and reparation design process in The Gambia. When the country's transitional justice process began, the Victims Center was the only existing victims' organisation that could register victims of all categories, but now other women-led organisations such as the Women Association for Victims Empowerment (WAVE) and Women in Liberation and Leadership (WILL) also focus on women and victims of sexual violence under the Jammeh regime. Initiatives taken by WAVE and WILL include research contributing to the documentation of women's experiences, sensitisation, assistance to victims to meet immediate needs such as food and shelter and, where resources allow, advocacy.



## Reparations

### IN THEORY

The Gambia is required to provide a remedy to victims of violations of international human rights and humanitarian law under the [International Covenant on Economic, Social and Cultural Rights](#), the [Convention on the Elimination of All Forms of Discrimination against Women](#), the [Convention on the Rights of the Child](#) and the [International Convention Against Torture](#).

At domestic level, the TRRC was [established](#) in 2017 to investigate abuses committed during the dictatorship, determine the scope of future prosecutions and possible amnesties, pursue truth-seeking, advance community and national reconciliation, educate the public on peace and justice, and deliver individual and collective reparations.

Reparations regulations were approved in December 2020, providing for holistic reparations to eligible victims, including victims of sexual violence. Reparations provided under these regulations range from material forms of reparations (compensation, medical support, education support, psychological support) to symbolic reparations forms such as public apologies, public acknowledgement of victimisation, acceptance of responsibility, memorialisation and remembrance of deceased persons. The regulations also provide for collective reparations, including the symbolic measures described above, community development programmes or services and infrastructural development, educational programmes, training and skills development programmes.

### IN PRACTICE

Interim reparations distributed by the TRRC have taken different forms. For example, [four victims](#) received surgery and physiotherapy in Turkey. Others received educational assistance, housing subsidies, or financial support for the start-up of small businesses and for [rent](#). Others received basics such as rice, sugar, oil, milk, and soap. These interim relief measures have been ad hoc and provided to small numbers of survivors. In the absence of a report on interim reparations, it is difficult to establish how many victims of sexual violence have benefitted.

The main reparations programme was launched in July 2021. It is limited to monetary compensation, even though the regulations call for a holistic approach.

Victims received monetary compensation in two instalments. The first came from the TRRC before it closes operations, and the second will be distributed by the government after TRRC shuts down. Under this programme, victims of rape are entitled to an amount of approximately 6,000 USD and victims of other forms of sexual violence under the repressive regime are entitled to receive roughly 3,000 USD. Other forms of reparations (material and symbolic reparations) included in the regulations have not yet been distributed. The TRRC will shut down by September 30, 2021 and close the distribution of reparations after it submits its final report. The [Ministry of Justice](#) has announced the establishment of a new body through a victims reparations bill that is being drafted. However, the timeframe remains uncertain.



## Opportunities

The legal framework for granting reparations, and more specifically the TRRC's mandate to do so, is a major opportunity to deliver reparations to sexual violence survivors of the dictatorship. The TRRC has developed reparations regulations and has begun distributing reparations to victims. At the political level, government entities such as the Ministry of Justice, Ministry of Gender, Children and Social Welfare, Ministry of Health and National Human Rights Commission are well situated to support the implementation of non-discriminatory and gender-sensitive reparations that take into account the considerations and needs of survivors. That said, the TRRC's mandate is scheduled to end in September 2021. The Commission is expected to recommend that a new entity be established to continue delivering reparations to all victims, with emphasis on non-monetary forms of reparation such as healthcare and educational support. It is imperative that the mandate of the TRRC be extended beyond September to ensure that the government follows through on its commitments.

Criminal prosecution of former President Yahya Jammeh, which is likely to be recommended by the TRRC in its final report, may provide another opportunity for sexual violence survivors to obtain reparations. Since the inception of the truth-seeking process and establishment of the TRRC, efforts have been made to collect the evidence necessary to convict him, and a trial would provide an opportunity for victims to receive reparations through the courts. That said, the political, legal, and procedural details of such a trial are yet to be determined, including the events to be considered, the charges to be brought, and the degree of participation of victims.



## Key Challenges

- Availability of funding;
- Prioritisation of criminal accountability over reparations;
- End of the [Truth Reconciliation and Reparation Commission](#) mandate on September 30th, 2021;
- Upcoming elections and uncertainty as to how income may impact the country's transitional justice process;
- Gender-specific concerns related to how financial compensation is distributed, which risks excluding women.

*"I think the government alone can't make decision of reparation without our awareness because we are the victims, we know what we have suffered more than anyone".*

Survivor of CRSV



## Recommendations

- Ensure holistic reparations are provided to victims of sexual violence of the Jammeh dictatorship with consideration for their diverse needs arising from the violations suffered. Relevant government ministries need to actively participate in the reparations programme.
- Establish without delay an institution with the political and financial capacity to coordinate the actions of different ministries to continue the delivery of reparations at the end of the TRRC's mandate. The institution should include a coordinating committee with representatives of the relevant ministries and survivors.
- Use all possible means to fund reparations, including revenue earned from the sale of former dictator Yahya Jammeh's frozen assets.
- Reform the [Criminal procedure code \(Amended in 2014\)](#) to provide compensation for all victims of sexual violence by the convicted perpetrator.
- Ensure effective enforcement of the [Domestic Violence Act](#) and the [Sexual Offense Act](#).
- Provide free access to primary, secondary, and tertiary education, including technical and vocational school for survivors' children. Victims should receive educational kits and other forms of assistance set up by the State.
- Invest in the country's medical infrastructure to ensure proper access to medical care for victims, including specialised services for victims of sexual violence (counselling, shelter, reproductive health).





Focus groups discussion in Essau © ICTJ



## Next Steps

Urgent action by the international community, Gambian civil society organisations, and State authorities is needed to assist, support and sustain survivors' efforts to obtain the implementation of the above recommendations and achieve recognition and effective reparation. These include the following:

- Involve local organisations, create or strengthen meeting spaces, and organise consultations and trainings for the benefit of survivors to improve their understanding of the concept of reparation, and support them to understand how they can leverage their networks, ideas, and knowledge of potential options, risks, and opportunities to help the Gambian government with the implementation. The inclusion and participation of sexual violence victims, particularly in the decision-making process, needs to be strengthened.
- Build bridges between victims, civil society organisations, and government institutions to facilitate interactions and dialogue between victims and policy makers and increase victim participation in the decision-making processes. Victims should participate in defining every part of the process and must also be kept informed about progress, including planned operations and their dates, mechanisms in place, and avenues for recourse available when they face a problem. To achieve this, the involvement of civil society organisations and international organisations is essential, both for technical and financial support, and advocacy work.
- Call on the Gambian government to respect international law in accordance with the [UN Basic Principles and Guidelines](#) on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law and ensure that adequate and adapted reparations are allocated to victims of sexual violence of the dictatorship to both provide satisfaction and restore their dignity.
- Advocate for official apologies by the State and heads of institutions responsible for sexual violence (security forces, former National Intelligence Agency, prison services, police, army), sending a strong message that the wrongs done are acknowledged and the State stands against sexual violence.
- Advocate for the Gambian government to enforce legal protections against sexual violence, establish a witness and victims protection law, and other mechanisms to protect survivors during judicial proceedings.
- Advocate for the rapid establishment of a new entity tasked with overseeing or contributing to the delivery of holistic and complete reparations for survivors, taking into consideration their social, economic, material and psychological needs.
- Support civil society organisations to design and implement community-based approaches to assist survivors and their communities, including survivor capacity building and empowerment.