

**POLICY PAPER**

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# **AFRICAN UNION TRANSITIONAL JUSTICE POLICY IMPLEMENTATION GUIDANCE:**

## **THE GAMBIA**

**IMRAN DARBOE**



## Introduction

The Gambia stands at a critical juncture in its transitional justice process following the successful conclusion of the Truth, Reconciliation and Reparations Commission (TRRC) investigations into gross human rights violations committed by the regime of Yahya Jammeh between July 1994 and January 2017. The TRRC succeeded in fulfilling its mandate,<sup>1</sup> but achieving The Gambia's transitional justice goals hinges on translating the recommendations into concrete actions that deliver justice, promote reconciliation, and foster social cohesion.

A post-TRRC unit was established within The Ministry of Justice to coordinate and oversee the implementation of the recommendations made by the TRRC. Through the Unit's coordination, the government has put in place several legislative frameworks to facilitate implementation, including a Victim Reparation Act, Prevention of Torture Act, the Special Prosecutors Office Act (SPO Act), and the Special Accountability Mechanisms (Act). However, this foundation will remain incomplete without deliberate, strategic and sustained implementation. The process has fallen significantly behind the timeline outlined by the government in its 2022 implementation plan.<sup>2</sup> Consequently, victims and survivors are becoming increasingly frustrated by the slow pace of implementation, particularly of reparations and mechanisms for accountability processes.<sup>3</sup>

To facilitate meaningful progress, the Gambian government must urgently focus on the following priorities: accelerating establishment of its reparations mechanism, including interim measures to address health and other immediate needs of victims;

developing a strategy to address resource constraints; strengthening public communication and engagement to manage victims' and public expectations; and expediting the reform process and reconciliation initiatives to rebuild public trust and promote social cohesion. A 2022 government white paper, which accepted most of the TRRC's 265 recommendations, provides a solid basis for the implementation process.<sup>4</sup>

This policy paper provides guidance for implementing the TRRC's recommendations according to the provisions of the African Union Transitional Justice Policy (AUTJP),<sup>5</sup> based on the key indicative elements of transitional justice in the policy that are relevant to the Gambian context. By aligning implementation with the AUTJP framework, the government and implementation stakeholders can sustain the foundations of justice, reconciliation and long-term stability already started. Without such a deliberate approach, the legacies of violence and dysfunction risk undermining progress and derailing the transition toward a just and peaceful future.

A key obstacle to implementation is the limited involvement of key government institutions that are crucial to accountability, reforms and reparations. This inertia is compounded by constraints on coordinated action to address institutional weaknesses, which are limiting impact in critical areas such as constitutional, judicial and security sector reforms. Civil society organisations have voiced concerns over failures to adhere to the timeline in the roadmap for implementation.

The frustrations and unmet expectations of victims and survivors demonstrate an urgent need for more engagement, stronger political will, and coordinated

- 1 Of 1 200 Gambians, 90% felt that the TRRC performed very well or well, according to a 2020 perception survey. See United Nations (2024) *Country brief: The Gambia*. Available at [https://www.un.org/peacebuilding/sites/www.un.org/peacebuilding/files/documents/country\\_brief\\_the\\_gambia\\_2024-08-28.pdf](https://www.un.org/peacebuilding/sites/www.un.org/peacebuilding/files/documents/country_brief_the_gambia_2024-08-28.pdf)
- 2 National Human Rights Commission of The Gambia, "TRRC Implementation Dashboard". Available at <https://www.gm-nhrc.org/trrc-dashboard>
- 3 The New Humanitarian (2022) *The Gambia's slow push to justice and reconciliation*, 2022. Available at <https://www.thenewhumanitarian.org/analysis/2022/12/15/Gambia-truth-reconciliation-reparations-Jammeh>
- 4 Government of The Gambia (2023), *Implementation Plan to the Government's White Paper on the Recommendations of the TRRC*. Available at <https://moj.gov.gm/wp-content/uploads/2024/12/IMPLEMENTATION-PLAN-TO-THE-GOVERNMENT-S-WHITE-PAPER-ON-THE-RECOMMENDATIONS-OF-THE-TRRC.pdf>
- 5 African Union Transitional Justice Policy (2019) Available at [https://au.int/sites/default/files/documents/36541-doc-au-tj\\_policy\\_eng\\_web.pdf](https://au.int/sites/default/files/documents/36541-doc-au-tj_policy_eng_web.pdf)

efforts among stakeholders to move the transitional justice process forward. Otherwise, the goals of national healing, social cohesion and sustainable justice risk remaining unfulfilled, further alienating those who have already endured so much.<sup>6</sup>

## Adapting AUTJP provisions to the Gambian process

The AUTJP defines transitional justice as “*the various (formal and traditional or non-formal) policy measures and institutional mechanisms that societies, through an inclusive consultative process, adopt in order to overcome past violations, divisions and inequalities and to create conditions for both security and democratic and socio-economic transformation.*”<sup>7</sup> The policy takes an interdisciplinary approach to addressing gross human rights abuses and preventing their recurrence.

The overarching goal is to help rebuild societies by grounding them on foundations of peace, justice, accountability, reconciliation and social cohesion. The AUTJP outlines 11 key elements of transitional justice and a range of cross-cutting issues. This section discusses the most relevant of these to the Gambian context and provides recommendations for implementing them.

### Transitional justice commissions

Transitional justice commissions are legal bodies established to serve the truth, justice and reconciliation components of transitional justice (TJ) through a public process of probing post-conflict and post-authoritarian societies to establish a public historical record, promote accountability, and contribute to national healing and reformation. They document patterns of abuse, identify victims and perpetrators, and examine the role of state and non-state actors, offering space for victims to share their experiences and for perpetrators to reflect on and

acknowledge their wrongdoing, thereby facilitating dialogue and collective understanding.

In The Gambia, the TRRC played a vital role in exposing past violations and setting a framework for justice and reform. However, the AUTJP notes that the long-term impact of TJ commissions depends on effective follow-up and implementation of their findings and recommendations. As emphasised in the AUTJP, truth-seeking must be linked to reparative action and structural transformation to ensure lasting peace and justice. The TRRC’s recommendations include comprehensive reparations, including financial compensation, medical and psychosocial support, community-based reparative programmes, and symbolic measures like memorialisation<sup>8</sup>. It also proposed security sector, judicial and legal reforms to prevent recurrence. Moreover, it also recommended the establishment of a Reparations Commission, as well as a Reconciliation Commission to help rebuild social cohesion.<sup>9</sup> However, while the post-TRRC unit has registered some progress, institutional reforms overall, and the establishment of these key bodies, remain slow-moving and incomplete.

### Recommendations:

- The government should ensure the proposed Reconciliation Commission is a dynamic, community-driven platform that works in partnership with traditional leaders, youth and women’s groups, and civil society for local-level healing initiatives, addressing tensions, and promote civic dialogue, in line with the AUTJP principle of inclusion and participation.
- The Reparations Commission should adopt a reparations framework that includes livelihood support programmes co-designed with victims

6 The Point (2023), New Study Exposes Shortcomings of Gambia’s Reparation Programme, July. Available at <https://thepoint.gm/africa/gambia/national-news/new-study-exposes-shortcomings-of-gambias-reparation-programme>

7 African Union Transitional Justice Policy, para. 19.

8 Truth, Reconciliation and Reparations Commission (TRRC) (2021). *Final Report of the Truth, Reconciliation and Reparations Commission of The Gambia*. Banjul: TRRC. Available at <https://www.moj.gm/trrc-report> [Accessed 13 March 2025].

9 Truth, Reconciliation and Reparations Commission (TRRC), 2021. *Final Report: Volume 16 - Reparations & Reconciliation*. Banjul: TRRC. Available at <https://www.justiceinfo.net/wp-content/uploads/Volume-16-Reparations-Reconciliation.pdf>

and communities, for example integrating reparations into existing social protection schemes and development projects to maximise impact within resource constraints.

### **Reconciliation and social cohesion**

Reconciliation involves rebuilding trust and fostering cooperation among individuals and communities after conflict or oppressive governance. The AUTJP describes reconciliation both as a goal and as a process, requiring the redress of past violence, the reconstruction of broken relationships, and the establishment of conditions for peaceful coexistence. Truth recovery, justice, reparations, and socio-economic reforms are all key constituents of the process, aimed at addressing systemic inequalities and healing social divisions. The AUTJP states that a successful reconciliation process has certain prerequisites:

- Ensuring justice and reparations for victims to address wrongs and foster healing.
- Promoting understanding of past injustices through inclusive dialogue and truth recovery.
- Addressing structural inequalities, promoting shared narratives, and ensuring equitable management of diversity.

The Jammeh era left deep social fractures in Gambian society, dividing communities along political, ethnic, and socio-economic lines. Healing these divisions requires deliberate, inclusive efforts that go beyond symbolism. Social cohesion and the rebuilding of trust between citizens and the state, as well as among different communities, is essential for sustainable peace. National dialogue spaces and inclusive community-based approaches are necessities for meaningful reconciliation, which must be holistic, involve not only the political elite but also ordinary citizens, marginalised groups, women and youth, whose voices are often overlooked.<sup>10</sup>

While the TRRC has facilitated some reconciliation efforts between victims and perpetrators, broader

reconciliation efforts have been minimal. Jammeh's divide-and-rule tactics exacerbated economic injustices and political, religious and ethnic polarisation, which makes national reconciliation a key goal in the implementation process, as recommended by the TRRC. In a reconciliation study conducted by CSVr in 2022, stakeholders in the Gambian process highlighted the potential that traditional justice mechanisms, such as customary joking relationships which are based on social convention, and women's community groups, have in fostering social cohesion within communities."<sup>11</sup>

#### **Recommendations:**

- The government should develop a national reconciliation strategy aligned with the AUTJP to address systemic inequalities, promote trust and facilitate healing.
- The government should develop an action plan that clearly defines the anticipated challenges to reconciliation and set out measures to be taken, including monitoring of progress. A well-planned policy can be a blueprint for coordinated action between the state and other social actors in order to address key challenges, including reforming institutions to align them with the goals of social cohesion and integration, and addressing socio-economic inequalities.
- Both the government and civil society should manage ethnic and other socio-cultural diversity more effectively, including through educational programmes that reinforce dignity, equality and a shared understanding of history. They should also leverage traditional practices and grassroots initiatives to promote reconciliation and strengthen social cohesion.
- The government should establish a permanent body responsible for promoting national cohesion and integration, to encourage Gambians to embrace shared values and identity as well as mitigate ethno-political rivalries. This body should

10 Darboe, I., Copelyn, J., and van der Merwe, H., *The Gambia: Reconciliation Study Report* (Johannesburg: Centre for the Study of Violence and Reconciliation, 2022).

11 Centre for the Study of Violence and Reconciliation (CSVr), 2022. *The Gambia: Reconciliation Study Report*.

develop early warning mechanisms for monitoring potential conflict or violence, discourage hate speech, support mediation and dialogue processes among communities in conflict, promote more inclusive political structures and policies, build awareness of and support for constitutional values and principles, and celebrate diversity through positive and inclusive initiatives.

## Reparations

Reparations, as defined by the AUTJP, are financial and non-financial forms of redress provided to individuals and communities for violations or losses suffered, which should be both adequate and effective. They include material restitution, healing and rehabilitation services, and collective and moral redress, which together are designed to right historical wrongs, heal social wounds, and help individuals and communities rebuild their lives.

In The Gambia, reparations are significant for victims of the Jammeh regime. According to the TRRC's findings, victims and survivors experienced physical, emotional, or psychological harm as a consequence of enforced disappearances, extrajudicial killings, torture, sexual violence, and other human rights violations during the Jammeh era. The TRRC made initial progress, establishing interim reparations and making partial disbursement of final reparations.<sup>12</sup> However, victims have become increasingly frustrated by the slow progress towards receiving the outstanding reparations owed to them. Many victims also express frustration with the scarcity of public communication about the issue. The passage of the 2023 Victim Reparation Act provides a foundation for the process, but progress remains slow, with institutional capacity and resource constraints being some of the obstacles to speedier delivery.

### Recommendations:

- The government should leverage partnerships with regional bodies and international non-governmental organisations (iNGOs) with capacity

to provide technical training to government and civil society actors on the concept of restorative justice and victim-centred approaches to enhance their capacity to engage meaningfully with victims.

- The post-TRRC unit responsible for implementation of the TRRC recommendations should develop a comprehensive communications strategy, leveraging local media, community radio platforms, and civil society networks to disseminate accurate information on progress with reparations.
- The government should link reparations to other transitional justice measures, such as memorialisation initiatives and constitutional reform, to promote a holistic approach to addressing past abuses and ensuring non-repetition.

## Redistributive (socio-economic) justice

The AUTJP takes a comprehensive approach to the establishment of mechanisms that promote reparative justice, by not limiting their scope to individual victims but also placing emphasis on collective remedies that ensure communities' resilience and future well-being. As such, socio-economic justice is indispensable to building a society where marginalised groups can regain their dignity and gain agency.

The TRRC findings highlight systemic socio-economic injustices perpetrated during the Jammeh regime, often against specific communities based on ethnic, religious or political differences. Divisive policies resulted in economic, social and cultural rights violations which have had an enduring effect, hindering access to key resources such as land, education, healthcare and employment for opposition party affiliates, minority religious groups and other groups perceived as antagonistic to the former government. The principles of redistributive justice necessitate redress for these socio-economic inequalities, not only for redressing past harms but also for long-term peace and national reconciliation.<sup>13</sup>

12 Truth, Reconciliation, and Reparations Commission (2022), *Final Report, Volume 16: Reparations and Reconciliation*. Available at <https://moj.gov.gm/wp-content/uploads/2024/12/Volume-16-Reparations-Reconciliation.pdf>

13 International Center for Transitional Justice (2023), *Position Paper on Redistributive Justice within the AUTJP Framework*. Available at [https://www.ictj.org/sites/default/files/2023-11/ictj\\_position\\_autjp-web\\_2.pdf](https://www.ictj.org/sites/default/files/2023-11/ictj_position_autjp-web_2.pdf)

### Recommendations:

- The government should, in its national development agenda, prioritise communities affected by economic, social and cultural rights violations, facilitating recovery through infrastructure development, healthcare, and educational initiatives. Government policies should ensure reparations are not only symbolic but also create sustainable access to economic and social resources.
- The government should implement affirmative action initiatives that promote equality and social justice by focusing on marginalised groups, particularly women, youth, and rural populations, in relation to land ownership, education and socio-economic opportunities, and thereby mitigating structural barriers that perpetuate socio-economic exclusion.
- Civil society should leverage constitutional and legal reform processes to advocate access to justice for economic, social and cultural rights violations and facilitate avenues for equitable redress through national legal processes.

### Memorialisation

Memorialisation, as outlined in the AUTJP, is a long-term process involving the public acknowledgement of victims and the institutionalisation of collective memory through measures beyond the immediate transitional period. It can take the form of monuments, renamed public spaces, commemorative events, and curricula reforms that reflect a nation's history of human rights violations. Meaningful memorialisation must be inclusive, participatory, and connected to broader justice and reconciliation goals.

In The Gambia, the TRRC proposed key memorialisation initiatives to preserve victims' memory and promote public education, but these remain largely unrealised so far. Plans to establish a national media centre and rename The Arch 22 monument in Banjul, a national site of remembrance, also stalled<sup>14</sup> due to administrative

delays and programme closures. Despite these challenges, civil society organisations (CSOs) have initiated numerous memorialisation initiatives, but these require institutional support to sustain.

### Recommendations:

- The government should take concrete steps to implement the TRRC recommendations on memorialisation, leveraging the use of technology to make memorialisation sites and spaces more accessible, for example by incorporating QR-codes and virtual memorials that extend the reach of memorialisation efforts.
- The Ministries of Education should integrate memorialisation into public education not only through reform of the syllabus by also hosting annual events and competitions.
- All stakeholders should ensure that public inclusivity and participation shape memorialisation initiatives, including through intergenerational dialogues.

### Justice and accountability

The AUTJP framework stresses the need for accountability mechanisms that are fair but also effective, ensuring justice for victims while avoiding further victimisation. Accountability should be both individual and institutional, addressing systemic impunity and ensuring that institutions are equipped to prevent future violations. This element of the AUTJP thus envisions both formal and traditional legal and institutional arrangements in the dispensation of justice, including national courts, hybrid mechanisms and international tribunals.

The Gambian transitional justice process has, from the beginning, placed a focus on accountability of perpetrators who bear the greatest burden for human rights violations, recognising its fundamental significance to the healing process of victims and preventing non-recurrence. Faced with jurisdictional,

14 Justice Info. (2022). In Gambia, government and truth commission clash over Jammeh Arch. Justice Info. Available at <https://www.justiceinfo.net/en/79464-gambia-government-truth-commission-clash-jammeh-arch.html> [Accessed 13 March 2025].

security and capacity challenges, the government has proposed the establishment of a special hybrid mechanism, including a special prosecutor, a special division of the domestic court, and an international hybrid tribunal to implement the TRRC's recommendation on accountability, in addition to reforms and other measures.<sup>15</sup>

#### Recommendations:

- The government should develop a transparent, inclusive vetting process for state institutions and key public services, focusing on identifying and removing from positions of power individuals involved in human rights violations under the Jammeh regime. Vetting should be guided by principles of fairness, due process and human rights and ensure that those who committed serious violations are held accountable.
- Beyond the hybrid court, government should build the capacity of justice sector institutions to handle transitional justice cases and human rights violations. This includes reforms toward an independent and impartial judiciary, through continuous training on international human rights standards and equipping justice actors to manage complex cases involving human rights violations.
- The government and civil society should adopt procedures and policies that addresses the specific needs of victims of sexual and gender-based violence. This includes incorporating specialised training for justice sector personnel, developing victim-friendly procedures in courtrooms, and creating mechanisms to support survivors with ancillary services such as mental health and psychosocial support services. The AUTJP stresses the need for gender-sensitive justice processes that ensure women's voices and experiences are not side-lined in transitional justice frameworks.

#### *Political and institutional reform*

Political and institutional reform is a key element of transitional justice, which must be supported by practices and values that ensure democratic and socio-economic transformation and the prevention of future violations. Constitutional reform in particular provides a foundational arrangement on which to anchor holistic reforms. The AUTJP advocates that such processes should be both consultative and inclusive, reflecting the voices of all societal groups to ensure legitimacy and broad-based support.

For The Gambia, moving decisively beyond the legacy of authoritarian governance and adopting a constitution that guarantees human rights, accountability and equitable representation should be a priority. A new constitution remains indispensable for sustainable reform in The Gambia, as it is a symbolic and practical step toward addressing governance deficits and advancing democratic transformation. The current legal framework in The Gambia, rooted in its authoritarian past, creates structural vulnerabilities that risk perpetuating impunity, obstructing further institutional reforms, and enabling the recurrence of abuses.<sup>16</sup>

#### Recommendations:

- Expedite the adoption of a new constitution through inclusive consultations and focused efforts on consensus-building to attain the necessary compromise and legitimacy in the constitution-making process, aligning it with the principles of equity, justice and inclusiveness articulated in the AUTJP.
- The National Assembly should ensure through the legislative process that it adopts a constitution which upholds the principles of constitutionalism, particularly the separation of powers, checks and balances, the independence of the judiciary, and respect for fundamental human rights and freedoms, as well as adherence to the rule of law.

15 JURIST (2025). The Gambia's Hybrid Tribunal: A Bold Experiment in Transitional Justice. Available at <https://www.jurist.org/commentary/2025/01/the-gambias-hybrid-tribunal-a-bold-experiment-in-transitional-justice/>

16 Nabaneh, S., Attempts at Constitutional Reform in The Gambia: Whither the Draft Constitution? IACL-AIDC Blog, 29 September 2020. Available at <https://blog-iacl-aidc.org/2020-posts/2020/9/29/attempts-at-constitutional-reform-in-the-gambia-whither-the-draft-constitution>

## Cross-cutting issues

As indicated by the centrality of inclusivity and participation in the AUTJP, the active involvement of women, youth and other marginalised groups is critical to equitable and transformative transitional justice outcomes.

The Gambia's post-TRRC process needs to address both direct violations against women and girls and the structural inequalities that perpetuate gender bias. It should also address the psychosocial, medical and livelihood needs of survivors of sexual and gender-based violence and other trauma-inducing violations and promote community education to combat stigma.

Youth should also be key to post-TRRC efforts, as they experienced direct victimisation and disruptions to their lives and development as a consequence of violations against their parents. Youth are often both victims and agents of change in transitional justice processes, necessitating adoption of child- and youth-centred approaches. Reparative measures should thus include psychosocial interventions, access to education, vocational training and socio-economic initiatives to address the needs of young survivors.

A significant amount of criticism of post-TRRC efforts regarding marginalised groups has been of lapses in communication from state actors to victims. An inclusive communications strategy is essential to ensure that all segments of society, especially victims, are informed and engaged in the progression of transitional justice efforts. In line with the AUTJP, public engagement should integrate culturally sensitive outreach to rural and remote areas, emphasising accessibility for marginalised groups. By fostering transparency, accountability and public feedback mechanisms, victims' expectations are better managed and frustrations mitigated, thereby strengthening the legitimacy and efficacy of the process.

Such an approach embeds the AUTJP principles of inclusivity, equity and sustainable impact in transitional justice efforts.<sup>17</sup>

Sustaining the momentum of transitional justice, given the resource constraints of post-conflict and post-authoritarian contexts, requires engaging bilateral and multilateral partners while ensuring independence to uphold the credibility of transitional justice initiatives and fostering public trust. The AUTJP recognises resource mobilisation for transitional justice as a collaborative matter of balancing international support with local ownership. Targeted financing for mental health and psychosocial support services, reparations, accountability processes and socio-economic reintegration, among other initiatives, is crucial for achieving transformative justice. Given The Gambia's implementation plan, resource mobilisation and allocation will be vital to effective implementation.

### Recommendations:

- The government and civil society should embed gender-responsive and youth-inclusive policies in all transitional justice initiatives, including in legislation, public consultations, establishment of implementing institutions, reparation programmes, reforms and accountability processes.
- Government and civil society should leverage local languages, traditional communication channels and community-based outreach initiatives to disseminate information about transitional justice efforts in a more accessible manner.
- The government, in collaboration with local, regional, and international partners, should develop a comprehensive resource mobilisation strategy that aligns with local priorities and the needs of victims and specific vulnerable groups.

17 African Union (2021). *Roadmap for the Implementation of the African Union Transitional Justice Policy* (2021). Available at [https://au.int/sites/default/files/documents/41242-doc-Roadmap\\_for\\_the\\_Implementation\\_of\\_AU\\_ENGLISH\\_Sep\\_091.pdf](https://au.int/sites/default/files/documents/41242-doc-Roadmap_for_the_Implementation_of_AU_ENGLISH_Sep_091.pdf)

## Conclusion

The Gambia has concluded the preliminary phase of its transitional justice process. However, challenges remain that must be addressed through deliberate and strategic approaches by stakeholders for the successful implementation of the TRRC's recommendations. This policy paper highlights some of the constraints of the process. Utilising the AUTJP as guidance, it provides recommendations targeted at key stakeholders, particularly the government of The Gambia, which is primarily responsible for overseeing the implementation of the commission's recommendations.

Gambian stakeholders must seize the opportunity presented by the TRRC's successes and take a strategic approach to implementing the recommendations. The government should show political will by taking timely steps to actualise its implementation plan, guided by victim-centred policies, inclusive public communication, and a robust resource optimisation strategy. All stakeholders, including government, civil society and political parties, should make a conscious and proactive effort to reach consensus in establishing foundational constitutional reforms, as a basis for sustainable peace, justice and reconciliation. The Gambia can serve as a model for effective transitional justice in Africa and lay the groundwork for a more equitable and democratic future for its people.

**Imran Darboe** is a Gambian legal practitioner and policy advocate specialising in transitional justice, human rights and the rule of law. He has worked with both government and civil society, including the Ministry of Justice of The Gambia, the Truth, Reconciliation and Reparations Commission, and the Centre for the Study of Violence and Reconciliation (CSVR). Imran has led research, capacity building, advocacy and consultancy work focused on law, civic engagement, transitional justice and constitution building. He is passionate about the practical implementation of the African Union Transitional Justice Policy, particularly in advancing gender justice, interfaith dialogue and youth empowerment.

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