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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Follow-up to the recommendations made by the Working Group on Enforced or Involuntary Disappearances in its reports on its visits to Albania from 5 to 12 December 2016 (A/HRC/36/39/Add.1) and the Gambia from 12 to 19 June 2017 (A/HRC/39/46/Add.1)

Report of the Working Group on Enforced or Involuntary Disappearances*

Summary

This document contains information provided by Governments, authorities, civil society and other stakeholders, relating to the follow-up measures to the recommendations made by the Working Group on Enforced or Involuntary Disappearances, following its visits to Albania in 2016 (A/HRC/36/39/Add.1) and the Gambia in 2017 (A/HRC/39/46/Add.1).

In paragraph 7 (a) of its resolution 7/12, the Human Rights Council requested Governments that have accepted visits to give all necessary attention to the Working Group's recommendations and invited them to inform the Working Group of any action they take on those recommendations. The Human Rights Council reiterates this request in paragraph 16 (a) of its resolution 21/4.

The present format of the follow-up reports aims at facilitating the identification of concrete steps taken in response to the specific recommendations and to reflect the information gathered from different actors involved in the process, on the basis of which the Working Group formulates its observations on the level of implementation of the recommendations.

The Working Group continues to offer its assistance to the Governments that have received a visit to comply with the recommendations made and stands ready to assist them in their efforts to prevent and combat enforced disappearance.

* Reproduced as received, in the language of submission only.



I. Follow-up to the recommendations made by the Working Group on Enforced or Involuntary Disappearances in the report on its visit to Albania from 5 to 12 December 2016 (A/HRC/36/39/Add.1)

1. On 18 November 2019, the Working Group on Enforced or Involuntary Disappearances requested the Government of Albania to provide information on measures taken to implement the recommendations that were made in the report A/HRC/33/51/Add.1 (paragraphs 78-83), after its visit to the country in December 2016. On 12 February 2021, the Government of Albania provided partial information due to issues related to the ongoing Covid-19 pandemic.

2. The Working Group thanks the Government of Albania for transmitting input from its specialized agencies, namely the Institute for integration of the former politically persecuted and the Authority for the opening of the Sigurimi files. However, in the absence of the requested information from the line ministries, the Working Group cannot provide a thorough analysis of the implementation of the given recommendations.

3. Based on the information provided, the Working Group concludes that while some recommendations have been fully implemented, most of them have only been partially addressed or have not been addressed. In this regard, the Working Group reiterates the importance of fully implementing all the recommendations made in the report.

4. The Working Group acknowledges some progress made by the Institute for integration of the former politically persecuted, the Authority for the opening of the Sigurimi files and other specialized agencies in advancing the rights of victims and their families to truth, justice and memory. However, the Working Group notes with concern that the overall institutional response to the issue of enforced disappearances of the past remains fragmented and slow, notably due to insufficient political will and support. In this regard, the Working Group stresses the need to overhaul the existing institutional framework by establishing an independent, broadly mandated and multidisciplinary “one-stop shop” mechanism tasked with advancing the rights of victims and achieving national reconciliation. The authorities should ensure the participation of family associations and other civil society organizations in these processes.

5. The Working Group regrets not having received a comprehensive update from the line Ministries, such as the Ministry of Justice, concerning the legislative steps taken to protect the rights to truth, justice, reparation and memory. In this regard, the Working Group would appreciate receiving a copy of the amended Law no. 114/2020, with a view to analysing the implementation of the recommendations related to legislation.

6. While welcoming the qualification of enforced disappearance as an autonomous crime in the Criminal Code, the Working Group regrets that no steps have been taken to adopt dedicated legislation on enforced disappearances perpetrated during the communist era. In this regard, the Working Group urges the Albanian authorities to promptly expand the current legislative framework in order to comprehensively uphold the rights of victims of enforced disappearance. It also recalls article 17 of the Declaration on the Protection of All Persons from Enforced Disappearance, which outlines that acts constituting enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified.

7. The Working Group commends the ratification by the Albanian Parliament of the Cooperation Agreement between the Council of Ministers of the Republic of Albania and International Commission on Missing Persons (ICMP). In this regard, the Working Group expresses the hope that the Albanian authorities will continue advancing co-operation with ICMP, with a view to coming to terms with the gross and systemic violations of human rights committed by the dictatorship.

8. The Working Group also commends the search-related efforts hitherto made by the Institute and the Authority in close co-operation with ICMP and other partners, which led to new identifications of human remains and mapping of potential burial sites. Reports

suggesting that such efforts appear to be delayed and undermined by the apparent lack of action by public prosecutors in charge of issuing excavation orders are particularly concerning. The Working Group has observed that delays in the investigations into enforced disappearances and the searches for the disappeared or their remains perpetuate impunity and increase the anguish of the relatives, who, in many instances, are unable to see results in efforts deployed to find their loved ones and obtain justice and other forms of reparation (A/HRC/45/13/Add.3).

9. The Government of Albania should take decisive steps to establish a disaggregated register and a national DNA bank, while ensuring annual budgetary allocations to this effect. With respect to access to information, the Government, including the Institute, the Authority and other specialized agencies, should ensure full transparency regarding the status of requests submitted by relatives of the disappeared.

10. The Working Group notes with regret that no ex officio investigations have been conducted to date into enforced disappearances committed during the dictatorship. In its article 13, the Declaration describes in detail the obligations arising from the duty to investigate enforced disappearance thoroughly and impartially, making clear that such investigations should not be curtailed or impeded in any way.

11. With reference to the Law no. 111/2017 "On free legal aid guaranteed by the state", the Government of Albania should further amend article 11 to include relatives of the disappeared as beneficiaries entitled to free legal aid. With respect to the ongoing judicial reform, the Government should take decisive steps to complete vetting process of judges and prosecutors without further delay.

12. The Working Group understands that compensation for all victims of political persecution is provided under the Law on Compensation of the Formerly Politically Persecuted Persons, which was adopted by the Albanian Parliament on 15 July 2004. That law, however, does not specify disappeared persons as a category.

13. The Working Group regrets that there has been no progress in developing a national reparation mechanism, which would warrant the right of all victims and their families to compensation, restitution, rehabilitation and memory. It is also regrettable that the Albanian authorities still do not register cases of enforced disappearances from the past in their lists if such persons cannot be determined to have been "politically persecuted". The number of the disappeared that are not categorized as politically persecuted is unknown and families of those victims receive no financial compensation under the Law on Compensation of the Formerly Politically Persecuted Persons.

14. In order to effectively preserve the memory of the victims, it remains essential to develop a strategy for memory that takes into account the importance of officially safeguarding former detention facilities and labour camps as memorial sites and creating memorials for the recognition and rehabilitation of victims. This strategy should also aim to create awareness among new generations and work towards reconciliation within Albanian society. To that end, families of victims and associations active in this field must be an integral part of all initiatives aimed at designing, implementing and celebrating memory.

15. The Working Group reiterates the recommendations outlined in the concluding observations issued by the Committee on Enforced Disappearances on 3 July 2018.¹ In particular, the Working Group stresses the obligation vis-à-vis the principle of *non-refoulement* and the need to establish clear and specific mechanisms and/or procedures to assess and verify the risk a person faces of being subjected to enforced disappearance in the country of destination.²

16. The Working Group remains committed to providing technical assistance to the Government of Albania in meeting its human rights and humanitarian obligations within the framework of eradicating enforced disappearances and protecting the rights to truth, justice, memory, and reparations.

¹ CED/C/ALB/CO/1, 3 July 2018.

² See in this regard, A/HRC/48/57, paras, 38 ff.

**Follow up to the recommendations made by the Working Group on Enforced or Involuntary Disappearances,
following its visit to Albania in December 2016 (A/HRC/36/39/Add.1, paragraphs 77-83)**

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
General			
<p>78. The Working Group recommends that the Government of Albania:</p> <p>a) Establish a mechanism dedicated to dealing with the prejudices resulting from the political repression of the past, on the basis of a global approach instead of fragmented measures taken by several institutions;</p> <p>b) Recognize the enforced disappearances of the past in order to guarantee the rights of victims and families to truth, justice, reparation and memory and guarantee non-repetition, through an appropriate mechanism in concert with victims and associations.</p>	<p>Paragraphs 7-18</p>	<p><u>Authority for the opening of the Sigurimi files</u></p> <p>b) Amendments made to the law 45/2015, as amended by law no. 114/2020, dated 29.7.2020, “On the enforced disappearances of the communist regime”, where it is added the definition of the disappeared, and it is a separate article on the institutional cooperation for the identification and restitution of the disappeared and executed as well as the measures to be taken for the preservation of the burial sites.</p> <p><u>Institute for Activism and Social Change</u></p> <p>a) No mechanism is established either part of truth-seeking policy or a legislative act that could ensure the rights of the victims of enforced disappearances. Having ratified a considerable number of the international acts, and addressed them as part of the domestic legislation, Albanian government does not have taken any step to change/ improve the current situation. The ambiguous role of the Institute for integration of former politically persecuted is clearly not able to act as such mechanism as it has shown lack of human resources, financial capacities, not a clear mandate.</p> <p>b) Albania has made enforced disappearances an autonomous crime in the Criminal Code under articles 67, 74 and 109(c), consistent</p>	<p>The Working Group regrets that no major initiatives have been undertaken by the Albanian authorities to acknowledge and address a fragmented institutional response to dealing with the past, most notably in relation to the cases of enforced disappearances perpetrated during the dictatorship. In this regard, the Working Group stresses the need to establish a broadly-mandated and multidisciplinary “one-stop shop” mechanism, which would guarantee basic rights to the victims and their families.</p>

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>with the definition given in the 1992 Declaration on the Protection of All Persons from Enforced Disappearance (the Declaration), and punishable by appropriate penalties which take into account its extreme seriousness. The current legislation covers the various modes of criminal liability, including in relation to any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance. It also expressly provides for the application of command or superior individual criminal responsibility for such crime. These legal revisions have not been applicable for the victims of enforced disappearances during communist dictatorship in Albania – creating thus inability of the families to require any right through criminal justice system in Albania. These are the reasons that Institute for Activism and Social Change are asking for a Law on the rights of the victims of enforced disappearances during communist dictatorship in Albania.</p>	
Legislative and institutional framework			
<p>79. The Working group recommends that the Government of Albania:</p> <p>a) Expand the current legislative framework in order to comprehensively secure the rights of both society and victims of enforced disappearance to know the truth about what happened during the dictatorship, the right of families to have the remains of their loved ones found, identified and returned to them,</p>	<p>Paragraphs 19-30</p>	<p><u>Institute for integration of the former politically persecuted</u></p> <p>b) In 2014, the Sector for the finding the missing people from the Communism Crimes was established as a necessity in honour and respect of all persons and their families who were found to be missing as a result of communism crimes. This sector monitors and verifies the process of searching for and</p>	<p>The Working Group regrets not having received a comprehensive update from the line Ministries, such as the Ministry of Justice, concerning the legislative steps taken to protect the rights to truth, justice, reparation and memory. In this regard, the Working Group would appreciate receiving a copy of the amended Law no. 114/2020, with a view to</p>

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
<p>the right to access to justice, the right to reparation, including compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition, and the right to memory;</p> <p>b) Consolidate the institutional framework for addressing the enforced disappearances of the past; consider establishing a broadly mandated, multidisciplinary, “one-stop shop” type of institution to secure the rights of victims and to achieve national reconciliation; such an institution should, inter alia, be responsible for receiving and verifying complaints of enforced disappearance; keep a national register of disappeared persons and identified burial sites;</p> <p>c) Grant the status of victim of enforced disappearance to family members of persons who disappeared or whose remains disappeared during acts of repression, whether this was a result of political persecution or not; as an immediate step, amend the existing mechanism to compensate for the suffering endured by Albanians under the authoritarian regime by expressly including victims of enforced disappearance as beneficiaries, without the requirement that they must provide evidence of political persecution;</p> <p>d) Introduce in relevant legislation the possibility of obtaining a certificate of absence due to enforced disappearance to define the legal status of forcibly disappeared persons and to guarantee pertinent rights to their family members;</p> <p>e) Expressly provide that enforced disappearance is a continuous crime to which amnesties and immunities cannot be applied.</p>		<p>exhuming victims of former political persecution by collaborating with other responsible institutions.</p> <p>-Gathering real evidences from communist dictatorship survivors of executions with or without trial, dead in dictatorship prisons, killed in investigators or psychiatric hospitals, buried in collective graves, and killed at the border in an attempted escape during 29/11 / 1944 - 01/10/1991.</p> <p>-It accumulates archival documents and real audio-visual and materials evidence of dictatorship survivors.</p> <p>-It has created and updates a database based on the family requirements on the missing persons, executed and deceased in communist prisons, internment camps and torture centers, collaborating for this purpose with central and local institutions.</p> <p>-Coordinates with central and local law enforcement agencies, institutions that have archives for finding the missing persons.</p> <p>-Coordinates and cooperates with foreign specialized institutions for the purpose of obtaining technical and legal assistance for the process of exhuming and identifying the bodies.</p> <p>-Coordinates on various projects with foreign bodies for the process of exhuming and identifying the bodies.</p> <p><u>Authority for the opening of the Sigurimi files</u></p> <p>a) The Parliament of Albania, pursuant to the law no. 114/2020, dated 29.7.2020,</p>	<p>analysing the implementation of this recommendation.</p> <p>The Working Group wishes to emphasize that the concept of victims of enforced disappearances encompasses persons whose remains vanished during repressions, whether it was a result of political persecution or not, and family members of forcibly disappeared persons.</p>

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>established the institution of the Authority (AIDSSH) as one of the Albanian institutions that give contribution based on law 45/2015, for the identification and restitution of the disappeared during communism.</p> <p>Legislative activity of the Authority, made concrete through bilateral or multilateral agreements with central and local institutions in the Republic of Albania, based on article 22/1 of law 45/2015, carried out in the framework of cooperation and coordination of work for identification and restitution of the remains of those disappeared or executed during communism, will have an impact on the clarification the fate of the disappeared or executed during the communist regime.</p> <p>b) In the resolution of the Parliament of Albania 2019, AIDSSH was enquired to “continue the information process, in order to increase public awareness on the crimes of communism, through activities, publications and, in particular, participation in media and social networks, given the important role they play in terms of transparency and clarification of public opinion ”.</p> <p>Moreover, in the Resolution of 2020 of the Albanian Parliament, AIDSSH was required to “intensify cooperation with government institutions to complete the process of identification and recovery of the remains of the people who disappeared and were executed during communism, as well as to take immediate measures to</p>	

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>adequately preserve and protect sites that are currently identified as mass graves”.</p> <p>The Authority for Information on Former State Security Documents 1944-1991 in fulfilling the recommendations, since its establishment, in cooperation with partners, has focused on clarification of the past, marking remembrance places, holding meetings with survivors, proposing honoring models of resistance, gathering evidence, contributing and organizing study groups, declassifying files to make them available, contribute through documentaries, exhibitions bringing up cases of missing Albanians, and cases of families that have been able to find them. Throughout 2020, the pandemic Covid-19 year, AIDSSH has shared online on its social media sites, the above findings, publications and exhibitions, according to the remembrance calendar.</p> <p>On 10.08.2020, AIDSSH and ICMP signed the technical cooperation agreement no. 831/11, for the project “Raising public awareness on transitional justice and reconciliation: the disappeared under communism”, 2020-2021, supported by the EU, and two coordinators for the disappeared under communism became part of AIDSSH.</p> <p>Until the beginning of 2022, AIDSSH through this project aims to realize the following:</p> <p>Organize an exhibition using photographs and extracts from communist state security files. The exhibition will be shown in</p>	

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>meetings with the community all over Albania;</p> <p>Collection of stories told orally by former political persecuted and families of the missing and their publication in a manuscript and electronic form, in Albanian and English;</p> <p>Draft out and publish a Guide for the rights of the families of the disappeared. The guide provides information on rights and obligations, both in the internal law and in the applicable international human rights law, regarding missing persons who suffered political violence and the period of human rights abuse;</p> <p>Organize meetings with the community to present the Guide for CSOs, families of the missing and local institutions.</p> <p><u>Institute for Activism and Social Change</u></p> <p>a) Since the last visit of the UN Working Group there were no further initiatives that can holistically address the issue; be that separately for the victims, and particularly for their family relatives. A special law can map the information that has been present from different state and non state actors – thus consolidating a database on the missing during dictatorship; finalize a mechanism with a clear judicial mandate (with set timeline of work, human resources, dedicated state budget that can work with exhumations); and that could finalize its work with a documented files of each of the names of victim, family relatives, clear meaning of the status of the victim, and a certificate of Absence of enforced</p>	

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>Disappearance recognizable from the Albanian judicial and administrative authorities. This should be a “last call” for the country to properly deal with its past.</p> <p>b) The explanation fits for the point b as well: the need for a mechanism of the type of “one-stop-shop” is urgent. The dissolving of both institutes (the institute for studies of communist crimes and consequences, along with the institute for integration of former politically persecuted) should help the Albanian authorities prioritize the funding and proper planning of the multi-professionals that need to be hired to address and solve the issue of the more than 6,000 missing persons during dictatorship.</p> <p>c) Please refer to b: no measure so far</p> <p>d) Please refer to b: no measure so far</p> <p>e) The insufficient knowledge of essential precepts of the Convention, related, inter alia, to the nature of State obligations, the continuous character of the crime of enforced disappearance, and the definition of victim of enforced disappearance – still remains not spelled within institutions. This particularly with regards to the role of the prosecutor in applying ex officio position with regards to publicly denounced cases of the missing. This position was required openly to the representatives of the General Prosecutor’s Office in online launching event of a needs assessment, organized by</p>	

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		ICMP and Authority of the opening of the Sigurimi files ³ .	
Truth			
<p>80. The Working Group recommends that the Government of Albania:</p> <p>a) Take firm and decisive steps for the swift adoption of a comprehensive policy to search, locate and identify the remains of persons executed during the dictatorship, including:</p> <p>i) Establishing a disaggregated register with the exact or approximate number of disappeared persons;</p> <p>ii) Identifying locations of potential burial sites and establishing centralized mapping for all these locations;</p> <p>iii) Establishing and enforcing standard operating procedures for the proper preservation of currently identified burial sites and of any samples found therein;</p> <p>iv) Opening investigations at some of the identified burial sites;</p>	Paragraphs 31-48	<p><u>Institute for integration of the former politically persecuted</u></p> <p>i) Since the establishment of the sector for finding the missing persons during the communism period on October 2014, IIPP started to collect relevant information and reports from the families and other sources regarding the disappeared persons from the communist regime. Until December 2020 (643 requests referred by various families and sources have been administered to the IIPP, of which 185 cases are in the process of verification). However besides this data, another number of cases have also been reported to AIDSSH and ICMP. The IIPP is cooperating with these two institutions in order to exchange data and create a unified register. This database was the first step, which further will be integrated, in a disaggregated register with the exact or approximate number of disappeared persons.</p> <p>ii) Based on the reports from the families and other sources IIPP has administrative</p>	<p>While the Working Group commends the search-related efforts hitherto made by the Institute and the Authority in close co-operation with ICMP and other partners, it notes with concern that such efforts appear to be delayed and even undermined by the apparent lack of action by public prosecutors in charge of issuing excavation orders.</p> <p>The Working Group and the Committee on Enforced Disappearances produced a set of guidelines¹³ on COVID-19 and enforced disappearances in response to new contexts that have arisen during the pandemic. In this regards, the Working Group refers to guideline 2, which stipulates that search and investigation into enforced disappearances cannot be discontinued and must be carried out without delay.</p> <p>The Working Group requests the Government to take decisive steps to implement these recommendations in full, particularly concerning the establishment of a</p>

³ <https://www.icmp.int/wp-content/uploads/2021/03/icmp-gr-wb-152-6-W-doc-albania-missing-persons-from-the-communist-era-a-needs-assesment.pdf>.

¹³ Key Guidelines on COVID-19 and enforced disappearances, https://www.ohchr.org/Documents/HRBodies/CED/Guidelines_COVID-19_Enforced_Disappearance.pdf.

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
<p>v) Launching the creation of a national DNA bank to which families can contribute samples, and raising awareness among families about its use and purpose;</p> <p>vi) Ensuring annual budgetary allocations for the above-mentioned endeavours;</p> <p>b) Finalize the accession of Albania to the Agreement on the Status and Functions of the International Commission on Missing Persons, and swiftly take any other legal and policy measures required to enable the immediate launch of the Commission's project in Albania;</p> <p>c) Swiftly promulgate the necessary regulation to frame the practical functioning of the new authority for the opening of the Sigurimi files, and ensure the allocation of adequate financial and human resources in order to maximize its results;</p> <p>d) Take immediate measures to preserve all existing records and documentation relating to the human rights violations of the past, including enforced disappearances, regardless of the government institution holding them.</p>		<p>information of approximately 75 macro and micro locations of the potential burial sites. This information is undergoing verification procedures to establish as much as possible reliable information. IIPP was in a position to verify the existence of mortal remains on at least on 7 locations. Moreover family members reported to IIPP and other institutions 22 micro locations with the exact coordinates of the potential sites.</p> <p>iv) In 2019 IIPP requested the investigation of disappearances and the deaths at Panahor (Ballsh) unmarked grave site. District Prosecutor in Fieri conducted an investigation; however exhumation did not start pending the excavation order. Following the discovery of the mass grave at Dajti near Tirana, Tirana District Prosecutor initiated investigation for the "mass murder" of two or more persons. Later in 2010, the prosecutor suspended the investigation due to the lack of technical capacities of the Albanian authorities to identify recovered remains. In January 2019 Prosecutor reopened the investigation and enabled ICMP to perform forensic examination and DNA sampling. In March 2019 ICMP experts together with the Albanian experts of the Institute for forensic medicine completed the examination and 16 biological samples were send to ICMP lab in Hague. As a result in October 2019 ICMP issued 2 DNA reports enabling Albanian IFM to scientifically identify two individuals and in January 2020 another additional report. On November 11, 2019 with order no. 150, the Prime Minister requested the establishment of an inter-institutional working group for establishment and</p>	<p>disaggregated register and a national DNA bank. The Government should also ensure annual budgetary allocations to this effect.</p> <p>The Government of Albania, including the Institute, the Authority and other specialized agencies, should ensure full transparency regarding the status of requests submitted by relatives of the disappeared.</p> <p>Further, the Working Group welcomes the ratification by the Albanian Parliament of the Cooperation Agreement between the Council of Ministers of the Republic of Albania and ICMP. The Working Group hopes that the Government of Albania will fully comply with its obligations under the Agreement.</p> <p>However, overall, the progress in implementation of the Working Group's recommendations is unsatisfactory.</p>

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>implementation of measures for the search, identification and repatriation of the remains of the Italian citizen Giuseppe Terrusi. This group is headed by a representative of the Ministry of Interior and have representatives from the Ministry of Justice, the General Directorate of Prisons, the Institute of Forensic Medicine, IIPP, who work closely with the Information Authority on Former State Security Documents, local government units, international bodies such as ICMP, etc. Referring to this case, a number of initiatives have been undertaken by the working group during this period. Initially, all the necessary documentation on the case was collected from all the institutions involved, archival documentation, evidence of interested parties, etc. Knowledge's with excavation procedures and methodology for searching the missing persons has been requested. Field visits have been made to Burrell Prison where the remains of Giuseppe Terrusi are thought to be found. Meetings were organized with the local unit, the Municipality of Burrel, where opportunities for cooperation were provided for the provision of tools and manpower. The working group addressed to the district prosecutor's office a request to initiate field search procedures. In September- October 2020, the working group undertook two assessment excavations, which unfortunately resulted in no human remains being found. Authorities are involved in talks with the Republic of Croatia on technology security (GPR-Grand Penetrating Radar). Due to deteriorating weather conditions, efforts will continue in Spring 2020.</p>	

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>V) IIPP referred the families to ICMP for the DNA reference collection. In the reporting period IIPP was informed that ICMP up to now collected 76 reference samples. It must be noted that not all the cases could not referred to ICMP because of the limited scope of ICMP project in Albania, which is limited to Dajti and Ballsh. However IIPP has registered in its database all potential donors for the DNA reference collection from the reported cases.</p> <p>b) 15 November 2018 Albanian Parliament has ratified the cooperation agreement between Council of Ministers and ICMP. The agreement enabled ICMP to open its office in Tirana and provide Albanian authorities its technical assistance.</p> <p><u>Authority for the opening of the Sigurimi files</u></p> <ul style="list-style-type: none"> - The Authority for Information on Former State Security Documents with the legal amendments of July 2020 has continued its work even in terms of the legal aspect of coordinating the work of institutions at all levels, aiming to find the disappeared under communism, including the Order of the Prime Minister for the disappeared Italian citizen Terrusi, in Burrel prison. - Moreover, for the protection of the rights of family members of the disappeared, ensuring that their location and circumstances of their disappearance are effectively investigated, taking concrete and escalated actions in meetings with central institutions, the local government and groups of interest. <p>i) Reports on the disappeared to AIDSSH have been coordinated with IIPP and ICMP.</p>	

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>ii) In the official website of AIDSSH are still available the applications of ICMP, Online Search Center and Burial Places Tracker, in the framework of the cooperation agreement between the Council of Ministers of the Republic of Albania and the International Commission on the disappeared of 2018.</p> <p>c) Meanwhile, the Authority for Information on Former State Security Documents functions based on law 45/2015 “on the collection, administration, processing and use of former State Security Documents of the Ministry of Internal Affairs of the People's Socialist Republic of Albania, to make sure the exercise of the right by any interested party, to be informed about the former state security documents that are made available to them upon request.</p> <p>AIDSSH has approved the "Regulation on the organization and functioning of AIDSSH". http://autoritetidosjeve.gov.al/wp-content/uploads/2019/06/RREGULLORE-PER-ORGANIZIMIN-DHE-FUNKSIONIMIN-E-AIDSSH.pdf</p> <p>d) The storage, administration, communication and use of archival documents is realized according to the procedures provided by law no. 9154, dated 6.11.2003 “On archives”, and “Technical-professional and methodological norms of the archival service in the Republic of Albania” and the legal and sub-legal acts for their implementation. AIDSSH has taken all the measures regarding the security of archival documents, pursuant to the relevant legal procedures.</p> <p><u>Institute for Activism and Social Change</u></p>	

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>a) Such approach could finally bring a good practice to unclarities that have accompanied the long process of transition for Albania. So far, there are no initiatives with regards to required indicators that finally could solve this issue brought to the attention of Albanian and international community only in 2014.</p> <p>b) Such Agreement was finalized November 2018. Furthermore, the EC supported project was launched and IASC is a subgrant beneficiary of the program – under the awareness and advocacy component.</p> <p>c) The Authority remains an institution that apart from the legal mandate of disclosing information originating from the Sigurimi files, remains overwhelmed with the engagement of the process of vetting, for judicial officials that are undergoing the vetting process. Such diversified terms do not necessarily put challenges with regards to finalizing a data management system that can be handed to a dedicated mechanism that can purely functions with the very last issue of the past.</p> <p>d) This recommendation remains ahead of Albanian governments particularly if a decision or a legal framework could incorporate archives of the General Prosecutor's Office, Ministry of Interiors and lastly the Authority of the Opening of the Sigurimi files.</p> <p><u>Albanian Helsinki Committee</u> The phenomena of the enforced and involuntary disappearance of the individuals during the communist totalitarian regime does not appear to contain accurate public data. Despite the fact that the Annual Report related by the Institute for the Study of the</p>	

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		<p>Crimes and Consequences of Communism (ISCC) during 2019 and adopted by the Parliament of the Republic of Albania, the enrichment of the database with concrete data has been one of the main activities, it remains unclear whether this database reflects data on missing persons signaled by of their family members.</p> <p>Lack of accurate and unified data is seen also in the statistics published by the Institute for the Integration of Former Political Persecuted (IIFPP) and the Institute for the Study of the Crimes and Consequences of Communism (ISCC). Both institutes have presented on their official websites various data regarding the number of prisoners and political prisoners from the communist regime. The number is different referring to their categorizations, while it is noticed that the figures published by ISCC are almost twice as many as those of IIFPP.</p> <p>On June 7, 2018, the Government led by the Prime Minister, Mr. Edi Rama approved an agreement with the International Commission on Missing Persons (ICMP) to investigate, search and identify some of the 6,000 missing individuals from the communist regime. Initially, it was said that ICMP would start working on previously at the popular burial sites known as “former Kazerma 313”⁴ in the suburbs of Tirana, near Dajti Mountain, but nowadays AHC did not find any official results or statistics published in the framework of the implementation of this agreement. In the annual report of 2018 of AIDSSH (Authority for Information on</p>	

⁴ Erebara, Gjergj (2018, 7 june) <https://www.reporter.al/shqiperia-miraton-marveshjen-per-gjetjen-e-eshrave-te-te-zhdukurve-te-komunizmit/>.

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>Former State Security Documents), it is written that it was “impossible to find the documentation on the fate of the missing or shot people with or without trial”⁵. For 2018 alone, there have been 25 requests of this nature, thus confirming the hopes that the relatives of the missing have had from this process and recent developments. From former officials there have been claimed periodically that the state security archives “lacks about 10,000 files”.⁶</p> <p>Based on the reports published by the High State Control (HSC) it results that the number of those who have applied for compensation is less than that of the Institutes mentioned above. In the audit conducted in 2016 by HSC, it results “only 23,964 applications were made to the Ministry of Justice”⁷ (18,808 less than the figure of 42,772 offered by IIFPP). Some of the reasons are bureaucracies in reviewing and supplementing documentation and short-term procedures.</p> <p>Pursuant to the Annual Report 2019, issued by the Albanian Authority on Access to Information on the Former State Security Service (AIDSSH), it is mentioned that following the observations made by the Working Group on Enforced Disappearances of the United Nations Resolution -2017, which tasks with "marking the places where bones are thought to be found" and calls for all necessary steps to be taken to find the</p>	

⁵ Annual Report AIDSSH 2018, pg. 56. <http://www.parlament.al/Files/Kerkese/Raport- Vjetor-ADISSH.pdf>.

⁶ Qafoku, Roland (2019, 4 shkurt). The “ghosts” of the former secret services continue to haunt today’s society. In: Albanian Free Press. <http://albanianfreepress.al/en/news/2019/02/the-ghosts-of-the-former-secret-services-continue-to-haunt-todays-society-133061/>

⁷ KLSH (2016, qershor): Raport Auditimi i Performancës “Rehabilitimi i ish-të Përnd- jekurve Politikë në Periudhën e Tranzicionit”, fq.47.

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>missing, AIDSSH has submitted to the municipalities the preliminary map with reported burial sites (source IIPP and ICMP) and the results collected so far at the national level by the applications of ICMP, Online Research Center and Surveillance Tracker,⁸ within the cooperation agreement of 2018 between the Council of Ministers of the Republic of Albania and the International Commission on Missing Persons.⁹</p> <p>Law no. 45/2015 "On the right to information on the documents of the former state security of the people's socialist republic of Albania", provides in its article 22 the right to inform the relatives of the dead or missing, for the purposes they have to deal with their rehabilitation, for the violation of the personality rights of the deceased / missing, in particular for the clarification of the accusation of cooperation with the former State Security as well as to clarify the fate of the dead or missing. In the annual report of the File Authority (AIDSSH) for 2019, p.68, it is emphasized the need to expand its activity is evidenced by making changes in its organic law according to the Polish model. Specifically, the File Authority notes that the staff is already working to amend the functional law, taking into account the Polish model, to expand the Authority's activity even with activities on collective memory and the issue of finding the disappeared in the dictatorship.</p> <p>In the annual report of 2018, AIDSSH reports that has received 57 requests for</p>	

⁸ <https://oic.icmp.int/index.php?w=howoicworks&l=al>.

⁹ <http://autoritetidosjeve.gov.al/wp-content/uploads/2020/06/AIDSSH-Annual-Report-2019.pdf>.

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>rehabilitation and clarification of the fate of the dead or missing persons. It turns out that the Authority has taken a decision for 35 requests, while 22 other requests are still under verification process. In the annual report of 2019, AIDSSH reports that, so far, 75 requests have been submitted to AIDSSH for the rehabilitation and clarification of the fate of the dead or missing. All reports have been passed to the IIPP, which coordinates with AIDSSH and ICMP for the unification of information on about 6,000 people missing during the dictatorship. The Albanian Helsinki Committee notes that in these annual reports there is a need for more transparency regarding the progress of handling these requests by the Files Authority and how it has been fulfilled by the way they are handled, the purpose of the victims' families, what are the challenges that the Authority itself should better address and what are the difficulties encountered, even in terms of inter-institutional cooperation or coordination, with other authorities at the executive or judicial level.</p> <p>We would also like to bring to your attention the draft resolution of the Assembly, for the evaluation of the activity of the Files Authority for 2019, where it is recommended to intensify cooperation with government institutions to complete the process of identification and recovery of bodies. those who disappeared or were executed during communism as well as taking immediate measures to adequately preserve and protect places that are currently identified as mass</p>	

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		<p>graves¹⁰. The Albanian Helsinki Committee recommends that on the official website of the Authority there should be a special section where the resolutions of the Assembly for the last three years, 2017, 2018 and 2019, are published, in order to orient better the public and all the interested to evaluate the work of this institution as objectively as possible. in relation to the recommendations given in the framework of the parliamentary oversight exercised by the Assembly.</p> <p>Although Online Research Center and Surveillance Tracker launched by ICMP is easily accessible online, it remains unclear from the time of operation of this application and to this day why in the annual reports published by AIDSSH no statistical information generated periodically by this online application is reflected.¹¹ On 31st October 2019, ICMP has submitted the first 2 DNA Match Reports to the Albanian authorities, demonstrating that the missing persons can be accurately identified even decades after the disappearances.¹²</p> <p>Nowadays, AIDSSH is adopting the project "Raising Public Awareness on Transitional Justice and Reconciliation: The disappeared under Communism" 2020-2021, funded by European Union. Based on the information published in its Annual Report, through this project AIDSSH aims to draft and publish a guide on the rights and obligations of Albanian and international human rights</p>	

¹⁰ <http://www.parlament.al/Files/Projekte/20200615141916AIDSSH%20projektrezolute%208%20qershor%202020.pdf>.

¹¹ Those online applications have been published for the public on 17th July 2019: <http://autoritetidosjeve.gov.al/prezantohen-aplikacionet-per-gjetjen-e-te-zhdukurve/>.

¹² <https://www.icmp.int/press-releases/icmp-submits-first-two-dna-match-reports-to-the-albanian-authorities/>.

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		legislation regarding persons disappeared in the dictatorship for political reasons and human rights violations. On the online research of this institution's webpage, currently it does not turn out that the guide is drafted and published. This project is still ongoing, so it remains to be seen its efficiency and impact in the future.	
Justice			
<p>81. The Working Group recommends that the Government of Albania:</p> <p>a) Communicate to law enforcement institutions a sense of urgency and encourage them to initiate ex officio investigations into cases of enforced disappearance, regardless of the time that has elapsed since these occurred, and provide them with all the necessary means to this end;</p> <p>b) Without delay, organize professional training for law enforcement officials, judges and lawyers representing victims relating to applicable international standards, specific characteristics of crimes of enforced disappearance and corresponding investigative and judicial practices, including the need for heightened sensitivity in dealing with victims;</p> <p>c) Provide victims of enforced disappearance with legal avenues to obtain truth and justice, and take specific measures to encourage the use of those avenues in preference to private inquiries or exhumations; to this end, the State should make available free legal aid and promote the active participation of victims in official investigations and judicial proceedings;</p>	Paragraphs 49-55	<p><u>Institute for integration of the former politically persecuted</u></p> <p>a) Since September 2018 IIPP in cooperation with ICMP or alone has submitted several requests to the Prosecutors' offices including General Prosecutor in Albania, Prosecutors office for heavy crimes, District prosecutors in Tirana, Fieri, Shkodra and Korca. All the requests demanded the immediate investigation of the cases of disappearances occurred during the communism regime.</p> <p><u>Authority for the opening of the Sigurimi files</u></p> <p>a) AIDSSH has held meetings with central institutions, the General Prosecutor's Office, the State Police, the People's Advocate, the Institute of Forensic Medicine, the Institute of Archaeology (ASA), etc., and local government of cities where there are reported burials, meetings that have oriented the need of institutional cooperation, through joint agreements, and have pointed out the intervention that can be made to properly address the issue of the disappeared in the dictatorship.</p> <p>b) AIDSSH, accompanied by representatives of the Albanian Parliament, has taken</p>	<p>The Working Group notes with regret that no ex officio investigations have been conducted to date into enforced disappearances committed during the dictatorship. In this regard, the Working Group has observed that whenever there are reasonable motives to suspect that a person has been subjected to enforced disappearance an investigation should be opened ex officio and without delay. In any case, every State authority, public or private officer who is aware of acts intended to forcibly disappear persons, is under the duty to immediately report them.</p> <p>Article 13 of the Declaration requires that States ensure that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority. Article 13 further describes in detail the obligations arising from the duty to investigate enforced disappearance thoroughly and impartially, making clear that such investigations should not be curtailed or impeded in any way.</p>

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
<p>d) Carry out immediate judicial reforms as envisioned by recently adopted constitutional and legislative provisions, including implementation of the vetting mechanism.</p>		<p>advantage from the Polish experience in the identification, location and exhumation of the disappeared. Trainings with the Polish experts will further continue throughout 2021, online, due to pandemic conditions.</p> <p>c) The joint project ICMP-AIDSSH "Raising public awareness of transitional justice and reconciliation: the disappeared under communism" 2020-2021 has its voice in the involvement of associations and their contribution to the disappeared. Some of them have won projects to provide legal aid to the persecuted / disappeared and work to guide them toward current legislation.</p> <p><u>Institute for Activism and Social Change</u></p> <p>As a human rights organization, we see the Justice “Indicator” as the most important one: so far, all initiatives were taken from the governments that, in a form or another have used the cause for political agenda. While, approaching the judicial authorities may bring a point of “impartiality”, independence (despite the actual apathic status). We recommend that more training and knowledge needs to be invested towards the newly appointed judges and prosecutors towards the unaddressed crimes of the past.</p> <p>Furthermore, there is a complete lack of knowledge of the Minnesota Protocol that is also another important tool.</p> <p>The law on the status of the victims of the communist regime could help orient a clear structure/ mechanism, mandate, timeframe and funding for the exhumations.</p> <p>So far, the Albanian authorities efforts’ were project’ based and only through tremendous</p>	<p>With reference to the Law no. 111/2017 "On free legal aid guaranteed by the state", the Government of Albania should further amend article 11 to include relatives of the disappeared as beneficiaries entitled to free legal aid.</p> <p>With respect to the ongoing judicial reform, the Government should take decisive steps to complete vetting process of judges and prosecutors without further delay.</p>

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		<p>assistance (beyond the program) of the International Committee on Missing Persons with the continuous pressure and high skilled professional expertise in terms of the DNA bank tests.</p> <p><u>Albanian Helsinki Committee</u></p> <p>Enforced Disappearances were envisaged as a criminal offense with amendments to the Criminal Code adopted in 2013, by being included in the category of crimes against humanity, foreseen in the article 74 of this Code. The implementation of this provision in practice becomes difficult because, as we are aware, the totalitarian regime in Albania has been installed for 45 years until the end of the 90's. The passage of a long period of impunity for crimes against humanity as a result of the totalitarian political regime, in this 30-year democratic transition of our country brings objective difficulties in investigating suspects and consequently even of their punishment.</p> <p>On the other hand, the justice system itself in these years of democratic transition, as one of the main pillars of rule of law representing judiciary power that carries the weight to give independent and impartial justice, has faced a series of problems such as the undue influences of political nature in the appointment process, promotion, pursuing justice for high-profile cases such as corruption or organized crime, the high perception of citizens about the corruption of prosecutors and judges, etc. Since 2016, Albania is in the process of reforming all justice institutions, which has been</p>	

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		<p>accompanied by radical changes in the Constitution and the primary legislation of these institutions, in terms of the manner of appointing the General Prosecutor, the Supreme Court, the Constitutional Court, judges and prosecutors in both the first levels of the system.</p> <p>Part of justice reform is the process of transitional re-evaluation of judges and prosecutors, or as it is otherwise known, the vetting process aimed at clearing justice by judges or prosecutors who have problems with justification of assets, links to organized crime and professional skills. First Instance Vetting Body, Independent Qualification Commission has fulfilled 3 years of its 5-year mandate, while the second instance. High Colleague of Appellate has fulfilled 3 years of his 9-year mandate. According to the data provided in media¹⁴, until the end of June 2020 only one third of the subjects (around 257 judges, prosecutors and legal councils of judiciary out of a total of 800 ones) have underwent through the process in the first instance, while the vetting decisions are final at the second instance. Global Pandemic Covid 19 has stopped partially the process regarding the hearing sessions, for the period March – May 2020. Around 38% of the vetted subjects at the first instance have been dismissed from the duty, 42% were confirmed in duty, and the rest resigned from the duty. Most of the resigned judges and prosecutors are precepted that took this decision because of the results of vetting</p>	

¹⁴ <https://www.youtube.com/watch?v=1Aput2vPcfk>.

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		<p>process. The criterion of unjustified assets and properties is the dominating one that leads to the dismissal of a considerable number of subjects. It is an indicator of the precepted corruption among these subjects, even that vetting is an administrative process and not criminal one. As far as their guilty has not been proved with a final decision, these subjects are presumed to be innocent.</p> <p>Justice reform has been developed into a polarized political climate, which has been one of the factors that has led to significant delays in the establishment of new justice institutions at the same time. During 2018 - 2019, two important bodies of the justice system were not functional: The High Court (has become functional in the beginning of 2020 but still with 3 members out of 17) and the Constitutional Court (is still with lack of quorum in decision making), thus obstructing citizens' access to these institutions. Vacancies were created because of vetting process and led to a considerable backlog of criminal, civil, and administrative cases at the High Court. Establishment with delay of High Judiciary Council (in charge for appointing judges), High Prosecutorial Council (in charge for appointing prosecutors) and Justice Appointment Council (in charge for the verification and ranking of the winning candidates for Constitutional Court) created substantial delays to appointment process in High Court and Constitutional Court. Referring to the official data made available by the HPC and HJC, there have also been vacancies in the lower courts and prosecution offices, which</p>	

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		<p>has led to delays in the adjudication of cases. Until the mid of October 2019, HPC reported to AHC that 17.8% of the positions of prosecutor at first and second level of prosecution office were vacant, meanwhile HJC reported 18.7% of the positions vacant for judges at first and second level¹⁵.</p> <p>The relatively slow pace of implementation of justice reform, vacancies in the judiciary and the fact that so far only 1/3 of judges and prosecutors have been subjected to the vetting process in the first instance, can lead to the conclusion that the Albanian state has marked slowly and partially progress in implementing the recommendations addressed by Working Group regarding the Justice.</p> <p>Regarding the recommendation of the working group that the State should make available free legal aid and promote the active participation of victims in official investigations and judicial proceedings, Albanian Helsinki Committee notes that on 14 December 2017, in the framework of the reform of the justice system, the Albanian Parliament approved the law no. 111/2017 "On free legal aid guaranteed by the state", which entered into force on June 1, 2018. This law has, among other things, aims in creating a system for organizing and providing free legal aid to provide equal access to all individuals in the justice system. The law provides as its beneficiary</p>	

¹⁵ <https://ata.gov.al/2019/11/13/vetingu-kmsh-17-8-e-vendeve-vakante-ne-prokurorite-e-shkalles-se-pare-dhe-te-apelit/>.
<https://www.facebook.com/KomitetiShqiptarIHelsinki/posts/2210745699048948/>.

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		<p>categories, persons who have financial income below the minimum provided by law, as well as special categories such as victims of domestic violence, juvenile victims, etc. But in the article 11 where are defined the special categories that benefits from free legal aid are not included the victims (familiaris of involuntary or enforced disappearances), so we think that the working group should has this into consideration and recommend amendments in this law, in order to make the scheme of legal aid functional for these categories.</p> <p>It turns out that the procedural-criminal legislation has undergone improvements in the framework of the justice reform regarding the rights of the victim in the criminal process. Specifically, with law no. 35/2017, dated 30.3.2017, "On some additions and amendments to the Code of Criminal Procedure" in the provisions of the Code are regulated clearly institutes of the victim and the accused victim in the criminal process, reflecting the terminology and rights provided in international legislation. Also, it is presented the obligation for the prosecution/court to enable the participation as a party to the victim in the criminal proceedings, the circle of victims' rights has been expanded with reference to the EU Framework Directive on the status of victims in the criminal trial of 2001, etc. However, it remains to be seen in practice how effective access will be guaranteed to victims of crimes related to enforced or involuntary disappearances during the totalitarian regime, while at least in the public arena, we are not</p>	

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		<p>aware of any process of initiated by the victims or ex officio by the prosecution. The level of awareness of the victims of these crimes is questionable on the possibility that they have to set in motion the process, but also as regards their trust in the justice system, which as noted earlier in this letter, continues to be at a non-advanced stage of reformation.</p> <p>Appointments of new judges and prosecutors in the system that guarantee professional and moral integrity, impartiality and zero-level premises to be politically influenced, but also the need to raise the capacities of the existing judges and prosecutors who will successfully pass the vetting are two important elements for the effectiveness of this the system and the objective, impartial and comprehensive investigation of cases reported by victims of violent and involuntary disappearances.</p>	
Reparation and memory			
<p>82. The Working Group recommends that the Government of Albania:</p> <p>a) Develop a reparation mechanism tailored to the nature of the violation, namely enforced disappearance, which guarantees the right of victims and their families to compensation, restitution, rehabilitation and memory — this mechanism should consider the families of the disappeared as victims just like the direct victims of other serious human rights violations perpetrated under the dictatorship;</p> <p>b) Offer a new opportunity for reparation to families of victims of enforced disappearance who were</p>	Paragraphs 56-70	<p><u>Institute for integration of the former politically persecuted</u></p> <p>e) IIPP supports national and local NGOs that have projects in the field of memory (for the design, implementation and celebration of memory).</p> <p>f) Based on its mission, IIPP provides necessary budgets for memory projects submitted by NGOs representing former political persecuted people, ensuring their sustainability and visibility.</p> <p>Referring to the reporting period, some of the projects that can be mentioned are:</p>	<p>The Working Group regrets that there has been no progress in developing a reparation mechanism, which would warrant the right of all victims and their families to compensation, restitution, rehabilitation and memory. The Working Group therefore urges the Albanian authorities to implement these recommendations in full and without further delay.</p> <p>Concerning memory, the Working Group commends a host of initiatives implemented by Institute for integration of the former politically persecuted, Authority for the opening of the</p>

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<p>excluded under the initial deadline for surviving victims;</p> <p>c) Reparation should also take into account medical, psychological and moral support for the harm suffered, as well as support for families during the search for and exhumation, identification and recovery of remains, in addition to compensation;</p> <p>d) Establish a strategy of memory based on the identification of places of reflection for families and places of remembrance for Albania as a whole;</p> <p>e) Adopt a participatory approach with the families of victims and associations working in the field of memory for the design, implementation and celebration of memory;</p> <p>f) Provide the necessary budgets for memory projects and ensure their sustainability and visibility.</p>		<p>A. Memorials -National Memorial of Internment-Deportation in Lushnje 2016-2017; -Memorial of Tepelena; -Memorial in Mat; -Memorial in memory of the 50-year resistance of the anti-communist sons and daughters of Lura area.</p> <p>B. Memorial Plaque -Plaque located near Selvia / Tirana; -Plaque located in Spaç Prison</p> <p>C. Book promotion Every year, IIPP supports memorial activities, ceremonies, book promotions etc, in memory of the history and consequences of the communist regime. Referring to the reporting period, over to 15 books have been supported and promoted. These activities have been publications, promotions or both together.</p> <p>D. Mondodrama on "AT Zef Pellumbi".</p> <p>E. Documentaries - A documentary about the crime of border killings (during communism regimes); - Promotion of the documentary "Golgotha of Laser Rad"; -Documentary on the life and work of Pjetër Arbërori.</p> <p>F. Symposiums, Various conferences and activities organized with different actors and collaborators (Martyrs searching for a grave; "In memory of Zef Lef Nosi"; "In memory of Father Anton Arapi"; "In memory of the Anti-Communist Residence in the North" "In memory of Dom Simon Jubani, protagonist of Freedom and Democracy;" In memory of the execution of the Intellectuals on February 26, 1951 ", " Imprisonment and executions of</p>	<p>Sigurimi files and Authority on Access to Information of the Former State Security Service in coordination with family associations. It is instrumental that adequate financial resources be allocated so that these entities can continue implementing memory-related projects.</p>

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		<p>clerics " Enemies of the population during the dictatorship of the proletariat in Albania for the years 1944-1990 "; "Traces of Dictatorship "etc.</p> <p>I. "Restoration of the cemetery in Subash of Tepelena".</p> <p>All these activities, which are realized on certain dates, have as focus the moral rehabilitation of the layer of former political persecuted in Albania.</p> <p><u>Authority for the opening of the Sigurimi files</u></p> <p>AIDSSH has continued to contribute to the collective memory by following up the communication with the municipalities of the country, i.e. the letters sent in December 2019, to take measures for the preservation and protection of the shooting places and secret or declared burial places of the dictatorship period, ensuring prevention of the illegal treatment of shooting and burial places; non-alienation of the surfaces of these places; curbing the destruction of buildings and places where activities of the communist state against individuals have been evidenced, putting these places under special protection and preservation, based on the observations reflected by the Working Group on Enforced Disappearances in the 2017 Resolution of the United Nations, where the task is to "mark the places where it is believed that bones can be found", and is required to take all necessary steps to find the disappeared.</p> <p>- Attached to the request, AIDSSH has submitted to the municipalities the</p>	

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>preliminary map with reported burial places (source IIPP and ICMP).</p> <p>- AIDSSH has asked each municipality and municipal council to mark the possible burials of the disappeared in its administrative territory and at the same time, to put in protection (special supervision) places of internment, labour camps and prisons, reported on earlier by citizens.</p> <p>- The request sent to all municipalities of the country, the Albanian Parliament and the Ministry of Justice, is based on cooperation between public, central and local institutions, civil society and family members, to turn the attention to the issue of the disappeared and human right to the truth. The ICMP-AIDSSH project coordinators are keeping the field contacts in this regard.</p> <p>e) In cooperation with the government, following the official requests for the Tepelena camp and the Mënik burial place, AIDSSH has submitted proposals for the memorial site of the Maliqi camp, where many people lost their lives and dozens of Albanians, foreign intellectuals and workers were executed, but without a grave even today.</p> <p>There were also proposals sent to the President of the Republic, for awarding honorary titles.</p> <p><u>Institute for Activism and Social Change</u></p> <p>Such mechanism can, for the first time, bring a sense of acceptance and reflection not only to the families that seek truth for decades, but</p>	

Recommendations A/HRC/36/39/Add.1	Situation during the visit A/HRC/36/39/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>most importantly for the reconciliation of a broken society that still steps on mass graves. Such need has been articulated since the moment that the political prisoners were called “former political persecuted”, instrumentalizing generations and families that have suffered during the communist regime and are still considered “unfit” for the Albanian transitional society.</p> <p>There is an urgent need that the required holistic policy to be oriented toward victim-centred approach.</p>	
<p>83. The Working Group invites the Government of Albania to submit within 90 days of the date of the presentation of the present report to the Human Rights Council a timetable showing the steps that it will take to implement the present recommendations.</p>	<p>Paragraphs 1-70</p>		

II. Follow-up to the recommendations made by the Working Group in the report on its visit to the Gambia from 12 to 19 June 2017 (A/HRC/39/46/Add.1)

1. The Working Group on Enforced or Involuntary Disappearances requested the Government of the Gambia to provide information on measures taken to implement the recommendations that were made in the report A/HRC/39/46/Add.1, (paragraphs 81-86), after its visit to the country in June 2017. The Working Group thanks the Government of the Gambia for the information submitted on 24 May 2021. The Working Group thanks all the stakeholders who submitted information for its consideration during the drafting process of the present report.

2. Based on the information provided, the Working Group finds that the Gambia has taken positive steps to move forward with the truth process. Several recommendations made by the Working Group have been implemented, namely as concerns the mandate of the Truth, Reconciliation and Reparations Commission (TRRC). Nonetheless, crucial actions to guarantee access to justice, remedy and reparation for victims are yet to materialise. Judicial processes are slow to get into motion. The legal framework related to enforced disappearance remains lacking despite the ratification of the International Convention for the Protection of all Persons from Enforced Disappearance (ICPPED) on 23rd September 2018. The Working Group finds encouraging that the Gambia submitted its first State party report¹⁶ to the Committee on Enforced Disappearances in March 2021.

3. The Working Group notes with appreciation efforts made by the Government of the Gambia to promote the truth process and further commends the TRRC for the ground-breaking work it has undertaken and which could be a reference at the regional level. The Working Group reiterates its recommendations pertaining to the conduct of effective criminal investigations into grave human rights violations including cases of enforced disappearances and fight against impunity as well as related to the search for victims and support and redress for their relatives. The Working Group recalls that truth and justice should be pursued simultaneously and provides the following detailed follow-up observations and recommendations to the Government of the Gambia and other relevant stakeholders.

4. The Working Group welcomes the ratification of the Convention, but is concerned that the Gambia is yet to adopt a law criminalising enforced disappearance. None of the various legal reform bills underway, including the constitutional reform, criminalise the crime of enforced disappearance in accordance with international standards. As recognized by the Government of the Gambia, in its submission to the Working Group, the absence of a law renders prosecution difficult. The current provisions of the criminal code are insufficient to address the distinctiveness and complexity of the crime of enforced disappearance. The Working Group calls on the Gambia to criminalise enforced disappearance without any further delay and in full compliance of the provisions of the international Convention for the Protection of All Persons from Enforced Disappearance (ICED). This is urgent in light of the transitional justice process underway. The Working Group also urges the Government of the Gambia, and the Constitutional Reform Commission to introduce provisions to prohibit enforced disappearance before the next tabling of the draft constitution to the parliament.

5. The criminalisation of enforced disappearance must also embody the continuous nature of the crime, to which amnesties or immunities cannot be applied. This will allow victims to have access to justice, including but not limited to the context of the TRRC report and foreseen ensuing prosecutions. The Working Group also reiterates the importance of introducing with the codification of the crime, the various modes of criminal liability (A/HRC/39/46/Add.1, para 82i) including in relation to any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance.

¹⁶ See

https://tbinternet.ohchr.org/Treaties/CED/SharedDocuments/GMB/CED_C_GMB_1_8856_E.pdf.

6. The Working Group further reiterates its recommendation to the Government of the Gambia to swiftly ratify the CAT optional protocol (A/HRC/39/46/Add.1, para 82.d) to strengthen its ongoing legal reform and namely the Prevention and Prohibition of Torture Bill 2020 currently under consideration.

7. While the Working Group welcomes information according to which a draft bill to reform the mandate and prerogative of the security sector institutions is under consideration, it regrets that individuals accused of perpetrating or enabling human rights violations continue to work in the civil and/or security services. The Working Group calls on the Government to accelerate the security sector reform and apply a zero tolerance policy for personnel accused to have taken part in human rights violations (A/HRC/39/46/Add.1, para 82.h). An overall human rights vetting should be applied to all personnel of the security sector – including inter-alia police, military and intelligence services - to guarantee that, moving forward, the values and principles driving the security sector are rooted in the respect and protection of human rights. The swift and full implementation of TRRC recommendations will contribute to prevent future political and social tensions and support an inclusive dialogue. In this respect, the Working Group reiterates the recommendation formulated in its country visit report that no one involved in past human rights violations can take part in the search, investigation or prosecution of the perpetrators of enforced disappearances (A/HRC/39/46/Add.1). The Working Group also calls on the Government of the Gambia to step up its efforts to mainstream human rights training for the security sector including police forces, intelligence personnel as well as the military.

8. The reform of the judiciary, which is currently underway, is encouraging and should lead towards the full independence and effectiveness of judicial bodies, which may also contribute to a more meaningful follow-up on the final report of the TRRC and on other allegations of human rights violations. The Working Group supports recommendations made by civil society actors to set up specialised hybrid national/international courts with specialised judges to process the cases referred for prosecution to the Ministry of justice by the TRRC.

9. The Working Group notes that virtual court hearings have been introduced because of the Covid 19 pandemic. The Working Group encourages the Government to capitalize on this experience to expedite the digitalization of the judicial system.

10. The Working Group welcomes the establishment of a centralized prison database and hopes that it will be fully effective, functional, and extended to all agencies with detention powers and kept up to date, so as not to have manual registrations of persons deprived of liberty anymore. The Working Group also reiterates the recommendation to dismantle the Mile 2 Prison and build a new one in compliance with international standards as previously recommended (A/HRC/39/46/Add.1, para 82.g). The Working Group encourages the Government of the Gambia to seek international cooperation and support in implementing this project.

11. The Working Group notes with appreciation the independence of the National Human Rights Commission and its extensive mandate.

12. The Working Group welcomes the numerous reports on the work undertaken by the Truth, Reconciliation and Reparations Commission (TRRC) established in 2018. The comprehensive mandate of the TRRC has enabled it to perform its duties in a transparent and thorough fashion and to undertake ground-breaking actions concerning the registration and investigation of human rights violations.

13. The Working Group acknowledges that the work of the TRRC is a crucial step, though cannot be the only step. The Working Group regrets that its recommendation to avoid a sequential approach was not taken into consideration (A/HRC/39/46/Add.1, para. 74). The process must go beyond truth telling and perpetrators must be brought to justice. Remedy, redress and reparation have to be given to the victims and their families without further delay.

14. The Working Group notes that the TRRC has the power to recommend the granting of amnesties by the President through its Amnesty Recommendation Committee, the body responsible for the formulation of such recommendations. The Working Group welcomes the statement by the TRRC that amnesty cannot be recommended for serious crimes or for

violations amounting to crimes against humanity¹⁷ and reiterates its recommendation to exclude the possibility of granting amnesty for acts of enforced disappearances and other grave human rights violations (A/HRC/39/46/Add.1, para. 84.g).

15. The Working Group also notes that limited technical and financial capacities have hindered the thorough implementation of the mandate of the TRRC, especially support to victims and their families. A national reparation policy was only adopted in February 2021, three years after the TRRC started its work. The Working Group calls on the Government to significantly strengthen victim support and allocate adequate resources, both financial and human, to allow full support to the victims including relatives and that beyond expiration of the TRRC mandate.

16. The Working Group notes information concerning the still ongoing prosecution of nine top officials of the National Intelligence Agency (now State Intelligence Services) for the death of Solo Sandeng, an opposition activist killed while in state custody in 2016. The Working Group further notes the prosecution of the alleged perpetrator in the case of the murder of former Finance Minister in 1995. The Working Group reiterates the need to ensure that all cases of enforced disappearances are duly investigated and prosecuted without delays. It also calls on the prosecution and judicial authorities to provide space for the relatives of the victims to be fully aware of the proceedings and take an active role thereon. Regular updates and transparent information should be given to relatives along with appropriate legal counselling.

17. There is a high expectation that the findings of the TRRC will lead to intensified criminal justice processes. In this regard, the Working Group reiterates its previous recommendation (A/HRC/39/46/Add.1, para. 85.a) for investigations, prosecutions and judicial proceedings to be carried out in accordance with the principle of due diligence taking into account the complexity of the crime of enforced disappearance; the context in which these disappearances occurred and the patterns that explain why the events occurred; and ensure that there are no omissions in the gathering of evidence or in the development of lines of investigation. The Working Group further refers to the recommendations made in its thematic report on standards and public policies for an effective investigation of enforced disappearances (A/HRC/45/13/Add.3). The Working Group urges the Gambia to make all necessary efforts to invigorate the criminal justice process by diligently launching investigations and prosecutions concerning human rights violations.

18. In light of the initial steps taken to identify gravesites, excavate and identify remains, the Working Group reiterates its recommendation to ensure preservation of the sites and the protection of the chain of custody of the samples taken, reinforce the forensic capacity of the investigators, the prosecutors and the judiciary and ensure that they have adequate resources (A/HRC/45/13/Add.3, para 83.d).

19. The Working Group encourages the Government to step up its efforts to set up a DNA data bank for victims of enforced disappearances and their relatives and allocate appropriate resources to DNA testing and matching. The Government must seek support from its international partners in order to establish a forensic laboratory with DNA testing capacity among other competences, and build a team of specialist to handle crime scenes such as gravesites including in Tanji and in Kanilai where, among other victims, the remains of the migrants executed and forcibly disappeared in 2005 may be buried according to the recent testimonies before the TRRC. The Working Group calls on international partners to continue their cooperation with the Government of the Gambia in order to increase technical capacity as relates to the management of burial sites, excavation and forensic expertise among others.

20. Following the TRRC public hearings held from 24 February to 11 March 2021 and the confirmation of the involvement of the Gambian state in the killings and enforced disappearances of West African Migrants in July 2005 in The Gambia, the Working Group calls for search and investigations to be conducted diligently and in full transparency. It is also urgent for the Gambia to engage in international cooperation with the countries of origin of these migrants to identify the victims and their relatives and grant them full participation in the process of truth and justice as well as access to reparation. With regards to these cases,

¹⁷ See <http://www.trrc.gm/trrc-special-committees/>.

the Working Group draws attention to the recommendations made in its report on enforced disappearances in the context of migration,¹⁸ and supports call for the establishment of an international investigative team on the matter.

21. The Working Group commends the TRRC approach to guaranteeing a transparent and accessible process for witnesses including victims, their relatives and the populations at large. The Working Group notes that hearings have been made public, broadcasted on the radio, social media platforms and the television. In addition to its outreach activities, the Commission also regularly releases press statements informing the public on the status of its hearings. The Working Group encourages the government to capitalize on this experience and continue to keep the general public abreast with proceedings taking place to address human rights violations in the country. It also calls on international partners to continue supporting initiatives such as the Victim Participation Support Fund beyond expiration of the mandate of the TRRC.

22. The Working Group welcomes the various initiatives undertaken to constitute registries of cases of human rights violations. It hopes that the information will be centralised to enable relevant institutions to take appropriate measures to provide justice, remedy and reparation to victims and their families. The Working Group hopes that the registration of cases of enforced disappearances will trigger ex-officio investigation into the disappearances even in the absence of formal complaints from relatives.

23. On the other hand, the Working Group regrets reports that limited efforts have been deployed to provide relief to relatives of victims of enforced disappearances, especially through the truth-seeking process following confirmation of death of their disappeared loved ones. Measures must be adopted to provide support and rehabilitation for affected families. While the Working Group welcomes efforts made to provide psychological support to victims, it is reported that they are not given sufficient counselling to prepare them to deal with their trauma. There is also a lack of understanding and appreciation of the psychosocial support needs and the mental health of victims and their families. The Working Groups hopes that the schemes established under the TRRC Victim Support Unit will continue beyond the expiration of its mandate and that adequate funding will be allocated for its good functioning, including as to fully address the need for psychosocial and mental health support to the victims and their families.

24. The Working Group insists on the need to establish effective channels of communication between the concerned stakeholders, and namely between investigative bodies and victims as well as organisations supporting them. Victims, including relatives, should be informed at all stages of the process and prior informed consent should be sought from them before any information concerning their loved ones is shared with the public.

25. The Working Group notes that the TRRC Act contains adequate provisions for the protection of informants and witnesses. Initial steps taken to establish a witness protection program for the TRRC should be extended to judicial proceedings.

26. The Working Groups regrets that official memorial sites are yet to be established in the Gambia to pay tribute to the numerous victims of the Jammeh regime. It calls on the Government to rapidly establish memorial sites and allocate appropriate funds for the memorialization initiatives. The Working Group also reiterates the recommendation made to provide support to civil society remembrance initiatives (A/HRC/39/46/Add.1, para 86.d).

27. The Working Group welcomes the inclusive approach adopted in constituting the membership of the TRRC. The outreach efforts of the TRRC to engage various communities in a national dialogue is also positive. These initiatives have to continue beyond the expiration of the mandate of the TRRC and the dialogue should be strengthened with community and religious leaders in order to ease the socio-cultural obstacles to justice seeking.

¹⁸ See A/HRC/36/39/Add.2, available at: <https://documents-dds.ny.un.org/doc/UNDOC/GEN/G17/226/72/PDF/G1722672.pdf?OpenElement>.

28. The gender-based approach adopted by the TRRC with the creation of a Women's Affaire Unit is also commendable. Nonetheless, the Working Group notes that it has remained difficult to engage female victims namely due to social stigma. The process of creating safe spaces for women participation can be long and the initiatives undertaken through the TRRC should be strengthened in the way forward. The Working Group recalls its General Comment on women affected by enforced disappearances (A/HRC/WGEID/98/2) and calls on all relevant stakeholders to continue their efforts to create tailored platform for the full participation of women in the truth and justice processes. Women most often bear the weight of searching for a disappeared loved one and providing for the affected family.

29. Schemes in place to deliver psychosocial support to victims and their families must fully embody a gender perspective in order to allow women to benefit from this support. The Working Group invites all relevant stakeholders to take into consideration recommendations made in its study on enforced or involuntary disappearances and economic, social and cultural rights (A/HRC/30/38/Add.5).

30. The Working Group welcomes the extent of international cooperation provided to the Gambia, and the openness of the Government of the Gambia to build partnerships to strengthen its capacities for the transitional justice process. Technical cooperation for the excavation of mass graves and the identification of remains should further be strengthened to enable the speedy determination of the fate and whereabouts of victims of enforced disappearance. The Working Group also welcomes the cooperation of the Gambia with third countries to bring perpetrators to justice and encourages that they are swiftly brought before courts in the Gambia.

**Follow up to the recommendations made by the Working Group on Enforced or Involuntary Disappearances,
following its visit to the Gambia from 12 to 19 June 2017 (A/HRC/39/46/Add.1, paragraphs 81 - 86)**

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
General			
71. [...] more concrete steps need to be taken to guarantee the right to truth, justice and reparation for victims of enforced disappearances in the country.	Paragraph 9, 52, 63, 65, 69	<p><u>Government</u></p> <ul style="list-style-type: none"> The Truth, Reconciliation and Reparations Commission established in 2018, is mandated to investigate enforced disappearances, extrajudicial killings with the view to establishing the truth on what happened, provide reparations to victims and recommend for prosecution those who bear the greatest responsibilities. The Commission is set to conclude its investigation in June 2021. The TRRC has a victim-centred approach and makes the welfare of victims a priority. The Commission has a victim support unit and allows victims' access to victim support officers without discrimination. It also has a psychosocial unit that gives victims the necessary support. <p><u>UNDP</u></p> <ul style="list-style-type: none"> Following the launch of the Truth, Reconciliation and Reparations Commission (TRRC) in October 2018, at least 321 witnesses have appeared during public hearings to provide an account of the gross violations that occurred between July 1994 to January 2017, including under the thematic area on enforced disappearances. <p><u>Institute for Human Rights and Development in Africa (IHRDA)</u></p> <ul style="list-style-type: none"> Neither the TRRC nor the Ministry of Justice have granted amnesty to any of the alleged perpetrators. The release of some of the "junglers" from detention was on the basis that they had been under detention without charges and should be released until a decision is made on whether or not they will be prosecuted. This decision will be made in line with the final recommendations of the TRRC. 	<p>The Working Group welcomes the information regarding the work undertaken by the Truth, Reconciliation and Reparations Commission (TRRC) established in 2018. It is reported that since its launch more than 320 witnesses have appeared during public hearings and provided an account of gross violations that occurred between July 1994 and January 2017. The Working Group acknowledges that the work of the TRRC is a crucial step towards truth and justice, but cannot be the only step. This process must go beyond truth telling and perpetrators must be brought before justice. Remedy, redress and reparation must be given to the victims and their families without further delay. The Working Group stresses that amnesties should not be applied for gross violations such as enforced disappearances, in accordance with article 18 of the Declaration. Gambian authorities must take all appropriate measures following reception of the report of the TRRC to initiate criminal investigations into all alleged violations.</p> <p>The Working Group notes that limited technical and financial capacities have</p>

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<ul style="list-style-type: none"> • The victims of human rights violations under Jammeh’s regime continue to receive legal aid service from non-government institutions such as the Institute for Human Rights and Development in Africa. • The TRRC has drawn up a national reparations policy and in February 2021, the Commission made a press release asking victims to apply for reparations through the Commission. Even before the adoption of the reparations policy, the TRRC had provided support to victims in critical health conditions (due to human rights violations under the former regime) who were sent abroad for medical attention. • No state sponsored memorials have been erected in The Gambia. <p><u>Other</u></p> <ul style="list-style-type: none"> • Unfortunately, progress/development in other areas of the transitional justice process have been wanting, including in much needed security sector reforms. Furthermore, lack of capacity, technical know-how, human and other resources continue to exacerbate progress, negatively impacting victims of enforced disappearances in the country. <p><u>Other</u></p> <ul style="list-style-type: none"> • Thus far, transitional justice in The Gambia has primarily focused on truth. The Truth, Reconciliation and Reparations Commission in The Gambia started its public hearings in January 2019 with the objective of establishing an impartial historical record of human rights violations. From 24 February 2021 to 11 March 2021, the TRRC conducted public hearings on the killings and enforced disappearances of West African Migrants in July 2005 in The Gambia. The testimonies of the witnesses before the Commission confirmed the implication of the Gambian state in the killings and the cover-up while still leaving many questions unanswered, including the fate and whereabouts of the victims, and the identity of the Nigerian victims. Of the 59 or 60 missing Migrants, the families of 40 or 41, are apparently not in contact with NGOs and may even have absolutely no idea what happened to loved ones. 	<p>continued to hinder the full implementation of the mandate of the TRRC, especially support to victims and their families.</p> <p>The Working Group also notes the adoption of a national reparation policy in February 2021, and hopes that adequate funds are allocated thereto to allow full support to the victims.</p>

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<ul style="list-style-type: none"> In order to get to the truth and uncover the facts regarding the migrants case, it is of the utmost importance that the victims, including the nine known Nigerian victims, are identified, The Gambia could request the assistance of the concerned countries in the identification of the missing migrants. No alleged perpetrator has yet been brought to justice. The TRRC's report and recommendations, scheduled to be delivered at the beginning of July 2021, may include recommendations for prosecution against alleged perpetrators of enforced disappearances, which will then need to be implemented by the government, according to provision 30 of the TRRC act (2017). In light of the TRRC findings and in the context of its recommendations, the migrants' case should be included to ensure accountability for this massacre. 	
73. [...] the Gambia needs to be supported in its efforts by the international community.	Paragraph 11, 47, 49	<p><u>Government</u></p> <ul style="list-style-type: none"> Amongst other support, UN has and continues to provide support to the transitional justice process through the, "Support the capacity of the Government and national stakeholders to establish credible transitional justice processes and mechanisms that promote reconciliation and sustainable peace in the Gambia (TJHR Project) which has been catalytic in so far as it helped the Government and civil society organisations start initial transitional justice activities, which triggered interest and further support from other partners: The UK continues to support the TRRC and other transitional justice initiatives through the Victim's Centre, International IDEA and ICTJ as implementing entities. The EU Delegation also provides support to the Government, with small grant opportunities for civil society organization. Qatar issued a grant of USD 3 million to support the TRRC. 	<p>The Working Group welcomes the extent of international cooperation provided to the Gambia, and the openness of the Government of the Gambia to build partnerships to strengthen its capacities for the transitional justice process. Technical cooperation for the excavation of mass graves and the identification of remains should further be strengthened to enable the speedy determination of the fate and whereabouts of victims of enforced disappearance.</p> <p>The Working Group also welcomes the Government of Gambia support for universal jurisdiction and its cooperation with third countries to bring perpetrators to justice. The Working Group encourages the Government of the Gambia to also rapidly move to bringing</p>

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<ul style="list-style-type: none"> • The Victim's Centre secured funding through projects being implemented by various civil society organisations. • The Transitional Justice and Human Rights Project also secured further support for the TRRC through the Irish Development Aid Agency (250,000 Euros), and the Project has successfully implemented a Tripartite Partnership Agreement with UNDP, OHCHR and GANHRI for the National Human Rights Commission (\$100,000). • With support from the US Embassy, staff of the TRRC have benefitted from forensics training opportunities¹⁹ to reinforce the forensic capacity of its investigators. <p><u>UNDP</u></p> <ul style="list-style-type: none"> • The UN (PBF) is one of the largest supporters of transitional justice and human rights in The Gambia, including security sector reform, the National Human Rights Commission, the TRRC and the legislative review process. Its TJHR Project in The Gambia, jointly implemented by UNDP and OHCHR, has been catalytic in so far as it helped the Government and CSOs start initial transitional justice activities, which triggered interest and further support from other partners: <p><u>IHRDA</u></p> <ul style="list-style-type: none"> • The TRRC exhumed seven bodies at Yundum Barracks in 2019. To date, the identity of those exhumed bodies have not been established. The Gambia still does not have the forensic equipment or technical capacity such as a forensic pathologist and a ballistic expert to conduct further searches, exhumations and evidence analysis. The Gambia did not have means to test the DNA samples collected from the exhumed bodies. <p><u>Other</u></p> <ul style="list-style-type: none"> • The Gambia Government has benefitted from a great deal of financial, logistical and technical support from the international community. These have 	alleged perpetrators before courts in the Gambia as well.

¹⁹ <http://www.trrc.gm/wp-content/uploads/2020/10/TRRC-INTERIM-REPORT-Logo-Final.pdf>.

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>been aimed at, inter alia, building capacity among government and civil society partners, provision of strategic advice, training and outreach, in order to have a credible and inclusive transitional justice process. The TRRC has had fruitful collaborations with and received varying levels of technical assistance from international organizations including the South Africa-based Centre for the Study of Violence and Reconciliation (CSVR), the International Center for Transitional Justice (ICTJ), the International Institute for Democracy and Electoral Assistance (International IDEA), the Institute for Integrated Transitions (IFIT) and Article XIX. Justice Rapid Response (JRR) and the International Committee of the Red Cross (ICRC) provided technical support on work related to missing persons and exhumations, while the Victims and Witnesses Section of the International Criminal Court is supporting the Commission in developing a witness protection program. The United Nations Peace Building Support Office (UNPBSO) through UNDP-Gambia, the UN Office for West Africa and the Sahel (UNOWAS), the African Union, the Embassies of the United Kingdom, the United States, Holland, Belgium, France, Canada, Qatar, the European Union continue to be invaluable to the Gambia government's work on transitional justice. In December 2019, the TRRC facilitated the travel of four victims to Turkey for medical treatment under an arrangement with the Turkish Embassy. Three of the victims have since completed their treatment and returned to The Gambia.</p> <ul style="list-style-type: none"> • Under Universal Jurisdiction principles, the United States indicted a former Jungler, Michael Correa, for acts of torture. In Switzerland, Trial International is leading the case of Ousman Sonko, former Minister of Interior who is being tried for grave human rights violations. On June 12, 2020, the former Justice Minister hailed the “strong support” Gambia received from the United States, adding that the indictment of Michael Correa demonstrates that there is no hiding place for those who commit such crimes in today's world. The government of the Gambia will continue to cooperate with the US authorities.²⁰ 	
74. [...]It is essential to understand transitional justice measures in a	Paragraph 42	<u>Government</u>	The Working Group regrets that its recommendation for simultaneous truth, justice and reparation processes has not

²⁰ <https://thepoint.gm/africa/gambia/headlines/gambia-reacts-to-michael-correas-u-s-indictment>.

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
<p>broader way; all measures dealing with truth, justice and reparation should be designed and implemented simultaneously, and should be inclusive, consultative, gender sensitive and participatory.</p>		<ul style="list-style-type: none"> In addition to the truth seeking process, which has covered the thematic area on enforced disappearances, the TRRC also provides interim reparations to victims in need of medical and psychosocial support. This support has also been extended to include educational support to victims in need of such assistance. Additionally, the TRRC process has been consultative, gender sensitive and participatory. This is particularly seen in the thematic area on Sexual and gender based violence covered by the commission, and the existence of the Women’s Affairs Unit created to ensure that the voices and actions of women are mainstreamed in the work of the Commission. Listening circles creating a safe space for women to share their experiences were also held nationally. However, despite these efforts, participation of women in the TRRC process still remains low. <p><u>UNDP</u></p> <ul style="list-style-type: none"> The TRRC process has been consultative, gender sensitive and participatory, mostly due to the efforts of the Women’s Affairs Unit.²¹ Additionally, listening circles creating a safe space for women to share their experiences were also held nationally. The TRRC has also encouraged national dialogue and participation through other outreach activities including town hall meetings, village dialogues, reconciliation activities and school outreach programmes.²² <p><u>IHRDA</u></p> <ul style="list-style-type: none"> The Government has implemented parallel transitional justice measures between 2018 and now. The transitional justice measures include the Constitutional Review Commission, the National Human Rights Commission, Truth, Reparation and Reconciliation Commission, and Security Sector Reforms including the National Intelligence Agency. 	<p>been implemented. It reiterates its recommendation recalling that truth and justice should be pursued simultaneously.</p> <p>The Working Group notes with appreciation the gender-based approach adopted by the TRRC with the creation of a Women’s Affaire Unit. . However, the Working group notes with concern the low participation of women in the process, caused, <i>inter alia</i>, by fears of social stigmatization. The Working Group recalls its General Comment on women affected by enforced disappearances. (A/HRC/WGEID/98/2)</p> <p>As regards enforced disappearances, women are often left with the burden to look for their disappeared loved ones and support their families alone. The process of creating safe spaces for women participation can be long and the initiatives undertaken through the TRRC should bestrengthened in the way forward. Similarly, schemes to deliver psycho-social support to victims and their families must fully embody a gender perspective in order to allow women to rapidly benefit from this support. The Working Group invites all involved stakeholders to make reference to the recommendations made in its study on</p>

²¹ <http://www.trrc.gm/wp-content/uploads/2020/10/TRRC-INTERIM-REPORT-Logo-Final.pdf>.

²² <http://www.trrc.gm/wp-content/uploads/2020/10/TRRC-INTERIM-REPORT-Logo-Final.pdf>.

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		<ul style="list-style-type: none"> • The Constitutional Review Commission submitted the final Draft Constitution in March 2021, and the Secretariat officially closed in January 2021. The Draft Constitution was rejected by the National Assembly in September 2020 and is yet to be tabled again before the National Assembly, in order to pass the Promulgation Bill for referendum. • The TRRC is yet to complete its hearings and has so far received testimonies from 358 witnesses, 73 of whom were female. The National Human Rights Commission has embarked on monitoring human rights abuses happening in the country. • The National Intelligence Agency was renamed to the State Intelligence Services and the institution has been part of the security sector reforms. <p><u>Other</u></p> <ul style="list-style-type: none"> • The TRRC has engaged widely with different stakeholders. Civil Society Organizations / the Transitional Justice Working Group and the Gender Action Network, as well as different victims' and women's organizations have participated in these efforts. • As at the end of the Commission's 16th session in October 2020, it had heard testimonies from 277 witnesses, out of these, 209 were male and 68 females. Thus, even as the Commission is applauded, the gender disparity highly illustrates the difficulties in women's meaningful participation and need for measures to bring more women onboard. The TRRC has acknowledged grappling with many challenges including difficulty of convincing some witness, especially female victims, to come forward and give statements or testify. Most recently, human rights groups have pushed for more accountability regarding the sexual assault and abuse of women during Jammeh's rule. The ICTJ issued a report on 'Women's Experiences of Dictatorship in the Gambia (2019)'. The TRRC has acknowledged that the number of females could have been more but due to stigma associated with the type of violence they suffer especially gender-based violence and other societal constraints, their participation is at a low. In October 2019, the TRRC 	<p>enforced or involuntary disappearances and economic, social and cultural rights (A/HRC/30/38/Add.5)</p>

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		held public hearings on sexual and gender-based violence against Gambian women, and many women testified that they had experienced physical or sexual violence; some accused Jammeh of sexual assault and rape.	
76. Human rights vetting in the security sector is also necessary, as is strengthening the efficiency and independence of the judiciary. No one involved in past human rights violations can take part in the search, investigation or prosecution of the perpetrators of enforced disappearances.[...]	Paragraph 12, 35, 59	<p><u>Government</u></p> <ul style="list-style-type: none"> • Investigation is purely carried out by the Security sector in The Gambia such as The Police and the National Intelligence Agency now referred to as the State Intelligence Services (SIS). • Section 3 (e) of the National Intelligence Agency Decree states the Agency shall investigate and obtain information relating to the prevention or detection of serious or economic crime. • Section 17 of the NIA Decree stipulates that after investigations into any matter, the Agency shall where prosecution is required; hand over the case docket to the Attorney –General’s Chambers for necessary action. • Section 4 of the Police Act, CAP.18:01, Vol. provides for the General duties of the police and it states: <ul style="list-style-type: none"> (i) “ The police shall be employed in The Gambia for the preservation of law and order, the protection of property, the prevention and detection of crime, the apprehension of offenders and the due enforcement of all laws and regulations with which they are charged. (ii) However, a police officer has power under section 28 of the Police Act to conduct in person any prosecution before a court of summary jurisdiction whether the information or complaint is laid in his or her name or not. (iii) The police can investigate all crimes. However, prosecution becomes problematic as enforced disappearance is not criminalized in The Gambia and so there are no sanctions attached to it specifically. • The TRRC are looking into crimes of enforced disappearance and will issue its recommendations to the State for prosecution. 	<p>The Working Group regrets that individuals accused of perpetrating or enabling human rights abuses reportedly continue to work in the civil and/or security services.²⁷ The security sector reform should be accelerated in order to ensure an environment conducive to the effective investigation of human rights violations, including the investigation of cases of enforced disappearances and the search of victims. In this respect, the Working Group reiterates the recommendation formulated in its country visit report that no one involved in past human rights violations can take part in the search, investigation or prosecution of the perpetrators of enforced disappearances (A/HRC/39/46/Add.1).</p> <p>The reform of the judiciary, which is currently underway is encouraging and should lead towards the full independence of judicial bodies as to render them effective and efficient.</p>

²⁷ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/175/91/PDF/G2017591.pdf?OpenElement>.

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		<ul style="list-style-type: none"> • The National Guard has judicial function to investigate offences, gather evidence and prosecute suspects in the appropriate courts. However, they shall carry out their function under the supervision of the Attorney General and in accordance with the provisions of the Criminal Procedure Code and all relevant laws. They are also mandated to report to the Attorney General all matters investigated by them which may lead to prosecution. (Section 20 of The Gambia Armed Forces Act- Subsidiary Legislation, CAP.19:01 • Section 27 of the of The Gambia Armed Forces Act- Subsidiary Legislation stipulates the powers of the Attorney General as being the competent authority to execute all the functions under their regulations • Section 85 of the Constitution states that the Director of Public Prosecutions have power subject to the approval of the Attorney General to initiate and undertake criminal proceedings against any person before any court for an offence against the law of The Gambia, to take over and continue any criminal proceeding that has been instituted by any other person or authority and to discontinue <p><u>UNDP</u></p> <ul style="list-style-type: none"> • A Security Sector Reform process is currently on going and so is the drafting of the vetting legislative framework. Following his visit to The Gambia, the Special Rapporteurs on the Promotion of Truth’s report also noted that despite the initial replacement of heads of agencies (the police, prison service, intelligence service and the army), it is reported that persons accused of perpetrating or enabling human rights abuses continue to work in the civil and security service.²³ • The Judiciary has undergone structural and administrative reforms to enhance the dispensation of justice and to strengthen its independence. This includes; appointment of Gambian Judges, including 12 justices of the High Court, Court of Appeal and Supreme Court.²⁴ Five justices of the Supreme Court have also been appointment, ensuring that the Court is functional following a 	

²³ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/175/91/PDF/G2017591.pdf?OpenElement>.

²⁴ <https://undocs.org/A/HRC/WG.6/34/GMB/1>.

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		<p>three-year break because of a lack of quorum.²⁵ Other measures to ensure its independence include reconstitution of the Judicial Service Commission, restoration of their constitutional powers in relation to the appointment of judicial officers, the exercise of budgetary autonomy and abolition of the system of contract judges. Gambian state lawyers have also benefited from capacity increasing opportunities in the area of criminal prosecutions, sexual and gender-based violence, and international/regional human rights mechanisms amongst others.²⁶</p> <p><u>Other</u></p> <ul style="list-style-type: none"> • In February 2017, the National Intelligence Agency, which during the Jammeh era oversaw massive human rights violations and abuses, including enforced disappearances, was renamed the State Intelligence Services (SIS) and its powers of detention eroded. In May 2017, President Barrow underscored the need for comprehensive security sector reform, describing security institutions as “polluted” because of their ties to Jammeh-era abuses. Barrow’s government also replaced the Heads of the Army, Police, Intelligence and Prison Service, so as to ensure a thorough human rights vetting of the security sector. SIS officers have also undergone several human rights and capacity-building workshops conducted by DCAF. The SIS, like other security institutions, is under-resourced and under-funded, and most of its previous operational and technical staffs are retained. Furthermore, Barrow’s government continues to recycle state actors from Jammeh’s era into key positions in the security sector, measures which fuel impunity for different human rights violations and abuses. • Since coming into power, President Barrow has taken steps to reform the judiciary, which was heavily politicized during Jammeh’s time in office, by hiring a slate of new judges including a respected new Supreme Court Head. Judges have 	

²⁵ <https://undocs.org/A/HRC/WG.6/34/GMB/1>.

²⁶ <https://undocs.org/A/HRC/WG.6/34/GMB/1>.

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		<p>welcomed Gambia's new working environment which gives them due respect of their judicial independence with no interference from the Executive and other branches of the government. Primarily, the are no longer being controlled from the AG's chambers, according to one of the superior court judges. Presently, Judges are mainly engaged on 'regular' cases, however, post TRRC other proceedings will invariably involve numerous offenders, allegedly or admittedly responsible for serious crimes (enforced disappearance, murder, torture, rape and other forms of sexual violence among them). The extent of their involvement and role in the prosecution of cases will be evident once the TRRC issues its final report and recommendations. In addition, amendments to some of current laws (such as the Evidence Act, Criminal Code) will be necessary for the proper and effective application of laws to international crimes, including crimes of enforced disappearances, through which to ensure accountability for different types of human rights violations and abuses. In the interim, UNDP (Gambia) Rule of Law Section has contracted external consultants to develop a curriculum and provide online remote training to support the Judges to prepare them for cases that would evolve as a result of the TRRC's recommendations or other petitions.</p>	
<p>79. The Working Group stresses the importance of national dialogue and the involvement of different ethnic groups, non-governmental organizations and relatives of forcibly disappeared persons in the pursuit of</p>	<p>Paragraph 42</p>	<p><u>UNDP</u></p> <ul style="list-style-type: none"> In addition to the involvement of civil society organisations in the appointment process of the TRRC Commissioners, the Commissioners were nominated, from amongst persons of high moral character and integrity who have distinguished themselves in their respective fields of vocation or communities. The 11 Commissioners consisting of 4 women were also appointed taking into consideration the geographical, religious, cultural and gender diversity of The Gambia.²⁸ 	<p>The Working Group welcomes the inclusive approach adopted in constituting the membership of the TRRC. The outreach efforts of the TRRC to engage various communities in a national dialogue is also positive.</p> <p>The Working Group calls on the Government of the Gambia to step up its efforts in order to meet the growing</p>

²⁸ <http://www.trrc.gm/wp-content/uploads/2020/10/TRRC-INTERIM-REPORT-Logo-Final.pdf>.

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truth, justice, reparation and memory.		<ul style="list-style-type: none"> • The TRRC outreach programmes have also fostered national dialogue. Outreach activities, including women listening circles, town hall meetings, village dialogues, reconciliation activities and school outreach programmes, have encouraged participation in the TRRC process.²⁹ • In addition, civil society organisations in complimenting Government's efforts have all been actively engaged in promoting national dialogues through community sensitisation, print and electronic media outlets. <p><u>IHRDA</u></p> <ul style="list-style-type: none"> • The composition of the TRRC Commissioners complies with the recommendations of the Working Group in paragraph 40, in terms of diversity and inclusion. <p><u>Other</u></p> <ul style="list-style-type: none"> • The TRRC process itself is some kind of a national dialogue. The Commission has conducted numerous outreach programs - schools visit, site visits, women listening circles, etc. By 2019 it had visited 55 schools and engaged an estimated 45,000 student in conversations about the mandate of the Commission, the course and consequence of dictatorship, and how everyone can contribute to the prevention of its recurrence in the Gambia. In the women listening circles, issues concerning women were discussed, most especially on the sexual abuses suffered under the past regime. A number of NGOs have also played pivotal roles in broadening the scope and reach of outreach activities and conversations on issues of national interests. These initiatives have resulted in more women's participation in the TRRC, for example, especially those witch hunt victims whose victimisation has resulted in their stigmatization and the breakdown of the social fabric in their communities. • A number of relatives of the forcibly disappeared were called to testify before the Commission, others had their statements taken, while others testified in private. More, however, could be done to meet the growing 	demands of relatives of victims of enforced disappearances – by providing platforms through which they can actively participate and be informed of the process aiming at determining the fate or whereabouts of their loved ones, including criminal investigations.

²⁹ <http://www.trrc.gm/wp-content/uploads/2020/10/TRRC-INTERIM-REPORT-Logo-Final.pdf>.

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		demands of relatives of the victims of enforced disappearances – to enhance their involvement in the transitional justice process with verified information about the fate of their loved ones and for closure for them.	
Legislation paragraph 82 (a) to (k)			
(a) Expressly introduce a prohibition against enforced disappearance in the Constitution;	Paragraph 30, 31	<p><u>Government</u></p> <ul style="list-style-type: none"> The CED is yet to be domesticated in the laws of the Gambia and the crime of enforced disappearance is yet to be explicitly introduced into the Constitution. However the Constitution protects against a number of fundamental rights in the right not to be arbitrary arrested or detained and a prohibition against torture. <p><u>IHRDA</u></p> <ul style="list-style-type: none"> This recommendation has not been adopted yet. The Draft Constitution also does not contain a prohibition against enforced disappearance, but it contains an extensive provision on the prohibition of cruel and inhuman treatment. <p><u>Other</u></p> <ul style="list-style-type: none"> There is no express provision in the Constitution prohibiting enforced disappearance. Chapter VI of the 1997 Constitution⁷ does provide protection for some fundamental human rights (personal liberty, freedom from arbitrary arrest etc). The Gambia rescinded its withdrawal from the Rome Statute of the ICC and the International Convention for the Protection of all Persons from Enforced Disappearance (ICPPED) on the 17th February 2018. The Gambia ratified the ICPPED on the 28th September 2018 but has not yet domesticated it. For now, perpetrators cannot be prosecuted for the specific crime of enforced disappearance in local courts. Suspects can be prosecuted for the crime of murder as provided for in section 187 of the Criminal Code or kidnapping or 	The Working Group regrets the reports that the draft Constitution does not contain an explicit provision prohibiting enforced disappearance. The Working Group like to once again exhort the Government to insert an express prohibition against enforced disappearances in the Draft the prior to the final adoption of the Constitution.

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>abducting persons in accordance with sections 231 to 239 of the Criminal Code.8 Chapter</p> <ul style="list-style-type: none"> Article XXV of the 1997 Constitution provides for offences against the deprivation of liberty, amongst others, which arguably encompasses the crime of enforced disappearance. 	
<p>(b) Introduce a specific crime of enforced disappearance in the Criminal Code punishable by appropriate penalties that take into account its extreme seriousness. The legislation criminalizing enforced disappearance should encompass:</p> <p>(i) The introduction of the various modes of criminal liability, including in relation to any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance; (ii) The application of command or superior individual criminal responsibility for such crimes; (iii) The express mention that enforced disappearance is a</p>	<p>Paragraph 29, 32</p>	<p><u>Government</u></p> <ul style="list-style-type: none"> Enforced disappearances are currently investigated and prosecuted under other crimes such as the offence of murder as provided for under Section 187 of the Criminal Code, or for kidnapping or abducting persons in accordance with Sections 231 to 239 of the Criminal Code with prescribed penalties up to life imprisonment. In relation to criminal liability the Criminal Offences Bill presently before the National Assembly, has dedicated an entire chapter to general rules as to Criminal Responsibility and has under section 14(1)(b) highlighted that a person is criminally responsible for carrying out an unlawful order from a competent authority. <p><u>Other</u></p> <ul style="list-style-type: none"> No offense of enforced disappearance has not been integrated into the Gambian criminal code despite the ratification of the Convention of Enforced Disappearance by the Gambia in September 2018. There is a risk that cases of enforced disappearances will be investigated and prosecuted under other crimes (e.g., murder, abduction or arbitrary deprivation of liberty), which is highly problematic in terms of the specific investigation required from the outset in cases of enforced disappearance. The case concerning the disappearance of West African migrants in the Gambia in 2005, is an emblematic case of enforced disappearances and should be investigated and prosecuted as such. <p><u>Other</u></p> <ul style="list-style-type: none"> Applying a strict interpretation of current laws, there is yet no criminal liability for any person who is found guilty of committing, ordering, soliciting or inducing the commission of an enforced disappearance. Certain laws would 	<p>The Working Group is concerned that the Gambia is yet to adopt a law criminalising enforced disappearance despite the ratification of the Convention in September 2018. As admitted by the Government of the Gambia, the absence of a law renders prosecution difficult, as there are no stand-alone provisions to sanction the crime of enforced disappearance specifically. None of the various legal reform bills underway, including the constitutional reform, prohibit and criminalise the crime of enforced disappearance. The Working Group reiterates the urgency to adopt a law criminalising enforced disappearance in full compliance of the provisions of the international Convention for the Protection of All Persons from Enforced Disappearance and the United Nations Declaration on enforced disappearances. The current provisions of the criminal code are insufficient to address the distinctiveness and complexity of the crime of enforced disappearance.</p>

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continuous crime to which amnesties or immunities cannot be applied;		<p>have to be revisited, particularly the Evidence Act of 1994, in order for international principles to be in line with applicable laws in the Gambia.</p> <ul style="list-style-type: none"> • The security sector reforms (SSR), which in itself was meant to enhance civilian oversight on the security sector. However, the progress of this TJ mechanism has gravitated towards stagnation, including due to the rejection of the draft constitution by the Parliament. Section 37(a) of the GAF act clarifies circumstances under which military officers are allowed to act under command. • The TRRC Act stipulates, clearly states and defines the place of Amnesty in its agenda. The singularization of offences that constitute elements of enforced disappearance have made it possible to hold perpetrators accountable for kidnapping, murder, torture etc. However, it is important to bear in mind that Art 5 of the 2006 ICPED states that the widespread or systematic practice of enforced disappearance constitutes a crime against humanity. Additionally, Art 7 of Rome Statute clearly states the crime of enforced disappearance as a crime against humanity. From this angle the question of whether or not amnesty should be granted is clearly answered. Putting the above in context, a clear alignment is established between Article 7(i) of the Rome Statute and Article 19(3) of the TRRC Act which states that “[A]mnesty shall not apply to acts which form part of a crime against humanity.” It is also noted in the TRRC website that “amnesty can be recommended for lesser crimes and it cannot be recommended for serious crimes or for violations amounting to crime against humanity”. 	
(c) Complete the ratification process of the International Convention for the Protection of All Persons from Enforced Disappearance as soon as possible by depositing the instruments of ratification with the Secretary-General, and with the express recognition of the		<p><u>Government</u></p> <ul style="list-style-type: none"> • The Gambia completed the process of ratification on 23rd September 2018 and in accordance with article 29, paragraph 1, of the Convention, The Gambia is currently preparing its initial report to be submitted to the Committee on Enforced Disappearances on the measures taken to give effect to its obligations under the Convention. <p><u>UNDP</u></p> <ul style="list-style-type: none"> • Process of ratification is complete, however express recognition of the competence of the CED in accordance with articles 31 and 32 is yet to be made. 	The Working Group welcomes the ratification of the Convention and the submission of the first state party report before the Committee on Enforced Disappearances. However, the Working Group regrets that it remains to be domesticated. The Working Group urges the Government of the Gambia to domesticate the Convention as a matter of urgency and criminalise enforced disappearance without any further delay..

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
competence of the Committee on Enforced Disappearances according to articles 31 and 32 of the Convention;		<ul style="list-style-type: none"> In accordance with article 29, paragraph 1 of the Convention, The Gambia is currently preparing its initial report to the CED on the measures taken to give effect to its obligations. <p><u>IHRDA</u></p> <ul style="list-style-type: none"> The Convention was ratified by The Gambia on 28 September 2018. <p><u>Other</u></p> <ul style="list-style-type: none"> Measures taken/current situation: The Gambia ratified the ICPPED on the 28th September 2018 but has not yet domesticated it. However, it is yet to recognise the competence of the Committee on Enforced Disappearance in accordance with Articles 31 and 32 of the Convention, even though it has ratified the Convention. For now, perpetrators cannot be prosecuted for the specific crime of enforced disappearance in local courts. Suspects can be prosecuted for the crime of murder as provided for in section 187 of the Criminal Code or kidnapping or abducting persons in accordance with sections 231 to 239 of the Criminal Code.¹¹ Chapter XXV of the 1997 Constitution provides for offences against the deprivation of liberty, amongst others, which arguably can encompass the crime of enforced disappearance. 	
(d) Complete the ratification process of the Convention against Torture and its Optional Protocol.	Paragraph 27	<p><u>Government</u></p> <ul style="list-style-type: none"> The Gambia has completed the ratification process of the CAT on the 28 September 2018. However, it is yet to complete the process on the optional protocol but efforts are being made to do so. <p><u>Other</u></p> <ul style="list-style-type: none"> On 28 September 2018, The Gambia ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. However, it is yet to sign the Optional Protocol to the Torture Convention and accept the competence of the Committee for Torture Convention. 	The Working Group urges the Government of the Gambia to swiftly ratify the CAT optional protocol to strengthen its ongoing legal reform and namely the Prevention and Prohibition of Torture Bill 2020 currently under consideration.

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
<p>(e) Ensure in legislation and in practice that deprivation of liberty is carried out only by appropriate law enforcement agencies;</p>	<p>Paragraph 34</p>	<p><u>Government</u></p> <ul style="list-style-type: none"> • Section 19 guarantees the right to personal liberty with the exception of certain grounds provided by Law. Under Gambian law a series of statutes provide for the lawful deprivation of liberty. These range from security grounds to health grounds. Under the various criminal statutes, an individual may be deprived of his liberty if caught in the act of committing an offence. Under the circumstance the individual may be arrested and detained by a citizen, magistrate or law enforcement officer for the purpose of bringing him or her before a court of law. Provided that individual deprived of his liberty must be informed of the reasons thereof within three hours, must be given access to his lawyers within 3 hours of arrest and must be either released or brought before a Court of law within 72 hours. • In other instances, an individual who has been charged with an offence before the Courts may be deprived of his/her liberty in the event of a guilty verdict. In this instance only a duly constituted Court can make an order for deprivation and such order is subject to the exercise of full rights of appeal. • Under the Quarantine Act, an individual deemed to be infected by one of the diseases laid down in the act many be isolated by the health or sanitary authorities. • Furthermore, a magistrate, judge or two justices of the peace may, after having received two certificates from medical practitioners as to an individual's state of mind authorise said persons detention on the Lunatics' Detention Act. In situations of emergency, the Director of Health Services may issue an emergency certificate for the detention of a lunatic. <p><u>IHRDA</u></p> <ul style="list-style-type: none"> • This already exists in legislation, including the Constitution. <p><u>Other</u></p> <ul style="list-style-type: none"> • Security Sector Institutions (SSI) ought to be regulated by and operated according to clear, up to date legal and policy frameworks that comply with international and regional standards and norms. Ultimately, laws and policies enable SSI to effectively fulfil their mandate and to operate consistently with the principle of rule of law and respecting fundamental human rights. The SSR process had known advancement before its current stagnation. The SIS draft 	<p>The Working Group welcomes information according to which a draft bill to reform the mandate and prerogative of the Security Sector Institutions is under consideration. Namely references made to limiting its arresting powers.</p>

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		<p>bill had been presented for review in June 2019. Upon the request of the Ministry of Justice, the Democratic Control of Armed forces (DCAF) and an international consultant on intelligence were given the task to review the draft bill. The SIS mandate and some provisions of the draft bill strictly refresh the role of the SIS which is purely investigative and analytic. It further draws attention to fact that the State Intelligence Service no longer has the power to carry out arrests, however they can recommend to the Gambia Police Force persons of interest to be arrested.</p>	
(f) Create a nationwide digitalized system of registration of all persons deprived of liberty;	Paragraph 33	<p><u>Government</u></p> <ul style="list-style-type: none"> With the support of Gambia Bureau of Statistics a centralized prisons database has been created including data on persons detained in the prisons. However, plans are ongoing to extend the database to other security agencies that have detention powers. <p><u>UNDP</u></p> <ul style="list-style-type: none"> The centralized prisons database has been created, including data on persons detained in the prisons. This data includes intake to release, extensive bio data, sentence duration, possible due and release date, offence committed, court sentenced. There is also a human resource module for staff, log of visitors for person deprived of liberty, and medical history of prisoners. The system, however, does not include a fingerprint function and is only limited to prisons. <p><u>Other</u></p> <ul style="list-style-type: none"> The registration of persons deprived of liberty is manual. The process of digitalization is in view as steps are being taken to enable the shift. This movement will be a vital tool to quickly locate persons in detention thereby neutralizing the threats of further disappearances. The Gambian Police Force is keen on driving this agenda forward as a means of preventing Enforced Disappearances and Extra- Judicial Killings. The TRRC has a digitalized database of registered victims. It is unclear whether or not this database can serve as a national database of victims. 	<p>The Working Group welcomes the establishment of a centralized prison database and hopes that it will be fully functional, extended to all agencies with detention powers and kept up to date. The full digitalisation of the database would allow a speedy access to information concerning persons held in detention across the country and put an end to the problematic manual registration of persons deprived of liberty. Adequate level of information on the centralisation and digitalisation of prison registry should be provided to civil society and the general population.</p>

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
(g) Dismantle the Mile 2 Prison and build a new prison in compliance with international standards	Paragraph 33, 34	<p><u>Government</u></p> <ul style="list-style-type: none"> • A visibility study has been conducted including the possibility of building a new prison or revamping Mile 2 Prisons.. To prevent acts of torture in places of torture and arbitrary detention, the Gambia Police Force, National Intelligence Agency and the Gambia Prisons Services in partnership with human rights organisations such as the Institute for Human Rights and Development in Africa continue to train its officials and senior management on best practice standards on human rights best practices. The Prison Fellowship has also undertaken a nationwide visit to all its detention centres. <p><u>UNDP</u></p> <ul style="list-style-type: none"> • Conditions of prison remain the same. <p><u>IHRDA</u></p> <ul style="list-style-type: none"> • Not adopted <p><u>Other</u></p> <ul style="list-style-type: none"> • Prospects of building a new and more technologically advanced central prison, until this day remains one of those development projects the government of the Gambia wishes, reason being that funding remains the major setback.. The Budgetary constraints have raised two major issues; first of all, the issue of raising the funds and secondly the question of whether or not the government deems the project worthy of the investment, given the current financial situation of the country. 	The Working Group regrets the lack of action concerning the dismantling of the Mile 2 prison and reports that the deplorable prison conditions remain the same. It is urgent that the Government of the Gambia makes it a priority to dismantle the existing prison and build a new one in compliance with international standards. The Working Group encourages the Government of the Gambia to seek international cooperation and support in implementing this project.
(h) Complete the reform of the security sector as it is broadly understood, above all the intelligence services, including a thorough human rights vetting	Paragraph 35, 36	<p><u>Government</u></p> <ul style="list-style-type: none"> • Security sector reform still ongoing, • An Office of National Security has been established and is operational, a National Security Policy, National Security Strategy and a Security Sector Reform Strategy have all been developed and approved for implementation. The drafting of the vetting legislative framework is ongoing. <p><u>UNDP</u></p>	The Working Group calls on the Government to accelerate the security sector reform and apply a zero tolerance policy concerning personal accused to have taken part in human rights violations. An overall human rights vetting should be applied to all the personnel of the Intelligence services to guarantee that, moving forward, the values and principles driving the security

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<ul style="list-style-type: none"> Security sector reform is still ongoing, including the drafting of a new legislative framework governing the State Intelligence Service (SIS) (formerly National Intelligence Agency).³⁰ <p><u>IHRDA</u></p> <ul style="list-style-type: none"> The security sector reform is still ongoing <p><u>Other</u></p> <ul style="list-style-type: none"> While there have been significant reforms in some sectors (Prisons, Judiciary), no such traction has been made with security sector, which needs major overhaul, reform and strengthening. Numerous allegations of torture have been laid against security personnel remaining from the Jammeh era, including the Commander of the Anti-Crime Unit. The ongoing TRRC has revealed that some high-ranking officials in the NIA during Jammeh's time are still part of the new Intelligence Services (SIS). 	sector are rooted in the respect and protection of human rights.
(i) Ensure that the newly created National Human Rights Commission complies with the Paris Principles	Paragraph 37	<p><u>Government</u></p> <ul style="list-style-type: none"> The National Human Rights Commission is as permanent and independent body in line with the Paris Principles. The Commission has a wide mandate and is fully functional, including 5 commissioners, a secretariat, and staff. Independent body in line with Paris Principles. Despite receiving government subvention, the Commission continues to remain an autonomous body in line with Paris Principles. <p><u>Other</u></p> <ul style="list-style-type: none"> The NHRC initiated two (2) investigations into allegations of torture while under police custody leading to death against Anti-Crime Unit of the Gambia Police Force as well as discriminatory practices in certain communities in the Upper River Region. The NHRC led a panel on an investigation into the allegations of torture in September 2020. The institution visited detention facilities (Mile 2, Old Jeshwang, Janjangbureh Prisons) on the 12th & 13th December 2019 to evaluate the prisons' compliance with established laws and international standards in the treatment of inmates. They concluded that the prisons were not up to international human rights norms and standards on the issues of prolonged detention, legal representation and overall conditions of 	The Working Group notes with appreciation the independence of the National Human Rights Commission and its extensive mandate.

³⁰ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/175/91/PDF/G2017591.pdf?OpenElement>.

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		detention. The NHRC is in compliance with the Paris Principle based on the fact of it being independent, autonomous, with a clearly defined mandate and conferred with investigative powers.	
(j) Take measures to strengthen the independence of members of the National Assembly and their ability to exercise their mandate freely.	Paragraph 35	<p><u>Government</u></p> <ul style="list-style-type: none"> • The National Assembly, especially its standing committee on human rights and constitutional matters has benefited significantly from support from donors such as the UN, through the joint UNDP/OHCHR Project (TJHR) and other organizations such as Article 19 and IDEA amongst others to strengthen and increase its ability to exercise its mandate freely. For example assistance from the TJHR project has included: <ul style="list-style-type: none"> (i) support to the Committee with an orientation on human rights mechanisms (ii) Support to the committee to conduct visits to detention centers which led to the Committee inviting the SIS Director, IGP and Director of Prisons to discuss issues identified in the detention centers in the Country (iii) Support to the Committee to hold a residential retreat to enable it review and advice the National Assembly plenary on the prevention of Torture Bill, Criminal Offences Bill and the Disability Bill. (iv) Provision of human rights books to the National Assembly <p><u>IHRDA</u></p> <ul style="list-style-type: none"> • National Assembly members have been acting independently and have on two occasions, rejected the nomination of persons presented to the Assembly for confirmation of appointment. <p><u>Other</u></p>	The Working Group welcomes information confirming the independence of parliamentarians.

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<ul style="list-style-type: none"> The National Assembly has repealed Section 91(d) of the Constitution on Tenure of seats of the National Assembly, under which inter alia, a member of the National Assembly (is to) vacate his or her seat in the National Assembly if he or she ceases to be a member of the political party of which he or she was a member at the time of his or her election. The case of Ya Kumba Jaiteh vs Clerk of the National Assembly, et al (SC 001/2019)¹⁴ The Gambia Supreme Court's ruling clarified that nominated members are independent from Executive interference and provides security of tenure to nominated members of the National Assembly. The Justices ruled that the President has no power to revoke a nomination under Section 231(1), nor does he have such power or authority under Sections 89 or 90, as revocation is not therein provided for..." 	
(k) Clarify the relevant legal doctrine for domestication of the international human rights treaties in the national legal system and transpose them into the national law.	Paragraph 29	<p><u>Government</u></p> <ul style="list-style-type: none"> Section 7 of the Constitution lists the Laws of the Gambia as including; <ol style="list-style-type: none"> Acts of the National Assembly made under the Constitution and Subsidiary Legislation made under such Acts; Any orders, Rules, Regulations or other Subsidiary Legislation made by a person or authority under a power conferred by this constitution or any other law; The existing laws including all decrees passes by the Armed Forces Ruling Council; The Common law and principles of equity; Customary law so far as concerns members of the Community to which it applies; The Sharia as regards matters of marriage, divorce and inheritance among members of the community to which its applies. The above mentioned laws do not include international/ regional/ sub regional treaties or conventions. <p><u>Other</u></p> <ul style="list-style-type: none"> Human rights treaties have to be domesticated by an act of Parliament before they can become part of Gambia (The)'s laws. 	
Truth			
83. (a) Create a registry for cases of grave human rights	Paragraph 21	<u>Government</u>	The Working Group welcomes the various initiatives undertaken to

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
<p>violations, including enforced disappearances, committed between 1994 and 2016, taking into account the information gathered by the Truth, Reconciliation and Reparations Commission.</p>		<ul style="list-style-type: none"> • A Missing Persons Taskforce was constituted to receive and document reports of missing and disappeared persons in 2017 • The Gambia Armed Forces and the Police have also constituted a joint investigations taskforce to investigate the activities of the former hit squad known as the ‘Junglers.’ • In addition to the above,, taking into consideration the serious human rights violations that occurred during the Jammeh regime, as part of the transitional justice measures, the Government has established a Truth Reconciliation and Reparations Commission to investigate and establish an impartial historical record of human rights violations and abuses committed during the past 22 years of former President Jammeh’s authoritarian rule. The Commission is also mandated to investigate enforced disappearances, extrajudicial killings with the view to establishing the truth on what happened and provide reparations to victims. <ul style="list-style-type: none"> (i) The Network Against Gender Based Violence has a national database system for registering cases of SGBV. (ii) The NHRC has a data base system for registration of complaints of human rights violations. (iii) The Gambian Center for Victims of Human Rights Violations registered more than one Thousand victims and families of human rights violations and act as focal point for victims of enforced disappearance. <p><u>Other</u></p> <ul style="list-style-type: none"> • According to the TRRC, there is a registry for cases of grave human rights violations of every victim that gave statements or testified to the Commission, including relatives of victims of enforced disappearances. 	<p>constitute registries of cases of human rights violations. It hopes that the information will be centralised to enable relevant institutions to take appropriate measures to provide justice, remedy and reparation to victims and their families. The Working Group hopes that the registration of alleged cases of enforced disappearances will be sufficient to trigger ex-officio investigation of the disappearances even in the absence of formal complaints from relatives.</p>

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
83. (b) Establish a national DNA databank with samples of relatives of disappeared persons for DNA testing and matching;	Paragraph 47, 49	<p><u>Government</u></p> <ul style="list-style-type: none"> A national databank is currently not available however; steps are being taken to systematically collect data from relatives of persons who have disappeared. Genetic materials of the disappeared persons and their relatives are being stored at the main referral hospital in Banjul. <p><u>Other</u></p> <ul style="list-style-type: none"> The Government currently lacks the capacity to do DNA testing, matching and to setup and maintain a national DNA databank. 	The Working Group encourages the Government to step up its efforts to set up a DNA data bank for victims of enforced disappearances and their relatives and allocate appropriate resources to DNA testing and matching.
83. (c) Adopt a comprehensive strategy and plan for the search for and the identification, excavation and proper investigation of existing burial sites and the identification of new ones.	Paragraph 10, 48	<p><u>Government</u></p> <ul style="list-style-type: none"> In accordance with the TRRC interim report 2019, staff of the commission have benefitted from training opportunities to reinforce the forensic capacity of their investigators. Logistical support has also been provided by donors such as the US Embassy to the Research and investigation directorate, in support of investigations to be conducted by the Commission. <p><u>UNDP</u></p> <ul style="list-style-type: none"> Forensic capacity continues to remain a challenge, even though TRRC investigators have received some training³¹ and donors such as the US Embassy, as well as the TJHR Project have also provided logistical support to the Research and Investigation Directorate, to conducted exhumations.³² <p><u>Other</u></p> <ul style="list-style-type: none"> In paragraph 78 of the TRRC's Interim Report, it is reported that exhumation started on 5th April 2019 and after several attempts, the team was able to recover the remains of what is believed to be remains of seven individuals on 19th April 2019. After collecting the remains, the exhumation team worked with the coroner's office at Edward Francis Small Teaching Hospital to secure the remains. Meanwhile, efforts are underway to positively identify the remains through DNA so they can be 	The Working Group calls on international partners to continue their cooperation with the Government of the Gambia in order to increase technical capacity as relates to the management of burial sites, excavation and forensic expertise among others. In this regard, a joint strategy should be devised by all relevant actors.

³¹ <http://www.trrc.gm/wp-content/uploads/2020/10/TRRC-INTERIM-REPORT-Logo-Final.pdf>.

³² <http://www.trrc.gm/wp-content/uploads/2020/10/TRRC-INTERIM-REPORT-Logo-Final.pdf>.

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>returned to their families. In regard to the West African migrants killed in 2005 by the junglers, as per paragraph 79 of the TRRC Interim Report that there has been reports of other burial sites in various areas in The Gambia, however, Senegal has been a particular location which is said to have contained the remains of the West African migrants.</p>	
<p>83. (d) Ensure preservation of the sites and the protection of the chain of custody of the samples taken, reinforce the forensic capacity of the investigators, the prosecutors and the judiciary and ensure that they have adequate resources.</p>	<p>Paragraph 47,</p>	<p><u>Other</u></p> <ul style="list-style-type: none"> Funds have been provided to the TRRC by UNDP-Gambia to assist in the proper investigation of enforced disappearances and other cases, as well as ensure that a proper chain of custody of evidence is maintained for prosecutions, including proper exhumation processes and DNA analysis. 	<p>In light of the initial steps taken to identify gravesites, excavate and identify remains, the Working reiterates its recommendation to 83. (d) to ensure preservation of the sites and the protection of the chain of custody of the samples taken, reinforce the forensic capacity of the investigators, the prosecutors and the judiciary and ensure that they have adequate resources.</p>
<p>83. (e) Ensure access to relevant, including confidential, information, in particular to archives, in order to facilitate the localization of undiscovered gravesites, to speed up the search for missing persons, and to clarify cases of enforced disappearances.</p>	<p>Paragraph 21</p>	<p><u>Government</u></p> <ul style="list-style-type: none"> Under the TRRC Act the Commission has the power to visit any establishment or place without giving prior notice for any purpose material to the fulfilment of the Commission's mandate, including obtaining information or inspecting any property or taking copies of any document which may be of assistance to the Commission. Same continues to remain in practice. The commission has also been provided with the power to issue subpoenas as it deems necessary in fulfilment of its objectives and same remains in practice.³³ <p><u>Other</u></p> <ul style="list-style-type: none"> From 24 February 2021 to 11 March 2021, the TRRC conducted public hearings on the killings and enforced disappearances of West African Migrants in July 2005 in The Gambia. The testimonies of the witnesses before 	<p>The Working Group notes with appreciation the powers given to the TRRC to seize information and documentation that may be of assistance to its work. The Working also notes with appreciation that the TRRC has the ability to summon current and former officials.</p> <p>The Working Group hopes that as part of the proceedings ensuing from the TRRC work, access to relevant, including confidential, information - in particular to archives - will be guaranteed in order to facilitate the localization of undiscovered gravesites, to speed up the search for</p>

³³ <https://static1.squarespace.com/static/5a7c2ca18a02c7a46149331c/t/5a8451b4e4966bfad91329e9/1518621128178/truth%2C+reconciliation+and+reparations+commission+act%2C+2017.pdf>.

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>the Commission confirmed the implication of the former President in this case. During this session, the TRRC indicated that a new mass grave has been identified and that it has intended to search that site.</p> <p><u>Other</u></p> <ul style="list-style-type: none"> Information as to the location of burial site have been gathered through the testimonies of the junglers before the TRRC. Unfortunately, in Kanilai for example, the TRRC found no remains on the location given. Therefore, it is difficult to identify the remains of the victims of enforced disappearances because all information the TRRC have on the locations of the remains are based on the words of the perpetrators such as the junglers. 	<p>missing persons, and to clarify cases of enforced disappearances.</p>
<p>83. (f) Develop a gender-sensitive policy and action plan to provide support and rehabilitation for families of forcibly disappeared persons, including specific measures to support families of disappeared persons whose death is confirmed through the truth-seeking processes.</p>	<p>Paragraph 65, 67, 68</p>	<p><u>Government</u></p> <ul style="list-style-type: none"> No yet in place <p><u>Other</u></p> <ul style="list-style-type: none"> Paragraph 40 of the TRRC Interim Report stated that “urgent Interim Measures are being applied in respect of urgent cases that warrant immediate remedial actions. Health care is provided for victims and education support is also provided for children of victims. Psycho-social support is provided for both victims and perpetrators and their families. The invaluable supportive role played by the Medical Board in reviewing cases and providing medical care to victims during the past year has greatly reduced the pain of some of the victims and given hope to those who have been identified for further The TRRC, the Government and other are providing support to victims nationwide. The Government should go to the victims instead of the victims coming to the Government for help”. Families of the disappeared have faced precariousness, especially in situations where the disappeared person was the main breadwinner. TRRC has limited capacity to provide psychological support to all those in need. Non-governmental organisations such as 	<p>The Working Group regrets that limited efforts have been deployed to provide relief to relatives of victims of enforced disappearances, especially through the truth seeking process following confirmation of death of their disappeared loved ones. Gender sensitive measures should be adopted to rapidly to provide support and rehabilitation for affected families.</p>

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>KriTra Kris & Traumapsykologi (KRITRA) have provided such support to victims.</p> <ul style="list-style-type: none"> The State Prosecutors and the family of one victim were collaborating in the beginning of the investigation, but the family has remained without much information with regards to the progress of the case. Relatives participated in the exhumation of the body but have not been given the opportunity to speak to the lawyers, and no legal aid has been provided. The remains are yet to be released to the family, who was told that the remains are needed for the court. 	
<p>84. recommends that the Truth, Reconciliation and Reparations Commission:</p> <p>(a) Be composed of independent and professional commissioners of the highest moral authority and with extensive human rights experience, based on a full and thorough vetting process.</p>	<p>Paragraph 41, 42, 44,52</p>	<p><u>Government</u></p> <ul style="list-style-type: none"> In accordance with the TRRC Act the commission composed of 11 independent commissioners were appointed following a thorough vetting process including; submission of names of nominees for vetting by the Technical Committee on Transitional Justice, publication in the media and the general public for their objections. The President also consulted several CSO's prior to the appointment of the Commissioners in accordance with the TRRC Act. As per the TRRC Act, the Commissioners were nominated, from amongst persons of high moral character and integrity who have distinguished themselves in their respective fields of vocation or communities. The commissioners consisting of four women were also appointed taking into consideration the geographical, religious, cultural and gender diversity of the Gambia. <p><u>IHRDA</u></p> <ul style="list-style-type: none"> All these recommendations have been complied with, except equipping the TRRC with forensic expertise and excluding possibility of granting amnesty in the TRRC Act. <p><u>Other</u></p> <ul style="list-style-type: none"> Policies and criteria were implemented in respect to the appointment of independent and professional Commissioners 	<p>The Working Group welcomes the comprehensive mandate of the TRRC, which is a positive example at the regional level. The mandate of TRRC has enabled it to perform its duties in a transparent and thorough fashion and to undertake ground-breaking actions with regards to the registration and investigation of human rights violations. The Working also notes reports that the TRRC has been composed of independent and professional Commissioners selected following a full and thorough vetting process.</p>

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>based on a full and thorough vetting process. Section 4(1) of the TRRC Act stipulated the composition of the Commission - “amongst persons of high moral character and integrity who distinguished themselves in their respective fields of vocation or communities”. Under paragraph 5 of the TRRC Interim Report, nomination criteria for Commissioners included personal integrity, high moral character, no criminal record, not known to be actively involved in a political party, residency in the region and Gambian nationality. Paragraph 19 of the TRRC Interim Report also stated that the 11 names of the of the nominees for appointment as Commissioners were submitted for vetting by Technical Committee on Transitional Justice and after that they were published in the media and the general public given ten days to voice their objections to the Ministry.16 Section 6(b) of the said Act also provided for the independence of the Commission, calling that “the commission shall not be subject to the direction or control of any person or authority”. The nominations and appointment process complied with the guidelines for the nominations and appointment of Commissioners.</p>	
<p>84. (b) Be provided with adequate human and financial resources and sufficiently broad powers, including the power to summon current and former officials.</p>		<p><u>Government</u></p> <ul style="list-style-type: none"> • The TRRC is fully operational including 11 Commissioners, a secretariat and staff. The TRRC in accordance with the Act establishing the Commission receives moneys appropriated to it by the Government and donations from lawful sources not inconsistent with the functions of the Commission. The TRRC Act also provides the Commission with broad powers including the power to issue summons as it deems necessary in fulfilment of its objectives and same applies in practice. • In addition to receiving moneys appropriated from the Government, the Government has also made a 1 Million USD contribution to the TRRC reparations Fund. <p><u>Other</u></p>	<p>The Working Group commends the Government for the establishment of a fully-functioning and independent TRRC and notes with appreciation the powers given to the TRRC to issue subpoenas and to seize information and documentation that may be of assistance to its work.</p>

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<ul style="list-style-type: none"> Section 15(1) of the TRRC Act gives the powers of the Commission summons current and former officials. Section 15(2) provides for a person who fails to answer to a summons, subpoena issued by the Commission or fails to answer questions of the Commission or intentionally provides misleading or false information to the Commission shall be deemed to be contempt of the court and may be referred to the High Court for Other and punishment. 	
84. (c) Have the capacity to subpoena information from any source and witness, enter any State institution and have free access to any State archive.		<p><u>Government</u></p> <ul style="list-style-type: none"> In accordance with Section 15 of the TRRC act the commission has been provided with the power to issue subpoenas as it deems necessary in fulfilment of its objectives and same remains in practice. Under the Act the Commission also has the power to visit any establishment or place without giving prior notice for any purpose material to the fulfilment of the Commission's mandate, including obtaining information or inspecting any property or taking copies of any document which may be of assistance to the Commission. Same continues to remain in practice. <p><u>Other</u></p> <ul style="list-style-type: none"> Section 15(1) (a), (b) (c), (f) and (g) of the TRRC Act gives the powers of the Commission to have the capacity to subpoena information from any source and witness, enter any State institution and have free access to any State archives. 	
84. (d) Be equipped with the technical capacity, including forensic expertise, to conduct exhumations, working in coordination with the law enforcement and prosecutorial authorities.		<p><u>Government</u></p> <ul style="list-style-type: none"> The Commission is equipped with the required technical capacities. Commissioners including staff have also benefited from trainings including mainstreaming gender in their work, on witness protection for investigators and security, amongst others. In accordance with the TRRC interim report 2019, staff of the commission have benefitted from training opportunities to 	The Working Group encourages the Government to seek support from its international partners in order to establish a forensic laboratory with DNA testing capacity among other competences and build a team of specialist to handle crime scenes such as gravesites including for example in Tanji and in Kanilai where

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>reinforce the forensic capacity of their investigators. Logistical support has also been provided by donors such as the US Embassy to the Research and investigation directorate, in support of investigations to be conducted by the Commission.</p> <p><u>Other</u></p> <ul style="list-style-type: none"> As stated above, the TRRC conducted an investigation and held public hearings around the migrants' case in February and March 2021 and new information has been gathered on location of potential burial site where West African Migrants have been buried, including in Tanji and near a mini-stadium in Kanilai. No information on the search of these sites has yet been made available. In addition, Gambia does not possess a forensic lab, which represents a significant obstacle. <p><u>Other</u></p> <ul style="list-style-type: none"> The Embassy of the United States engaged The Gambia Government to offer assistance on the investigations into the disappearances of Alagie Ceesay and Ebou Jobe, the two Gambian-Americans who disappeared in The Gambia in May 2013 with a view to establish and make known their whereabouts. Officials of the U.S. Government have since visited the suspected burial sites of the missing men and efforts are underway to continue work on these sites. The TRRC's Research and Investigations Directorate will continue to work with law enforcement officials on this and other related matters that are of concern to both the U.S. and the TRRC. It is also stated in Article 81 of the TRRC Interim Report that staff members of the TRRC benefitted from training opportunities outside of The Gambia that were arranged by the Embassy of the USA. The U.S. Embassy has also provided some logistical support to the Research and Investigations Directorate and continues to support the efforts of the TRRC focusing on investigations. Some remains have not been identified yet 	<p>among other victims, the remains of the migrants executed and forcibly disappeared in 2005 may be buried according to the recent testimonies before the TRRC. International partners are encouraged as a matter of priority to assist the Gambian government in increasing the technical capacity of law enforcement agents and prosecutorial authorities to conduct exhumations as well as in the establishment of a forensic laboratory with DNA testing in the country.</p>

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
84. (e) Adopt a victim-centred approach and be fully accessible to the families of disappeared persons. Victims and the public should be kept informed of the functioning of the Commission and its proceedings.		<p>because the Government lacks the capacity to perform DNA testing.</p> <p><u>Government</u></p> <ul style="list-style-type: none"> To ensure the public and the victims are kept abreast with the functioning of the commission, hearings have made public; broadcasted on the radio, social media platforms and the television, in addition to its outreach activities, the Commission also regularly releases press statements informing the public on the status of its hearings. The Commission in 2019 also released its, Interim Report 2018 – 2019 detailing its activities between the said periods. The TRRC process has taken a victim centred approach to increase public participation in the TRRC process. As per the TRRC interim report, a victim participation fund has been created and with assistance from the joint OHCHR/ UNDP Transitional Justice and Human Rights Project (TJHR) a TRRC statement givers are provided with transport refund, refreshments and daily subsistence allowance for their participation in the process. As a part of its interim- reparations scheme, the TRRC together with other donors/partners have supported victims in need of medical attention to receive treatment both in the Gambia and overseas. In addition to continued medical assistance and psychosocial being provided to victims and witnesses, the TRRC has also provided educational support amongst others to children who had to leave school due to monetary or other issues. <p><u>Other</u></p> <ul style="list-style-type: none"> Victim-centred approach is defined on the TRRC website as “putting the dignity and wellbeing of victims first”. The objectives of the TRRC, pursuant to Section 13 of the TRRC Act are guided by the right to accountability and redress for victims. Victims and the public are kept informed of the functioning of the Commission and its proceedings through the TRRC website, local newspapers, social media platforms, etc. The public hearings of the Commission are live streamed through public and private television and radio stations and via Facebook. For this reason, the TRRC has been described as “the most accessible truth commission in history” (Julie Turkewitz, The New York Times, 31 August 2019).¹⁸ Article 92 of the TRRC’s Interim Report stated that “[A]s the TRRC uses a 	<p>The Working Group congratulates the TRRC approach to guaranteeing a transparent and accessible process for victims. Their relatives and the populations at large. The Working Group notes with satisfaction that hearings have been made public, broadcasted on the radio, social media platforms and the television. In addition to its outreach activities, the Commission also regularly releases press statements informing the public on the status of its hearings. The Working Group calls on partners to continue supporting initiatives such as the Victim Participation Support Fund.</p>

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p>victim-centered approach to increase public participation in its processes, it is important that adequate resources, as well as timely and quality support services are provided to victims, their families, witnesses and informants. To facilitate this process, the UNDP is supporting the Victim Participation Support Fund through its project to “Support the capacity of the Government and national stakeholders to establish credible transitional justice processes and mechanisms that promote reconciliation and sustainable peace in The Gambia” (UN TJ Project).”</p>	
<p>84. (f) Ensure the protection of witnesses through the establishment of appropriate witness protection programmes.</p>		<p><u>Government</u></p> <ul style="list-style-type: none"> Sections 34 and 35 of the TRRC Act provides for the protection of informants and witnesses. These sections provide that an informant shall not be subject to civil or criminal proceedings for disclosing a human rights violation or abuse. The Commission shall, if it determines that there is likelihood that the life or the property of the informant is in danger or is likely to be in danger, issue appropriate directions to safeguard the informant or his or her property. The Commission shall provide appropriate psychosocial support for informants, especially children; and take special measures to ensure the safety, anonymity and confidentiality of informants, especially children. Furthermore, it is provided that witnesses shall not be subject to civil or criminal proceedings for disclosing a human rights violation or abuse. The Commission shall, if it determines that there is likelihood that the life or the property of the witness is in danger or is likely to be in danger, issue appropriate directions to safeguard the witness or his or her property. The Commission shall provide appropriate psychosocial support for witnesses, especially children testifying before the Commission in order to avoid endangering or delaying their social reintegration or psychological recovery; and take special measures to ensure the safety, anonymity and confidentiality of children testifying before the Commission. A witness before the Commission shall be entitled to the same immunities and privileges as if he or she were a witness in proceedings before a High Court. <p><u>Other</u></p>	<p>The Working Group notes with satisfaction that the TRRC Act contains adequate provisions for the protection of informants and witnesses. The Working Group hopes that initial steps to establish a witness protection program for the TRRC will be extended to judicial proceedings.</p>

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		<ul style="list-style-type: none"> It was stated in Paragraph 105 of the TRRC Interim Report that the TRRC is in contact with the Victims and Witnesses Section of the International Criminal Court on developing a witness protection program for the TRRC and hopefully, a program on locating missing persons across the country. Section 35(2) of the TRRC Act provides for the Commission to issue appropriate directions to safeguard the witness or his property if it determines that there is likelihood that the life or property of the witness is in danger or is likely to be in danger. Section 35(3) provides for the Commission to provide appropriate psychosocial support to witnesses and to take special measures to ensure the safety, anonymity and confidentiality of children testifying before the Commission. The Victim Protection Unit is for both victims and perpetrators. According to a Psychosocial Support Officer of the Commission, Jean D'arc Danty Keni-Beyai, psychosocial support depends on the consent and request of the witness (both victims and perpetrators). 	
84. (g) Exclude the possibility of granting amnesty for acts of enforced disappearance.		<p><u>Government</u></p> <ul style="list-style-type: none"> The TRRC is bereft of the powers to grant Amnesty for acts of enforced disappearances. It can make recommendations to the Executive for implementation of conclusions. <p><u>UNDP</u></p> <ul style="list-style-type: none"> Status quo remains. <p><u>Other</u></p> <ul style="list-style-type: none"> No prosecution has yet been carried out regarding the migrants' case. As stated above, recommendations from the TRRC for possible prosecution of those who bear the greatest responsibility, should be made in July 2021. As an emblematic case of enforced disappearance, it is of utmost importance that the TRRC will use its power granted in article 15 of the TRRC act to ensure accountability for those who bear the greatest responsibility and exclude the possibility of granting amnesty for acts of enforced disappearance. 	The Working Group notes that the TRRC has the power to recommend the granting of amnesty, which can only be granted by the President. The TRRC Amnesty Recommendation Committee is responsible for the formulation of such recommendation and works closely with the TRRC Research and Investigation Unit; the victims and national and international experts to ensure the rights of victims and of alleged perpetrators are respected. The Working finds positive the statement that Amnesty cannot be recommended for serious crimes or for violations amounting to crimes against humanity.

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		<ul style="list-style-type: none"> Even if the TRRC has presented new evidence, including on the involvement of the Gambian State in the killings and the cover-up, many grey areas remain, including the identity and nationality of the victims, the identification of all burial sites and the fate and whereabouts of the nine known Nigerians victims. Therefore, an international investigation would be best placed to uncover the facts. <p><u>Other</u></p> <ul style="list-style-type: none"> By virtue of Section 19 of the TRRC Act, the Commission may recommend the granting of amnesty under the terms and conditions established by the Commission. Under section 19(3) of the TRRC Act, “[A]mnesty shall not apply to acts which from part of a crime against humanity.” It is also noted in the TRRC website that “amnesty can be recommended for lesser crimes and it cannot be recommended for serious crimes or for violations amounting to crime against humanity.” The TRRC does not have the power to change the granting of amnesty in the TRRC Act and that power to change what is in the said Act is vested on the Legislators. Furthermore, applying for amnesty is not a guarantee that amnesty will be granted to an individual. As stipulated under 82(b)(iii) above, it is important to bear in mind that Article 7 (i) of the Rome Statute clearly states the crime of enforced disappearance as a crime against humanity, for which amnesties should not be granted. 	<p>In light of the nearing conclusion of its work, the Working Group reiterates its recommendation to exclude the possibility of granting amnesty for acts of enforced disappearances and other grave human rights violations, in accordance with article 18 of the Declaration.</p>
Justice paragraph 85 (a) to (i)			
(a) Carry out all investigations, prosecutions and judicial proceedings in accordance with the principle of due diligence, taking into account the complexity of the enforced disappearances, the context in which they occurred and the patterns that explain why the events	Paragraph 53, 54, 58	<p><u>Government</u></p> <ul style="list-style-type: none"> The TRRC is mandated to investigate human rights violations including enforced disappearances, with the view to establishing the truth on what happened and provide reparations to victims. The Commission is set to conclude its investigation in June 2021. Upon completion, the TRRC would submit a report which would state its findings and make recommendations for the establishment of appropriate preventive mechanisms including institutional, administrative and legislative measures which should be taken in order to prevent the commission of violations and abuses of human rights. The Commission also has the power to identify and recommend for 	<p>The Working Group notes the high expectation among victims and society at large that the findings of the will lead to prosecutions. In this regard, the Working Group reiterates its previous recommendation for investigations, prosecutions and judicial proceedings to be carried out in accordance with the principle of due diligence taking into</p>

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
occurred, and ensure that there are no omissions in the gathering of evidence or in the development of lines of investigation		<p>prosecution persons who bear the greatest responsibility for human rights violations and abuses.</p> <p><u>Other</u></p> <ul style="list-style-type: none"> None of the alleged perpetrators has been brought to justice. Yahya Jammeh, who is believed to have been involved, including by ordering the killings of the migrants, is in Equatorial Guinea. <p><u>Other</u></p> <ul style="list-style-type: none"> According to a TRRC official, the Commission has competent, senior police officers who are trained and qualified in the investigation processes and has a strict and protective administration. The TRRC informed that ‘bones, believed to be that of the Ghanaian nationals who were murdered using machete, were exhumed in Senegal for DNA analysis, but the results came out as inconclusive.’ The official further stated that extradition of alleged perpetrators is premature as there are no proper laws to try them (in The Gambia) and prolonged pre-order detention is also considered a violation of human rights. 	account the complexity of the crime of enforced disappearance; the context in which these disappearances occurred and the patterns that explain why the events occurred; and ensure that there are no omissions in the gathering of evidence or in the development of lines of investigation. The Working Group further refers to the recommendations made in its thematic report on standards and public policies for an effective investigation of enforced disappearances (A/HRC/45/13/Add.3).
(b) Strengthen the independence and impartiality of the judiciary, including enhancing the capacity of Gambian lawyers to adjudicate through appropriate training and education.	Paragraph 62	<p><u>Government</u></p> <ul style="list-style-type: none"> The Judiciary has undergone structural and administrative reforms to enhance the dispensation of justice. This includes; appointment of Gambian Judges, including 12 justices of the High Court, Court of Appeal and Supreme Court. Five justices of the supreme court have also been appointment ensuring the court is functional following a three year hiatus because of a lack of quorum. Other measures to ensure its independence amongst other include reconstitution of the Judicial Service Commission, restoration of their constitutional powers in relation to the appointment of judicial officers, the exercise of budgetary autonomy and abolition of the system of contract judges. Gambian state lawyers have also benefited from capacity increasing opportunities in the area of criminal prosecutions, sexual and gender based violence, international/regional human rights mechanisms amongst others. <p><u>IHRDA</u></p> <ul style="list-style-type: none"> Members of the Gambia Bar Association have had the opportunity to undergo capacity building trainings and have also built partnerships with 	The Working Group welcomes the reform of the judiciary and encourages the extension of training and capacity building to prosecutors and lower level judges. The Working Group also finds positive efforts made by civil society actors to enhance the capacity of Gambian lawyers.

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		<p>other donor agencies for the same. IHRDA is one of the institutions which provided members of the GBA with training on Combating Impunity for ED/EJK in November 2019.</p> <p><u>Other</u></p> <p>A number of initiatives are in place, including support from the UK in strengthening the Judiciary of the Gambia through the pro bono assistance provided by ROLE UK. Dozens of new practitioners have been called to the Bar, while scores of Gambian lawyers have been called to the Bench as Magistrates and Judges of the High Court. Their numbers and competencies will greatly enhance efficiency of the judiciary and reduced backlog of cases in both the Supreme and lower courts. Between 15-16 November 2019, the Institute for Human Rights and Development in Africa, in collaboration with the Gambia Bar Association, organized a 2-day training workshop for about 30 Gambia lawyers on international standards and legal instruments to fight against impunity for enforced disappearance (ED) and extrajudicial killings (EJK) in the Gambia. Discussions touched on legal frameworks on ED and EJK, and using Gambian courts, regional and international mechanisms on human rights and criminal law, as well as universal jurisdiction, to seek individual and State accountability for ED and EJK. The workshop included practical exercises on litigating ED and EJK.</p>	
(c) Consider the truth-telling mandate of the Truth, Reconciliation and Reparations Commission as complementary and not as an alternative to criminal justice, and ensure coordination and information-sharing between the Commission and the criminal justice system.	Paragraph 42, 52	<p><u>Government</u></p> <ul style="list-style-type: none"> The TRRC is mandated to investigate enforced disappearances, extrajudicial killings with the view to establishing the truth on what happened and provide reparations to victims. The Commission is set to conclude its investigation in June 2021. Upon completion, the TRRC would submit a report which would state its findings and make recommendations for the establishment of appropriate preventive mechanisms including institutional, administrative and legislative measures which should be taken in order to prevent the commission of violations and abuses of human rights. The Commission also has the power to identify and recommend for prosecution persons who bear the greatest responsibility for human rights violations and abuses. 	<p>In light of announced conclusion of the investigations conducted by the TRRC and the publishing of its findings, the Working Group urges the Gambia to make all necessary efforts to invigorate the criminal justice process.</p> <p>The Working Group notes information concerning the prosecution of former top officials of the National Intelligence Agency (now State Intelligence Services). The Working Group calls on the</p>

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<ul style="list-style-type: none"> • Additionally, nine top officials of the National Intelligence Agency (now State Intelligence Services) are being prosecuted for the death of Solo Sandeng an opposition activist who died in state custody in 2016. • In the same light, Yankuba Touray, a former member of the AFPRC is currently facing charges of murder of Ousman Koro Ceesay, former Finance Minister murdered in 1995 under mysterious circumstances. <p><u>IHRDA</u></p> <ul style="list-style-type: none"> • This is being complied with e.g., in the case of The State v Yankuba Touray currently being prosecuted before the High Court. <p><u>Other</u></p> <ul style="list-style-type: none"> • The TRRC’s Executive Secretary, relayed all information gathered will be kept until the final report of the TRRC is published. Any information the commission decides to share is in the public domain. But there is no direct coordination or information sharing as at now. This is so, to avoid any involvement or extra control from the government. Meetings are held occasionally with the Minister of Justice to provide update and ensure their oversight role over the transitional justice mechanism. The TRRC by mandate has the authority to identify and recommend for prosecution, perpetrators of gross human right violations. 	<p>prosecution and judicial authorities to provide space for the relatives of the victims to be fully aware of the proceedings and take an active role. Regular updates and transparent information should be given to relatives along with appropriate legal counselling.</p>
(d) Ensure that persons who have or are alleged to have committed offences of enforced disappearance do not benefit from any special amnesty law or similar measures that might have the effect of exempting them from criminal liability.	Paragraph 55, 59	<p><u>Government</u></p> <ul style="list-style-type: none"> • No measures taken status-quo remains pending the outcome of the TRRC hearings <p><u>UNDP</u></p> <ul style="list-style-type: none"> • The TRRC process is still ongoing and are yet to make their findings and recommendations. <p><u>IHRDA</u></p> <ul style="list-style-type: none"> • The TRRC has not reached the stage of determining who among the perpetrators, if any, is deserving of amnesty or any special measures. 	<p>The Working Groups regrets the withdrawal of charges against NIA officials.. Such decisions by the government represents a setback in the search for justice and accountability and undermines the public confidence in the process.</p>

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		<p><u>Other</u></p> <ul style="list-style-type: none"> • Section 19(1,3) of the TRRC Act 2017 stipulates measures for granting or recommending amnesty to be granted.²⁰ Perpetrators seeking amnesty must apply for it to the Committee of the TRRC and are required to meet certain criteria before they will be considered. One criterion is that they must not have committed any crimes against humanity (of which the crime of enforced disappearance is one). According to the TRRC, amnesty will not be granted to anyone who is guilty of that. The Committee looks at evidence, examines the nature of their violations and follows stringent procedures before granting amnesty to a perpetrator. It is their right to ask, but there is no guarantee they may be granted amnesty. In practice, however, this has not been the case. • On 28 October 2018, the Ministry of Justice announced the withdrawal of charges against several officials from the NIA, despite their complicity in violations amounting in crimes against humanity: <ul style="list-style-type: none"> (i) In May 2019, the Justice Minister indicated that he had engaged in conversations with the TRRC to “facilitate” the appearance of some Junglers so that they could share with the public the nature of their crimes. These men confessed to their participation in the extra-judicial killing and enforced disappearance of several individuals, including some of the 50+ migrants who were killed in July 2005 and Gambian- Americans Alhajie Mamut Ceesay and Ebou Jobe.²¹ (ii) On 10 August 2019, following their testimony, and based on the recommendation of the Justice Minister, alleged perpetrators were all released ‘on bail’ from their detention in military facilities. Explaining the reasons behind his recommendations to Gambian victims and their representatives, the Justice Minister is reported to have said that the recommendation to release the Junglers was not an 	

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		amnesty, “even though there are benefits for those who spoke the truth before the TRRC.”	
(e) Take all measures to bring those responsible for enforced disappearances to justice, including by seeking the extradition of those who are currently abroad.	Paragraph 58	<p><u>Government</u></p> <ul style="list-style-type: none"> No measures have been taken in relation to extradition as of now but on the area of Mutual Legal Assistance, the Gambia has collaborated with the Swiss authorities in investigations into allegations of a series of crimes including torture, murder and enforced disappearance Committed by Ousman Sonko (erstwhile Minister of Interior between 2006-2016). The Government has collaborated with Swiss authorities in this regard through the provision of documents and other evidence as well as facilitating access to witnesses by Swiss Prosecutors. The Gambia has collaborated with the United States on an investigation in Michael Sang Correa, a former member of The Gambia Armed forces, who is alleged to have been a member of a much-feared assassin squad known as “the junglers” and said to have participated in a series of crimes including torture and enforced disappearances. Although the investigations did not result in prosecution for enforced disappearances Michael Correa has been charged with multiple counts of torture by US prosecutors. <p><u>IHRDA</u></p> <ul style="list-style-type: none"> Not adopted yet because Commission hearings are ongoing. <p><u>Other</u></p> <ul style="list-style-type: none"> None of the alleged perpetrators has been brought to justice. Yahya Jammeh, who is believed to have been involved, including by ordering the killings of the migrants, is in Equatorial Guinea. <p><u>Other</u></p> <ul style="list-style-type: none"> Victims and victims’ groups have been tireless in their advocacy and campaigns to bring Yahya Jammeh and those responsible to justice. <p>(i) Ousman Sonko, former Minister of Interior from 2006 until he fled the country in September 2016, faces investigation in Switzerland for crimes against humanity committed during Jammeh's rule.</p>	The Working Group notes with satisfaction the cooperation of the government of the Gambia with third State who are currently conducting investigation and prosecution of its nationals abroad. It reiterates however, that efforts ought to be made to fully comply with the recommendation to bring to justice perpetrators of human rights violations who are currently abroad, including through extradition.

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		<p>(ii) In October 2017 victims of human rights violations and abuses, their family members, civil society organizations and international human rights groups formed the J2J – Jammeh2Justice campaign, a coalition calling for Yahya Jammeh and others who committed serious human rights violations and abuses during his rule to be brought to justice.</p> <p>(iii) On 13 December 2017, the Truth, Reconciliation and Reparation Commission (TRRC) bill to; examine events during President Jammeh's rule, was passed by the National Assembly, following consultation on the bill with national and international actors.</p> <p>(i) A Panel on Missing Persons, a specialized police unit investigating enforced disappearances during President Jammeh's rule, was created in February 2017.²⁵ In March 2017, the bodies of four people, possible victims of enforced disappearance, were exhumed, including that of Solo Sandeng. In February 2018, criminal proceedings began against nine NIA officers, including its former Director, accused of murdering and burying opposition activist Solo Sandeng in April 2016.</p> <p>(ii) The Panel is expected to submit the list of missing people to be investigated by the TRRC.²⁷ It is assumed that prosecution of perpetrators will begin after the TRRC submits its final recommendations. In the meantime, the Gambian judges have benefitted from a series of capacity building training programs, including on survivor-centred practices and principles in the courtroom.</p> <p>(iii) The Institute for Human Right and Development in Africa is currently working with victims of enforced disappearance perpetrated under the Jammeh regime to build cases. Some cases have similarities which makes it possible for a class action for many victims. Some cases have similarities which makes it possible for class action for many victims. Should the transitional justice system fail to give them justice, it is expected that non-governmental organisations will help victims sue the Gambia before regional courts. In this respect, the ECOWAS court will be a desirable option as exhaustion of local remedies is not required</p>	
(f) Guarantee that criminal investigations of enforced	Paragraph 61,	<u>Government</u>	The Working Group commends the government for criminal investigation and

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
disappearances are conducted, and that prosecutions of identified suspects are carried out by a specialized and appropriately trained team of investigators, prosecutors and forensic experts.		<ul style="list-style-type: none"> • Nine top officials of the National Intelligence Agency (now State Intelligence Services) are being prosecuted for the death of Solo Sandeng an opposition activist who died in state custody in 2016. • In the same light, Yankuba Touray, a former member of the AFPRC is currently facing charges of murder of Ousman Koro Ceesay, former Finance Minister murdered in 1995 under mysterious circumstances. <p><u>Other</u></p> <ul style="list-style-type: none"> • Appropriate mechanisms are not yet in place to provide for tailored criminal investigations of enforced disappearances. Measures are yet to be implemented, including legal amendments. Notwithstanding, criminal investigations on enforced disappearances were conducted charges brought against a number of individuals, including against 10 soldiers were arrested and detained in January 2017 and accused of involvement in enforced disappearances and killings. 	prosecution already underway. It would, however, underscore the need to take appropriate measures to ensure that enforced disappearances are investigated and prosecuted, particularly in light of the final report and recommendations of TRRC.
(g) Guarantee that the authorities in charge of the investigation have the jurisdictional, logistic and scientific resources necessary to collect and process evidence, and notably the power to access all documents and information relevant to the investigation, including regarding the possible locations of victims' remains.	Paragraph 11, 47,56	<p><u>Government</u></p> <ul style="list-style-type: none"> • The Truth Reconciliation and Reparation Commission is mandated to investigate cases of enforces disappearance. The TRRC has a research and investigations unit which is composed of three sub-units namely the Statement Taking Unit, the Research Unit and the Investigation Unit. The statement taking unit is responsible for taking the statements and information of victims and witnesses. The research unit conducts preliminary research on human rights violations as per the mandate of the commission; collecting, storing and retrieving information (including evidence), collaborating with investigators and legal officers to build cases and identify victims and perpetrators. They make use of statements from victims, witnesses and perpetrators to substantiate their research and produce reports for the use of investigators and other parties as necessary. <p><u>UNDP</u></p>	The Working Group reiterates its recommendation for the government to equip the investigative and prosecutive authorities with logistic and scientific resources to carry out their work.

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		<ul style="list-style-type: none"> Forensic and DNA assessment capacity remains a challenge, however, the TRRC is mandated to investigate cases of enforced disappearance. See 83e. <p><u>IHRDA</u></p> <ul style="list-style-type: none"> The TRRC is currently in charge of investigations and is vested with the requisite powers to conduct thorough investigations. <p><u>Other</u></p> <ul style="list-style-type: none"> The TRRC has the jurisdictional authority to carry out investigations pursuant to the TRRC Act, and virtue of which it has unlimited access to relevant documents. However, it is lacking in the logistics department – it does not have an excavator which is needed for exhumation (temporary arrangements were made to hire from the National Disaster Management Agency for exhumations at Yundum Barracks and Kanilai). For scientific resources, the Commission has an in-house professional Investigator, responsible for exhumation and is well trained in that area. Neither the Government (nor the Commission) have DNA testing machines as a result of which the sample of evidence collected from the exhumations conducted by the Commission are still pending at the Ministry of Justice. Overall, appropriate mechanisms are not yet in place to provide for tailored criminal investigations of enforced disappearances. 	
(h) Provide opportunities for victims to participate in and be heard during the investigative and judicial proceedings — both regarding the clarification of enforced disappearances and the punishment of those	Paragraph 60, 63	<p><u>Government</u></p> <ul style="list-style-type: none"> The TRRC is mandated to investigate enforced disappearances, extrajudicial killings with the view to establishing the truth on what happened and provide reparations to victims. As part of the TRRC process, victims are encouraged to participate in the process through the provision of statements or through the provision of a testimony via the TRRC public hearings. ³⁴ 	The Working Group notes with satisfaction the victim approach process adopted by the TRRC. It hopes, however, that the challenges that have prevented the female victim to come forward will be fully addressed.

³⁴ <https://static1.squarespace.com/static/5a7c2ca18a02c7a46149331c/t/5a8451b4e4966bfad91329e9/1518621128178/truth%2C+reconciliation+and+reparations+commission+act%2C+2017.pdf>.

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responsible — and in seeking fair compensation.		<p><u>IHRDA</u></p> <ul style="list-style-type: none"> Victims have and continue to appear before TRRC on cases of ED and EJK. The TRRC has also informed victims that they may apply for reparations through the Commission’s reparations policy. <p><u>ANEKED</u></p> <ul style="list-style-type: none"> Relatives of the victims uncovered at the Yundum barracks have been waiting without any access to information as to the state of advancement of the process two years following exhumation. Moreover, while public broadcasting of testimonies and other investigative measures have contributed to the transparency of the process, relatives of victims of enforced disappearances have expressed distress at the publicising of the exhumation of the remains without their prior knowledge or consent. The public coverage of exhumation did not take into consideration the, feelings culture and religious beliefs of relatives. <p><u>Other</u></p> <ul style="list-style-type: none"> The TRRC stressed that victims are able to participate in the investigative process as the hearings conducted by the TRRC are open for everyone. With the investigation of disappeared persons (for example November 11 incident), family of the victims were all invited to the TRRC for a series of sensitization and discussions to apprise them of what the TRRC is doing and what they are to expect. Similarly, when the remains were found, family members were invited to the site (Yundum Barracks) before the remains were taken off the ground. Families are involved in conversations across the board. Outreach activities are run by conversations with both families and the general public. With the proceedings at the Commission everyone is involved – not only the victims and their families but the general public as one can watch live, listen to the radios or access them on YouTube. These are indicators that the process is very inclusive. However, the participation of victims in the judicial process is at a low, according to a victim family, who stated that since the exhumation of the body of their loved 	

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		one, their interaction with legal practitioners has been minimal, even when they attend court hearings.	
(i) Digitalize the judicial system and the registry of prisoners. In accordance with article 10 of the Declaration, an official up-to-date register of all persons deprived of their liberty must be maintained in every place of detention.	Paragraph 33	<p><u>Government</u></p> <ul style="list-style-type: none"> The Judicial system is yet to be digitalised. However, due to the COVID 19 pandemic, virtual court hearings have been introduced with support from the UNDP. Additionally, with support from Gambia Bureau of Statistics a centralized prisons database has been created including data on persons detained in the prisons. However, plans are ongoing to extend the database to other security agencies that have detention powers.. <p><u>Other</u></p> <ul style="list-style-type: none"> In 2019, an international consultant visited the Gambia to assess the challenges faced in the courts and to identify possibility of using digital court transcription to expedite court processes. The judicial system is yet to be digitalized. There is yet no digital registry of prisoners in The Gambia. 	The Working Group notes that virtual court hearings have been introduced as a consequence of the Covid 19 pandemic. The Working Group encourages the Government to capitalize on this experience to expend the digitalization of the judicial system.
Reparations and memory			
86. With regard to reparations and memory: (a) Develop, as a matter of urgency, a reparations policy considering the specific needs of women and children and make adequate provisions for it.	Paragraph 65, 67,68	<p><u>Government</u></p> <ul style="list-style-type: none"> Reparations Policy and Regulations have been developed <p><u>IHRDA</u></p> <ul style="list-style-type: none"> This has been adopted and the TRRC is encouraging victims to come forward to seek reparations. <p><u>Other</u></p> <ul style="list-style-type: none"> Section 13(a)(ii) of the TRRC Act requires the Commission “to respond to the needs of victims.” A Reparations Policy has been developed by the TRRC Reparations. Committee as a document that will guide the development of the reparations regulations. In addition, urgent interim measures are being applied in respect of urgent cases that warrant immediate remedial action, for 	The Working Group notes with satisfaction that a reparation policy has been developed pursuant to the TRRC ACT and that tailored support services have been provided to victims who have sought support. Once more the Working Group hopes that these measures will continue beyond the TRRC mandate.

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86. (b) Create a system of professional and victim-oriented psychosocial assistance for the relatives of the disappeared in relation to the physical, mental and economic consequences resulting from the absence of the disappeared, in particular in the context of the transitional justice mechanisms.		<p>example: health care is provided for victims and education support for children of victims (TRRC Interim Report, Paras 38, 40, Page 15). TRRC officials reported that where interim support is provided to a victim's family, it takes into consideration their specific needs, for example, paying school fees for victim's children.</p> <p><u>Government</u></p> <ul style="list-style-type: none"> The victim support unit of the TRRC provided medical and psychosocial support to victims. <p><u>UNDP</u></p> <ul style="list-style-type: none"> The Victim Support Unit of the TRRC provides medical and psychosocial support to victims, with funds from the Victim Participation Support Fund (under the UNDP-OHCHR TJHR Project). <p><u>IHRDA</u></p> <ul style="list-style-type: none"> The TRRC has a psychosocial unit which provides assistance to victims in need of their service. <p><u>Other</u></p> <ul style="list-style-type: none"> In addition to the TRRC, a number of organizations provide psychosocial support (PSS) to victims and their families. The TRRC's Victim's Support Unit (VSU) provides different support for victims to enable active participation and inclusion of all victims of human rights violations and abuses. By the end of 2019, the VSU had engaged with 941 victims of various kinds of human rights violations and abuses. A PSS unit was also established under the VSU which focuses on providing holistic therapy support to individuals, groups and families within the TRRC process. In 2019, the PSS unit supported 156 victims/witnesses including perpetrators. Four witnesses declined to have PSS (Source: TRRC report, para. 91). The TRRC has been facilitating the provision of medical support for victims either in the Gambia or overseas and also gives 	The Working Group welcomes efforts made to provide psychological support to victims. It hopes that the schemes established under the TRRC Victim Support Unit will continue beyond the expiration of its mandate and that adequate funding will be allocated for its good functioning.

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		allowances for Doctors carrying out this task. Civil society organisations are also providing support to victims.	
86. (c) Establish mechanisms that provide for social allowances.		<p><u>Government</u></p> <ul style="list-style-type: none"> The Gambia has established a National Social Protection Secretariat with a view to implementing the Social Protection support to vulnerable families through the provision of monetary allowances and foodstuff. <p><u>Other</u></p> <ul style="list-style-type: none"> The TRRC provides social support to victims ranging from rent payment, food and transport allowances. Currently, the TRRC has employed four (4) victims through which the TRRC provides reparations support to them. 	The Working Group welcomes the establishment of a National Social Protection Secretariat.
86. (d) Provide support for civil society remembrance initiatives, including for their proper maintenance through public funds.	Paragraph 69	<p><u>Government</u></p> <ul style="list-style-type: none"> No action taken <p><u>Other</u></p> <ul style="list-style-type: none"> The only initiative in place for now in relation to civil society remembrance is the building of a Gambia Press Union (GPU) Media Centre to remember journalists that suffered human rights violations during Jammeh's regime and those that actually lost their lives. 	The Working Group also reiterates the recommendation made to provide support to civil society remembrance initiatives (A/HRC/39/46/Add.1, para 86.d).
86. (e) Consider erecting national and local monuments and establish commemoration days aimed specifically at remembering disappeared persons.		<p><u>Government</u></p> <ul style="list-style-type: none"> The status quo remains the same pending the outcome of the TRRC hearings <p><u>UNDP</u></p> <p>No action taken.</p> <p><u>ANEKED</u></p> <ul style="list-style-type: none"> ANEKED has worked towards establishing a permanent memorialization center in The Gambia called Memory House. Memory House would be the first of its kind in the country where portraits of victim families and personal items belonging to the disappeared will be showcased. 	The Working Groups regrets that official memorial sites are yet to be established in the Gambia to commemorate the numerous victims of human rights violations. It calls on the Government to establish memorial sites and allocate appropriate funds for the memorialization initiatives. The Working Group also reiterates the recommendation made to provide support to civil society remembrance initiatives. This may also be

Recommendations A/HRC/39/46/Add.1	Situation during the visit A/HRC/39/46/Add.1	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		<p><u>Other</u></p> <ul style="list-style-type: none"> Measures taken/current situation: In October 2020, civil society presented a policy brief to the Minister of Justice, the TRRC and victims' organizations and communities in which it highlighted calls for national reconciliation and memorialization initiatives in The Gambia, including erection of peace gardens, regional monumental projects and rehabilitation of public structures such as hospitals – which will serve different communities. The TRRC Executive Secretary and the Deputy Chair of the Reparations Committee, shared plans for 'monuments' in different parts of the country to commemorate victims of human rights violations during Jammeh's regime. For example, there is an intention of having a monument in the Red Cross building to remember and commemorate the April 10/11, 2000 students' massacre. 	<p>considered in the context of international partnerships.</p>
<p>86. (f) Promote national dialogue through community workshops in the different regions of the Gambia and in schools.</p>	<p>Paragraph 42</p>	<p><u>Government</u></p> <ul style="list-style-type: none"> The TRRC has been engaged in promoting community sensitisation and dialogue workshops nationwide. In addition, the CSOs in complimenting Government's efforts have all been actively engaged in promoting national dialogues through community sensitisation and also through the print and electronic media outlets <p><u>IHRDA</u></p> <ul style="list-style-type: none"> TRRC holds community meetings and competitive events such as poetry and art competitions at regular intervals. <p><u>Other</u></p> <ul style="list-style-type: none"> As stipulated in the Interim Report, the TRRC's Youth and Children's Network Coordinator (YCNU) held at least 50 outreach activities targeting young adults and school children in communities and schools across the country during the period under review. From September 2018 up to the end of July 2019, the TRRC visited 55 schools and estimation of 45,000 were engaged. Similarly, it has conducted a series of outreach 	<p>The Working Group welcomes efforts made jointly by Government and non-governmental actors to promote national dialogue.</p>

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		<p>programs and workshops as a form of sensitization for the public to be aware of the TRRC process and its mandate while reaching out to many victims. Other CSOs have also engaged in community dialogue, outreach and sensitization workshops on the TRRCs role, mandate and purpose. However, challenge with accessibility to a number of places has resulted in difficulties in reaching some communities. In addition, there are many who have blind and strong faith in the former President and believe that all accountability measures are purposed to tarnish his reputation.</p>	
<p>86. (g) Include human rights in educational institutions at all levels, and in police and military training centres.</p>	<p>Paragraph 59</p>	<p><u>Government</u></p> <ul style="list-style-type: none"> Measures to include human rights in educational institutions at all levels are yet to be take. However, in accordance with the Gambia's UPR report following the ratification of the CAT, the training modules for security services are in the process of being reviewed to incorporate procedures to document torture. <p><u>IHRDA</u></p> <ul style="list-style-type: none"> Human Rights training are organised occasionally for Police and National Intelligence Agency. <p><u>Other</u></p> <ul style="list-style-type: none"> In January 2019 a Civil society organisation in collaboration with the West Africa Office of the UN High Commissioner for Human Rights (OHCHR) in Dakar, with funding from the Dutch Embassy in Dakar, Senegal held a two-day training on human rights for personnel of The Gambia Police Force. In September 2019, the National Human Right Commission (NHRC) rolled out a three days training programme on the promotion and protection of human rights for 30 police officers. This training was supported by the UNDP and was aimed at building the capacity of the Police officers in the execution of their duties and on various areas ranging from public order management, mandate, powers, and limitation of NHRC and international police standards amongst others. The deep culture 	<p>The Working Group welcomes initial steps taken to provide human rights training to police and national intelligence services. It calls on the Government of the Gambia to step up its efforts to mainstream human rights training for police forces, intelligence personnel as well as the military.</p>

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		<p>of impunity that was entrenched in The Gambia exacerbated lack of respect for human rights and fundamental freedoms and eroded the professionalism of state actors, including the police. As such, there is still need for capacity building and training workshops on international instruments and legal standards on how to fight against impunity for enforced disappearance and extra-judicial killings in the Gambia, targeting different stakeholders, including CSOs.</p>	
<p>87. The Working Group recommends that the international community support the Gambia in this transition period, notably through the provision of technical assistance, capacity-building and training in all relevant aspects of the transitional justice process.</p>	<p>Paragraph 11, 12</p>	<p><u>Government</u></p> <ul style="list-style-type: none"> • Same as 73 <p><u>IHRDA</u></p> <ul style="list-style-type: none"> • All sectors involved in the transitional justice process have received assistance from the international community notably UN agencies, EU, International Idea, ICTJ, International Coalition of Sites of Conscience, etc. <p><u>Other</u></p> <ul style="list-style-type: none"> • As stated above, such support is in place. It would be essential for this support mechanism to continue at the end of the TRRC's mandate, in order to ensure effective implementation of the TRRC's anticipate recommendations and accountability for the human rights violations and abuses that were committed. 	<p>The Working Group commends the Gambia international partner for their support in the process and hope such efforts will continued moving forward</p>