



International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

Concluding observations on the report submitted by the Gambia under article 29 (1) of the Convention*

1. The Committee on Enforced Disappearances considered the report submitted by the Gambia under article 29 (1) of the Convention¹ at its 515th and 516th meetings,² held on 18 and 19 March 2025. At its 530th meeting, held on 28 March 2025, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the report submitted by the Gambia in 2021 under article 29 (1) of the Convention, which was prepared in accordance with the Committee's reporting guidelines, and thanks the State Party for its written replies,³ submitted in February 2025, to the list of issues prepared by the Committee.⁴

3. The Committee appreciates the constructive dialogue that it held with the high-level delegation of the State Party on the measures taken to implement the Convention, and welcomes the openness with which the delegation responded to the questions posed. It thanks the State Party for the oral responses provided during the dialogue and for the additional information given in writing thereafter.

B. Positive aspects

4. The Committee welcomes the State Party's ratification of or accession to all the United Nations human rights treaties, almost all the Optional Protocols thereto,⁵ and the Rome Statute of the International Criminal Court. The State Party has accepted the jurisdiction of several regional human rights mechanisms, including the African Commission on Human and Peoples' Rights and the Court of Justice of the Economic Community of West African States.

5. The Committee welcomes the progress made by the State Party in areas relevant to the Convention, including:

(a) The creation of the Panel on Missing Persons, a specialized police unit, in February 2017 to receive and document reports of disappeared persons during the regime of the former President, Yahya Jammeh;

* Adopted by the Committee at its twenty-eighth session (17 March–4 April 2025).

¹ [CED/C/GMB/1](#).

² See [CED/C/SR.515](#) and [CED/C/SR.516](#).

³ [CED/C/GMB/RQ/1](#).

⁴ [CED/C/GMB/Q/1](#).

⁵ The Gambia has not ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.



(b) The adoption of the National Human Rights Commission Act in 2017 and the subsequent establishment of the Commission, operational since February 2019 and accredited with A status in 2022;

(c) The adoption of the Truth, Reconciliation and Reparations Commission Act in 2017, the establishment of the Commission in 2018, and the publication of its report in 2021;

(d) The adoption of the Access to Information Act in 2021 and the establishment of the Information Commission in 2024;

(e) The publication of the white paper on the report of the Truth, Reconciliation and Reparations Commission in 2022 and the five-year plan for the implementation of the Commission's recommendations (2023–2027);

(f) The adoption of the Gambia Anti-Corruption Act in 2023;

(g) The adoption of the Mutual Legal Assistance in Criminal Matters Act in 2023;

(h) The adoption of the Victims Reparations Act in 2023 and the establishment of the Victim Reparations Commission and the Reparations Fund;

(i) The adoption of the Prevention of Torture Act in 2023;

(j) The adoption of the Special Accountability Mechanism Act in 2024, to provide a comprehensive framework for prosecuting serious human rights violations identified by the Truth, Reconciliation and Reparations Commission;

(k) The adoption of the Special Prosecutor's Office Act in 2024;

(l) The creation of the Special Criminal Division of the High Court in 2024, to prosecute cases identified by the Special Prosecutor's Office as involving crimes;

(m) The creation of the Special Tribunal for the Gambia, a hybrid court approved by the Economic Community of West African States through an agreement in December 2024, to prosecute gross human rights violations committed during the Jammeh regime;

(n) The creation of the task force on enforced disappearance in May 2024, whose secretariat is the Post-Truth, Reconciliation and Reparations Commission Unit of the Ministry of Justice.

C. Principal subjects of concern and recommendations

6. The Committee notes with appreciation the initiation in 2017 of the State Party's democratic transition, and commends the State Party for its engagement in promoting the implementation of the Convention. In the present concluding observations, the Committee conveys its concerns and recommendations in a constructive and cooperative spirit to ensure that the legislation and practice in force in the State Party fully comply with the Convention. In this regard, the Committee invites the State Party to take advantage of the ongoing discussions on various bills in areas relevant to the Convention to follow up on the Committee's recommendations.

1. General information

Applicability of the Convention

7. The Committee notes the State Party's dualistic legal system, under which international obligations must be incorporated into domestic legislation in order to be applicable, and regrets that the Convention has not yet been incorporated into domestic legislation. It also regrets that no decisions have been issued by courts in which the provisions of the Convention have been invoked. Moreover, the Committee notes with

concern that the rules for the incorporation of ratified international human rights treaties into domestic legislation remain unclear (arts. 1, 4 and 12).⁶

8. The Committee calls upon the State Party to incorporate the Convention into domestic legislation and ensure that its provisions are directly invoked before and applied by national courts or other competent authorities. It also invites the State Party to provide systematic training for judges, prosecutors and lawyers about the Convention, including its scope and direct applicability.

Constitutional and legislative reforms

9. The Committee acknowledges the ongoing efforts of the State Party to harmonize the national legislation with the Convention, including its commitment to finalizing the bill on enforced disappearance by 2026, which, according to the delegation of the State Party, would ensure a comprehensive approach to the offence of enforced disappearance. It also notes the information provided during the dialogue concerning the bill on the promulgation of the Constitution of the Republic of the Gambia, which is before the National Assembly pending second reading; the bills on criminal offences and criminal procedure, which are before the National Assembly at the consideration stage; and the bill on international crimes, which has yet to be resubmitted to the National Assembly. In this connection, the Committee is concerned about the compliance of the legislative reforms with the Convention, the delays in concretizing these reforms, and the coherence between the amended criminal legislation and the bill on enforced disappearance once signed into law.

10. The Committee urges the State Party to accelerate the constitutional and legislative reforms related to the Convention, and to ensure that the bill on enforced disappearance, once signed into law, and the amendments to the Constitution, the Criminal Code, and the Code of Criminal Procedure are compliant with the Convention.

National human rights institution

11. The Committee welcomes the broad mandate of the National Human Rights Commission, and notes that the Commission received a complaint concerning one disappeared person in 2020. The Committee notes the role of the Commission in monitoring the implementation of the recommendations of the Truth, Reconciliation and Reparations Commission, and the awareness-raising activities on the Convention carried out in the central and upper river regions. Nevertheless, the Committee is concerned about the insufficient funding and resources of the National Human Rights Commission.

12. The Committee recommends that the State Party strengthen the National Human Rights Commission by ensuring that it has the financial, technical and human resources necessary to carry out its mandate effectively, in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), including in relation to enforced disappearance. It also recommends that the State Party raise awareness of the existence of the Commission's complaints mechanism.

Individual and inter-State communications

13. The Committee notes the State Party's assertion that it is considering the possibility of recognizing the Committee's competence to receive and consider individual and inter-State communications. However, it regrets that the State Party has not specified any time frame for that purpose (arts. 31 and 32).

14. The Committee invites the State Party to make the declarations necessary, without delay, to recognize the Committee's competence to receive and consider individual and inter-State communications under articles 31 and 32 of the Convention respectively.

⁶ [A/HRC/39/46/Add.1](#), para. 29; and [A/HRC/45/45/Add.3](#), para. 14.

Stakeholders' involvement in the preparation of the report

15. The Committee notes that the State Party's report was prepared by the Interministerial Task Force on Treaty Body Reporting, under the supervision of the Ministry of Justice, and in consultation with the relevant ministries, government entities and civil society organizations. It also notes that, according to the delegation of the State Party, the selection of the civil society organizations involved in the preparation of the report is made through the Association of Non-Governmental Organizations in the Gambia. Nevertheless, the Committee notes the lack of a standardized procedure to ensure the inclusiveness of such processes (art. 24).

16. The Committee recommends that the State Party ensure the inclusive participation of civil society organizations, in particular all those working in the area of enforced disappearance and human rights protection, in the whole cycle of reporting to the Committee, and ensure that they are regularly consulted and informed about all matters relating to the implementation of the Convention.

2. Definition and criminalization of enforced disappearance (arts. 1–7)

Non-derogability of the prohibition of enforced disappearance

17. The Committee notes that the Constitution (sects. 34–36) permits derogation from certain rights during public emergencies. However, the Committee regrets the lack of a legal provision explicitly stating that the prohibition of enforced disappearance may not be derogated from or restricted on the basis of exceptional circumstances (art. 1).

18. The Committee recommends that the State Party expressly incorporate the absolute prohibition of enforced disappearance into national legislation, in accordance with article 1 (2) of the Convention, and ensure that no exceptional circumstances may be invoked to justify enforced disappearance.

Statistical information and national register

19. The Committee takes note of the list provided by the Truth, Reconciliation and Reparations Commission of cases of enforced disappearance under the Jammeh regime, and notes the affirmation by the delegation of the State Party that no cases of enforced disappearance have been reported in the State Party since 2017. However, the Committee regrets the absence of a database containing disaggregated data on disappeared persons (arts. 1–3, 12 and 24).

20. The Committee recommends that the State Party establish a national register of disappeared persons, including all the information related to cases of enforced disappearance that was gathered by the Truth, Reconciliation and Reparations Commission, and data on persons disappeared since the end of the Jammeh regime. The register should include the date, context and circumstances of the disappearance, the number of disappeared persons who have been located, whether alive or deceased, and the number of cases in which there may have been some form of State involvement in the disappearance within the meaning of article 2 of the Convention, including disappearance in the context of migration and trafficking. The register must enable the State Party to generate accurate and up-to-date statistical information, disaggregated by sex, age, gender identity, sexual orientation, nationality and racial, ethnic or religious origin.

Offence of enforced disappearance

21. The Committee welcomes the State Party's commitment, as affirmed during the dialogue, to incorporating the offence of enforced disappearance into its national legislation in accordance with the Convention, and notes the State Party's plans to concretize it through the bill on enforced disappearance, which is expected to be signed into law soon. In that connection, the Committee stresses that enforced disappearance is not a series of different crimes such as murder, abduction and kidnapping, but rather a complex and single offence, and that only by criminalizing enforced disappearance as an autonomous offence

and as a crime against humanity as defined in applicable international law can the State Party fully comply with article 4 of the Convention (arts. 2, 4, 5, and 7).

22. The Committee urges the State Party to adopt the bill on enforced disappearance without delay, ensuring:

(a) **The incorporation of enforced disappearance into national legislation as an autonomous offence in accordance with the definition contained in article 2 of the Convention, and as a crime against humanity in accordance with article 5;**

(b) **The punishment of the offence of enforced disappearance with appropriate penalties that take into account the extreme seriousness of the offence, while excluding the death penalty;**

(c) **The inclusion in criminal legislation of the specific mitigating and aggravating circumstances set out in article 7 (2) of the Convention.**

Criminal responsibility of superiors and due obedience

23. The Committee regrets that current criminal legislation does not provide for the responsibility of superiors under the conditions set out in the Convention and does not expressly provide that due obedience may not be invoked to justify enforced disappearance (art. 6).

24. The Committee urges the State Party to incorporate into national legislation the criminal responsibility of superiors, and to ensure that no order or instruction from any public authority – civilian, military or other – may be invoked to justify an offence of enforced disappearance and that subordinates who refuse to obey an order to commit enforced disappearance will not be punished, in accordance with article 6 (1) (b) and (2) of the Convention.

3. Judicial procedure and cooperation in relation to enforced disappearance (arts. 8–15)

Statute of limitations

25. The Committee welcomes the information provided by the State Party according to which the bill on enforced disappearance establishes the non-applicability of a statute of limitations. It also notes that there is no statute of limitations for initiating criminal proceedings for the crimes that may be invoked, such as murder, kidnapping or abduction, to deal with allegations of enforced disappearance. The Committee regrets, however, the absence of specific legal provisions regulating the statute of limitations for crimes of a continuous nature, such as enforced disappearance (art. 8).

26. The Committee recommends that the State Party accelerate the adoption of the bill on enforced disappearance, ensuring, in accordance with article 8 of the Convention, that any statute of limitations applied to enforced disappearance as an autonomous offence is of long duration and proportionate to the extreme seriousness of the offence and that, given the continuous nature of the offence, it commences from the moment when the offence ceases.

Jurisdiction over enforced disappearance

27. The Committee regrets the absence of a legal provision establishing the State Party's jurisdiction when an alleged perpetrator of an offence of enforced disappearance committed abroad is present in its territory and is not extradited or surrendered to another State or surrendered to an international criminal tribunal, and when neither the alleged perpetrator nor the victims are Gambian nationals (art. 9).

28. The Committee recommends that the State Party establish the competence of the national courts to exercise jurisdiction over cases of enforced disappearance in accordance with the obligations arising from article 9 of the Convention.

Prevention of acts that may hinder the progress of investigations

29. The Committee notes that one of the goals of the Judiciary Strategic Plan (2021–2025) is to strengthen the independence of the judiciary and its autonomy. It also notes the State Party's efforts to ensure that more Gambian nationals are members of the judiciary, and the information provided by the delegation of the State Party that two sitting magistrates are being prosecuted in the State Party in relation to corruption. However, the Committee is concerned about the backlog of criminal cases, the lack of adequate remuneration and pension for judges and the delays in enacting the bill on the remuneration and other entitlements of judicial officers (arts. 11 and 12).

30. **The Committee seconds the recommendation of the Human Rights Committee⁷ that the State Party strengthen the independence and impartiality of the judiciary, including by enacting the bill on the remuneration and other entitlements of judicial officers, and that it reduce the backlog of court cases and ensure that trials take place within a reasonable time. In addition, the State Party should allocate adequate resources to implementing the Judiciary Strategic Plan (2021–2025).**

Military jurisdiction

31. While taking note of the information provided during the dialogue that military courts do not have the competence to investigate and prosecute allegations of enforced disappearance, the Committee is concerned about the insufficiency of information on legal provisions to sustain this affirmation (art. 11).

32. **Recalling its statement on enforced disappearance and military jurisdiction,⁸ the Committee recommends that the State Party ensure that the investigation and prosecution of cases of enforced disappearance are expressly excluded from the competence of military courts and fall within the exclusive competence of the ordinary criminal courts on the basis of clear legislative provisions in that regard.**

Search and investigation

33. The Committee notes that, according to the information received, the multi-stakeholder task force on enforced disappearance, under the Ministry of Justice, is mandated to coordinate search efforts, conduct investigations, manage remains and address victims' rights. It also notes that the police is responsible for investigating criminal cases, including allegations of enforced disappearance, that the prosecution in such cases is undertaken by the Ministry of Justice, that the Panel on Missing Persons within the police is tasked with receiving and documenting reports of disappeared persons and identifying and exhuming remains, and that the Special Tribunal for the Gambia will support the participation of victims and the search for truth. The Committee further notes the State Party's affirmation during the dialogue that no complaints of enforced disappearance have been received in the State Party since 2017. Nevertheless, the Committee regrets:

(a) The absence of a global strategy to search for all disappeared persons and to prosecute allegations of enforced disappearance;

(b) The lack of clarity as to whether a search is initiated immediately, and the lack of information regarding the search for persons whose disappearance may have occurred before or after the Jammeh regime;

(c) The insufficient legal framework to ensure that any alleged enforced disappearance is investigated ex officio, even if no formal complaint has been submitted;

(d) The lack of information concerning the outcomes of the task force on enforced disappearance;

(e) The lack of clarification about the division of tasks between search and investigation authorities, on the coordination mechanisms that exist between them and on the way in which the competent authorities inform the relatives of disappeared persons

⁷ CCPR/C/GMB/CO/2, para. 38.

⁸ A/70/56, annex III.

about and facilitate their participation in the search and investigation processes (arts. 12 and 24).

34. **The Committee recommends that the State Party, in accordance with the Guiding Principles for the Search for Disappeared Persons:**⁹

(a) **Develop and carry out comprehensive search strategies, ensuring that all persons who have disappeared and whose fate is not yet known are searched for and located, including persons disappeared after the end of the Jammeh regime, and that, in the event of death, their remains are identified, treated with respect and returned to their families;**

(b) **Ensure that all allegations of enforced disappearance, including those occurring after the end of the Jammeh regime, are investigated promptly, thoroughly, effectively and impartially, even in the absence of a formal complaint, and with due diligence at all stages of the process;**

(c) **Carry out all investigations, prosecutions and judicial proceedings with due regard for the complexity of the offence of enforced disappearance, the context in which they 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;**¹⁰

(d) **Ensure that the alleged perpetrators are prosecuted and, if found guilty, punished in accordance with the seriousness of the offence, and that victims are provided with full reparation and appropriate protection and assistance;**

(e) **Guarantee that investigations continue until the fate of the disappeared person has been clarified and that the relatives of disappeared persons are regularly informed of the progress and results of the search and investigation and can participate in the proceedings if they so wish;**

(f) **Collect, systematize and publish reliable and up-to-date statistical information on the number of complaints of enforced disappearance lodged;**

(g) **Ensure effective coordination between the competent authorities in the search for disappeared persons, investigation and identification of remains, including the task force on enforced disappearance, the police, the Ministry of Justice, the Panel on Missing Persons, the Special Prosecutor's Office and the judiciary, and guarantee that they have the appropriate financial, technical and human resources to duly carry out their work.**

Transitional justice

35. The Committee welcomes the acceptance by the State Party of 263 out of the 265 recommendations made by the Truth, Reconciliation and Reparations Commission and its commitment to implement them within a five-year time frame. It also welcomes the establishment of the Special Accountability Mechanism for the investigation and prosecution of serious human rights violations committed between July 1994 and January 2017, including enforced disappearance, and notes that the Mechanism comprises the Special Prosecutor's Office, the Special Criminal Division of the High Court and the Special Tribunal for the Gambia. It also notes that the Gambia Armed forces and the police established a joint team to investigate the activities of a paramilitary death squad known as "the Junglers". In addition, the Committee notes the convictions of Yankuba Touray, in connection with the murder of Ousman Koro Ceesay, and nine high-ranking officials of the former National Intelligence Agency, in connection with the death of Ebrima Solo Sandeng. It further notes that, according to the delegation of the State Party, the archives of the former National Intelligence Agency have been accessible to the Truth, Reconciliation and Reparations Commission since 2017. Nevertheless, it regrets the lack of progress in the investigation and prosecution of most of the perpetrators responsible for enforced

⁹ CED/C/7.

¹⁰ A/HRC/48/57/Add.1, sect. II, para. 17.

disappearance that occurred during the Jammeh regime, including the cases identified by the Truth, Reconciliation and Reparations Commission. Furthermore, it is concerned about the lack of resources for setting up the Special Prosecutor's Office and the Special Tribunal and making them fully operational (arts. 2, 12 and 24).

36. **The Committee, supporting the recommendations of the Human Rights Committee,¹¹ recommends that the State Party ensure that all cases of enforced disappearance committed under the Jammeh regime are investigated without delay and that all perpetrators are prosecuted and, if convicted, punished with penalties commensurate with the gravity of the offences. In that context, the State Party should speed up the full operationalization of the Special Prosecutor's Office and the Special Tribunal for the Gambia and guarantee them sufficient resources to carry out their mandates.**

Suspension from duties

37. The Committee regrets allegations received that individuals accused of perpetrating or enabling human rights violations, including enforced disappearance, continue to work within civil and security services.¹² It further notes with concern that the State Party did not provide sufficient information on the measures taken to ensure that persons suspected of involvement in the commission of enforced disappearance cannot participate in the investigation thereof (art. 12).

38. **The Committee recommends that the State Party guarantee that those suspected of having committed or taken part in the commission of enforced disappearance are not in a position to influence the progress of an investigation. In this regard, the State Party should ensure that State officials suspected of involvement in the commission of enforced disappearance are suspended from their duties from the outset and for the duration of the investigation without prejudice to the presumption of innocence. The Committee seconds the recommendation by the Working Group on Enforced or Involuntary Disappearance¹³ that the State Party apply a zero-tolerance policy for personnel accused of having taken part in human rights violations, and that human rights vetting be conducted of all personnel in the security sector, including police, military and intelligence services.**

Protection of persons who report or who participate in the investigation of enforced disappearance

39. The Committee notes the information provided during the dialogue that the Special Prosecutor's Office and the Special Tribunal for the Gambia will be responsible for making arrangements for the protection of victims and witnesses. However, it regrets the lack of existing mechanisms to protect complainants, witnesses, relatives of the disappeared person and their defence counsel, and all those participating in the investigation, considering in particular the risks faced by victims identified by the Truth, Reconciliation and Reparations Commission (arts. 12 and 24).

40. **The Committee recommends that the State Party establish mechanisms, including a structured programme, to ensure that all the persons referred to in article 12 (1) of the Convention are effectively protected from any ill-treatment or intimidation as a consequence of submitting a complaint or taking part in search or investigation processes.**

Mutual legal assistance

41. The Committee welcomes the convictions of Ousman Sonko, the former Minister of the Interior, and Bai Lowe, a driver for the Junglers, by courts in Switzerland and Germany in 2023 and 2024 respectively, for crimes against humanity, and of Michael Sang Correa, an alleged member of the Junglers, by a court in the United States of America in

¹¹ [CCPR/C/GMB/CO/2](#), para. 24 (b).

¹² [A/HRC/48/57/Add.1](#), sect. II, para. 7.

¹³ *Ibid.*

2025, for torture. In this connection, the Committee notes with satisfaction the State Party's cooperation in these proceedings to combat impunity. However, the Committee observes with concern that, since enforced disappearance is not criminalized in national legislation, the assistance requested of the State Party would not be provided in cases of enforced disappearance, owing to the requirement of reciprocity contained in the Mutual Legal Assistance in Criminal Matters Act (arts. 13–15).

42. The Committee recommends that, once enforced disappearance has been established as a stand-alone offence in national legislation, the State Party should include the offence among those subject to extradition in any existing or future legislation on extradition. Furthermore, the State Party should continue to contribute to strengthening its cooperation with the judicial authorities of other countries, with a view to facilitating the sharing of information and evidence, searching for and identifying disappeared persons, conducting investigations and bringing those responsible to justice. The State Party should also implement mechanisms for cooperation and mutual legal assistance whenever it receives requests from other States Parties under articles 14 and 15 of the Convention.

4. Measures to prevent enforced disappearance (arts. 16–23)

Non-refoulement

43. The Committee notes the information provided on the extradition procedure, including the restrictions on extradition under section 7 of the Extradition Act, and the deportation procedure as explained by the delegation of the State Party. Nonetheless, it is concerned about:

(a) The absence of a legal provision that includes the risk of enforced disappearance as a basis for prohibiting the expulsion, return, surrender or extradition of a person to another State, and the lack of specific information as to the criteria and procedures applied to assess this risk;

(b) The absence of clear information as to whether an appeal may be lodged against a decision authorizing expulsion, return, surrender or extradition, and whether such an appeal has a suspensive effect (art. 16).

44. The Committee recommends that the State Party ensure systematic and strict respect for the principle of non-refoulement. In that regard, the State Party should:

(a) **Consider explicitly prohibiting, in its domestic legislation, any expulsion, return, surrender or extradition when there are substantial grounds for believing that the person concerned may be in danger of being subjected to enforced disappearance, adopt clear criteria and procedures for assessing and verifying this risk and, where there is such a risk, ensure that the person concerned is not expelled, returned, surrendered or extradited;**

(b) **Guarantee that any decision authorizing expulsion, return, surrender or extradition may be appealed and that such an appeal has a suspensive effect.**

Enforced disappearance in the context of trafficking in persons and migration

45. The Committee is concerned about the lack of progress in the search and investigation of those responsible for the killing and enforced disappearance of more than 50 West African migrant victims in 2005. It is also concerned about worrying allegations related to trafficking, particularly in women and children, for the purposes of forced labour and sexual exploitation.¹⁴ In that context, the Committee regrets that the State Party did not provide detailed information on the measures taken to prevent disappearance in the context of migration and trafficking and to prosecute perpetrators of such crimes (arts. 12, 14–16 and 24).

¹⁴ [CRC/C/GMB/CO/4-7](#), para. 43; and [CEDAW/C/GMB/CO/6](#), para. 23 (a).

46. **Recalling its general comment No. 1 (2023) on enforced disappearance in the context of migration, the Committee recommends that the State Party:**

(a) **Ensure that all allegations of disappearance in the context of trafficking in persons and migration are thoroughly investigated, taking into account that the alleged acts may constitute enforced disappearance;**

(b) **Guarantee that those responsible are prosecuted and, if found guilty, are sentenced appropriately, and that victims are provided with full reparation and appropriate protection and assistance;**

(c) **Strengthen mutual legal assistance to prevent the disappearance of persons in the context of trafficking in persons and migration, facilitate the exchange of information and evidence for search and investigation and provide support services to disappeared persons and their relatives.**

Secret detention and fundamental legal safeguards

47. The Committee notes that section 19 of the Constitution enshrines fundamental legal safeguards for persons deprived of liberty. It also notes that, according to sections 37 and 133 of the Constitution, the High Court is competent for habeas corpus in cases of arbitrary detention, which may be invoked by other persons on behalf of the detained person. In addition, the Committee notes that the National Human Rights Commission conducts unannounced monitoring visits to places of detention. Nonetheless, the Committee is concerned about:

(a) The lack of a legal provision prohibiting secret or unofficial detention;

(b) The insufficient information on the legislative provisions that guarantee, from the outset of the deprivation of liberty, access to a lawyer, visits and, in the case of foreign nationals, communication with their consular authorities;

(c) Section 19 of the Constitution, which provides that an individual who has been arrested or detained must be brought before a court within 72 hours, and sections 53 and 56 of the Prisons Act, which do not comply with the safeguards contained in article 17 of the Convention;

(d) The limited provision of free legal aid, which is available only for persons arrested on capital charges;

(e) The absence of information, figures and results of habeas corpus in cases of arbitrary detention;

(f) Reports of prolonged pretrial detention,¹⁵ owing to delays in trials and the conclusion of criminal cases and to inefficiencies of the justice system given that court procedures have not yet been digitalized, as explained by the delegation of the State Party during the dialogue;

(g) The lack of ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (arts. 17 and 18).

48. **The Committee recommends that the State Party:**

(a) **Expressly prohibit secret detention in national legislation and ensure that, at all stages of proceedings, persons deprived of their liberty are held solely in officially recognized and supervised places of deprivation of liberty;**

(b) **Review national legislation, including the Constitution and the Prisons Act, and guarantee that all persons deprived of liberty, regardless of the place of deprivation of liberty and of the offence of which they are accused, are afforded in law and in practice all the fundamental legal safeguards provided for under article 17 of the Convention from the outset of the deprivation of liberty;**

¹⁵ CCPR/C/GMB/CO/2, para. 31.

(c) **Ensure that persons arrested or detained on a criminal charge are brought promptly before a judge, within 48 hours; any delay longer than 48 hours must remain absolutely exceptional and be justified under the circumstances;**¹⁶

(d) **Strengthen the financial and human capacity of the National Agency for Legal Aid and expand the provision of free legal aid in all criminal cases;**¹⁷

(e) **Ensure that any person deprived of liberty is entitled to take proceedings before a court or, in the case of suspected enforced disappearance, where the person deprived of liberty is not able to exercise such a right, any person with a legitimate interest is afforded that entitlement, so that the court may decide without delay on the lawfulness of the deprivation of liberty and order the person's release if such deprivation of liberty is not deemed lawful;**

(f) **Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and establish a national preventive mechanism.**

Registers of persons deprived of liberty

49. The Committee welcomes the information provided during the dialogue concerning the establishment of a centralized database for the country's prisons (Mile 2, Jeshwang and Janjanbureh Prisons). Nevertheless, it is concerned about:

(a) The manual diaries kept in police stations to record arrests and detentions, the manual register of judicial proceedings, and the absence of interoperability of the centralized prisons database with other registers of persons deprived of liberty;

(b) The fact that the registers of deprivation of liberty do not contain all the information enumerated in article 17 (3) of the Convention, and the lack of information on registration procedures in other places of deprivation of liberty, such as military or mental health institutions;

(c) The insufficient measures taken to ensure that registers are completed as soon as a person is deprived of liberty and are updated as necessary, including with regard to transfers from police stations to prisons;

(d) The limited information on the practical application of the Access to Information Act to guarantee access to all the information listed in article 18 (1) of the Convention for any person with a legitimate interest and on the restrictions that may be imposed on access to such information (arts. 17, 18, 20 and 22).

50. **The Committee recommends that the State Party:**

(a) **Ensure the digitalization of the registers of police stations and the judicial system, and the interoperability of the registers of all places of deprivation of liberty, including the centralized prisons database, guaranteeing that they all contain, as a minimum, the information required under article 17 (3) of the Convention, and that all persons deprived of liberty are registered without exception and from the outset;**

(b) **Guarantee that information in the registers is filled out and updated promptly and accurately, including with regard to transfers, and is subject to periodic checks, and that, in the event of irregularities, the officers responsible are duly sanctioned;**

(c) **Ensure that any person with a legitimate interest, such as relatives of persons deprived of liberty or their representatives or counsel, has prompt access to all the information listed in article 18 (1) of the Convention, and guarantee the effective implementation of the Access to Information Act.**

¹⁶ Human Rights Committee, general comment no. 35 (2014), para. 33.

¹⁷ [CCPR/C/GMB/CO/2](#), para. 38.

Training

51. The Committee notes the training on the Convention received by the task force on enforced disappearance, and the training module for the security forces in 2024, which included a reference to the Convention. Moreover, the Committee notes that, according to the information provided during the dialogue, human rights and international humanitarian law are included in the training curriculum of the Gambia Armed Forces and in mandatory training for the police. Nonetheless, the Committee regrets the absence of specific and systematic training on the Convention and on enforced disappearance (art. 23).

52. The Committee recommends that the State Party ensure that all law enforcement and security personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody or treatment of any person deprived of liberty, including judges, prosecutors and other officials responsible for the administration of justice, receive specific and regular training on the Convention and on enforced disappearance, with periodic evaluation of the impact of this training. The Committee reminds the State Party that it is willing to support these efforts.

5. Measures to protect and guarantee the rights of victims of enforced disappearance (art. 24)

Definition of victim and rights to know the truth and to receive reparation and prompt, fair and adequate compensation

53. The Committee notes that, according to the information provided by the delegation of the State Party, the Truth, Reconciliation and Reparations Commission, as part of its interim reparations, has provided financial support to 1,009 victims, including West African migrants through their respective Governments, and over 2,000 victims have benefited from the Reparations Fund. It also notes that the definition of victim in the Victims Reparations Act is broad, including victims identified by the Truth, Reconciliation and Reparations Commission, and that the planned modalities of reparation are restitution, satisfaction, compensation, guarantees of non-recurrence, and rehabilitation. In addition, the Committee notes that the Victim Reparations Commission has a five-year mandate and comprises seven commissioners, including two representatives of victims' organizations. Nonetheless, it observes with concern:

(a) The fact that the Victims Reparations Act focuses only on victims of enforced disappearance committed during the Jammeh regime;

(b) The absence of a comprehensive system of compensation and reparation under the responsibility of the State for all persons who have suffered harm as a direct result of enforced disappearance;

(c) The lack of specific recognition in national legislation of the right of all victims to have access to the truth;

(d) The fact that the Victim Reparations Commission is not fully operational, and issues related to the human and financial resources allocated, including for the Reparations Fund;

(e) The need for a registry of victims and the lack of information on the criteria for access to reparation and whether there is a time limit for this purpose;

(f) The lack of information on the time frame to establish the peace and reconciliation commission that, according to the delegation, will deal with memorialization, and the fact that no official memorial sites have been created for the time being (art. 24).

54. The Committee recommends that the State Party:

(a) **Ensure that any individual who has suffered harm as a direct result of enforced disappearance has access to a system of full and adequate reparation that complies with article 24 (4) and (5) of the Convention, including not only compensation but also rehabilitation, satisfaction and guarantees of non-repetition, and that is adopted in full consultation with victims, and is based on a differentiated**

approach, taking into account a gender perspective and the specific needs of the victims;

(b) Recognize in national legislation the right of victims of enforced disappearance to know the truth, in accordance with article 24 (2) of the Convention;

(c) Operationalize the Victims Reparations Commission and the Reparations Fund, and allocate adequate funds for the administration of reparation and support to victims;

(d) Promote the universal registration of victims and guarantee that registration procedures are clearly communicated and accessible to all victims and are not time-bound;¹⁸

(e) Establish a long-term and sustainable memory preservation programme, in consultation and coordination with victims.

Legal situation of disappeared persons whose fate has not been clarified and that of their relatives

55. The Committee notes that under section 150 (1) of the Evidence Act, persons are presumed dead if they have not been seen or heard from for seven years, a provision that allows for the issuance of death certificates. It regrets that the State Party's system governing the legal situation of disappeared persons whose fate has not been clarified does not take sufficient account of the situation of social and economic vulnerability in which enforced disappearance places the families of disappeared persons. In this connection, the Committee notes with concern that a declaration of death is required in order for relatives of a disappeared person to obtain access to social services and family and property rights. It is also concerned about the lack of support for medical, psychological and rehabilitation assistance for victims (art. 24).

56. **The Committee recommends that the State Party review its national legislation to ensure that the legal situation of disappeared persons whose fate has not been clarified and that of their relatives are regularized in accordance with article 24 (6) of the Convention, in fields such as social welfare, financial matters, family law and property rights, within a reasonable period of time and without requiring that the disappeared person be declared dead. In this regard, the Committee encourages the State Party to provide, by law, for the issuance of declarations of absence, whatever the duration of the disappearance, and to develop a support programme for all victims of enforced disappearance, in order to provide guidance and legal, medical, psychological and financial support with a differential approach and adapted to the specific needs of the victim.**

Situation of women who are relatives of a disappeared person

57. The Committee recalls the discriminatory legal provisions and practices against women under the State Party's jurisdiction, particularly with regard to marriage, child custody, inheritance, burial, property rights and access to social benefits,¹⁹ and the potential negative impact of these limitations on women's enjoyment of the rights enshrined in the Convention. It is concerned about the difficulties in engaging the participation of women in the work of the Truth, Reconciliation and Reparations Commission, caused, inter alia, by fears of social stigmatization (art. 24).²⁰

58. **The Committee recommends that the State Party ensure that all women and girls who are victims of the disappearance of a relative are able to exercise all the rights enshrined in the Convention, and that it create safe spaces for their participation in all the relevant processes related to enforced disappearance.**

¹⁸ A/HRC/45/45/Add.3, para. 101 (j).

¹⁹ CEDAW/C/GMB/CO/6, para. 43 (c).

²⁰ A/HRC/48/57/Add.1, sect. II, para. 28.

Identification and dignified return of remains

59. The Committee notes the State Party's efforts to locate and identify disappeared persons, building on the work of the Truth, Reconciliation and Reparations Commission. It also notes the role of the task force on enforced disappearance, and that the Panel on Missing Persons within the police continues to conduct exhumations and identification of remains from unmarked graves. Nevertheless, the Committee is concerned about:

- (a) The lack of a strategy and protocols to register and preserve burial sites, including those in Tanji, Yundum and Kanilai;
- (b) The conduct of the exhumations and the chain of custody of the evidence in some cases;
- (c) The inadequate forensic capacity to properly conduct identification processes, as reflected in the insufficient expertise in forensics and crime scene investigations and the lack of laboratories and specialized technical equipment and resources;
- (d) The absence of a national database to store genetic data relating to all disappeared persons (arts. 12, 19 and 24).

60. The Committee urges the State Party:

- (a) **To develop a comprehensive strategy and plan for the search, identification, excavation and investigation of existing burial sites and the identification of new ones, as provided in the plan for the implementation of the recommendations of the Truth, Reconciliation and Reparations Commission (2023–2027), and ensure the preservation of the sites and the protection of the chain of custody of the samples taken;**²¹
- (b) **To strengthen the forensic capacity of the authorities with respect to the identification, safekeeping and dignified return of the bodies and human remains of disappeared persons identified to their families, including by ensuring the necessary human, technical and financial resources and adopting and implementing specialized guiding protocols;**
- (c) **To speed up the establishment of a genetic database to facilitate the identification of disappeared persons.**

6. Measures to protect children from enforced disappearance (art. 25)

Wrongful removal of children

61. The Committee welcomes the State Party's plans, according to the information received during the dialogue, to include in the bill on enforced disappearance specific provisions penalizing the wrongful removal of children, as provided for in article 25 (1) of the Convention. The Committee highlights the urgency of such a reform, especially in view of the information received that the majority of children under 5 years of age do not have birth certificates,²² and that children of non-Gambian parents and abandoned children living in the State Party do not have access to identification cards, which leaves children vulnerable to enforced disappearance, including in the context of trafficking (art. 25).

62. **The Committee recommends that the State Party incorporate without delay all the acts described in article 25 (1) of the Convention into its legislation as specific offences, establishing appropriate penalties that take account of their extreme seriousness. The State Party should prevent the disappearance of children by strengthening the birth registration system and ensuring the complete registration of the births of all children, with particular attention to children under 5 years of age, children of unmarried parents and children of non-Gambian parents.**²³

²¹ Ibid., para. 18.

²² [CRC/C/GMB/CO/4-7](#), para. 20.

²³ Ibid., para. 20 (c).

Adoption

63. While noting that the Children's Act establishes restrictions on and conditions of adoption and regulates intercountry adoption (sects. 110 and 111), the Committee is concerned about the lack of legal procedures for reviewing and, where appropriate, annulling any adoption, placement or guardianship of children that originated in enforced disappearance and for restoring a child's identity in this context. It is also concerned about the lack of rules governing so-called informal adoption, within extended families, the lack of a register of such adoptions and the lack of measures to monitor potential related risks (art. 25).

64. **The Committee recommends that the State Party harmonize its Criminal Code with article 25 (4) of the Convention and establish specific procedures for reviewing and, where appropriate, annulling any adoption, placement or guardianship of children that originated in enforced disappearance and for restoring the identity of the child concerned, taking into account the best interests of the child. Moreover, the Committee seconds the recommendation of the Committee on the Rights of the Child²⁴ that the State Party regulate so-called informal adoption and set up a mechanism to assess and monitor all forms of adoption that take place in the State Party.**

D. Fulfilment of the rights and obligations under the Convention, dissemination and follow-up

65. The Committee wishes to recall the obligations undertaken by States when becoming parties to the Convention and, in this connection, urges the State Party to ensure that all the measures that it adopts, irrespective of their nature or the authority from which they emanate, are in full accordance with the Convention and other relevant international instruments.

66. The Committee also wishes to emphasize the particularly cruel effect of enforced disappearance on women and children. Women who are subjected to enforced disappearance are particularly vulnerable to sexual and other forms of gender-based violence. Women who are relatives of a disappeared person are particularly likely to suffer serious social and economic disadvantages and to be subjected to violence, persecution and reprisal as a result of their efforts to locate their loved ones. Children who are victims of enforced disappearance, either because they themselves were subjected to disappearance or because they suffer the consequences of the disappearance of their relatives, are especially vulnerable to numerous human rights violations, including identity substitution. In this context, the Committee places special emphasis on the need for the State Party to ensure that gender issues and the specific requirements of women and children are systematically taken into account in implementing the recommendations contained in the present concluding observations and all the rights and obligations set out in the Convention.

67. The State Party is encouraged to widely disseminate the Convention, its report submitted under article 29 (1) of the Convention, the written replies to the list of issues drawn up by the Committee and the present concluding observations, in order to raise awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the State Party and the general public. The Committee also encourages the State Party to promote the participation of civil society, in particular organizations of victims, in the process of implementing the recommendations contained in the present concluding observations.

²⁴ Ibid., para. 29.

68. Under article 29 (3) of the Convention, the Committee requests the State Party to submit, by no later than 4 April 2028, specific and updated information on the implementation of all its recommendations and any other new information on the fulfilment of the obligations contained in the Convention. The Committee encourages the State Party to consult civil society, in particular organizations of victims, when preparing this information, on the basis of which it will determine whether to request additional information under article 29 (4) of the Convention.
