



Gambia Supreme Court Judgement Paves The Way for Accountability for Serious Crimes

On 27th January 2021, the Supreme Court of The Gambia ruled that Yankuba Touray, a former Junta member of Yahya Jammeh's Armed Forces Provisional Ruling Council (AFPRC), was not entitled to immunity from prosecution for the alleged murder of Ousman Koro Ceesay. The five Supreme Court Justices, headed by Chief Justice Hassan Bubacar Jallow, held that 'the immunity provided for under paragraph 13 shielding members of AFPRC does not extend to violations of non-derogable rights such as the right to life, to security and freedom from torture, cruel or other inhuman or degrading treatment or punishment which are guaranteed by the Constitution.'



Chief Justice Hassan Bubacar Jallow © Freedom newspaper

Views have been expressed that this judgement has consequences for Gambia's transitional justice process. It clears a legal hurdle to bring to justice alleged perpetrators of serious crimes and perhaps even Yahya Jammeh himself, whose 22-year reign was characterised by enforced disappearances, torture, extrajudicial executions, arbitrary detentions, political killings, sexual and gender-based violence, and the 2005 massacre of 56-57 West African migrants on their way to seek greener pastures in Europe.

Gambia's Truth, Reconciliation and Reparations Commission started its operations in January 2019, two years after Jammeh was sent into exile. Its hearings have revealed crimes of horror

and terror committed by Jammeh’s paramilitary death squad. Self-confessed killers were released after their confessions, much to the dismay of the many victims.

The question arises how this much-welcomed judgement of the Gambian Supreme Court can be used to deliver justice against perpetrators of the most serious crimes, and for their victims.

Gambian authorities have repeatedly expressed that Gambia does not have the capacity and resources to prosecute serious crimes committed during Jammeh’s era, which may explain why self-confessed killers were released from custody.

The Office of the Prosecutor of the International Criminal Court is of the view that the crimes committed during the Jammeh era do not meet the gravity threshold under the ICC Statute. Perhaps this could be reviewed. We may also consider the establishment of a hybrid court to bring accountability and end impunity for the serious crimes of international concern committed during Jammeh’s 22-year reign of terror. The victims deserve it. The transitional justice process demands it.

The Supreme Court judgement on [The State v Yankuba Touray](#).



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