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# Cracks in the Smiling Coast of West Africa: Violence, Torture and Death in the Gambia



Kwesi Aning

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Cover Photo: Protesters hold banners of victims of the regime of former Gambian dictator Yahya Jammeh in Banjul.

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## About the Author

Kwesi Aning is Professor of Conflict, Peace and Security Studies and Director of the Faculty of Academic Affairs and Research at the Kofi Annan International Peacekeeping Training Centre (KAIPTC), Ghana. He served with the African Union from 2005 to 2007 as the first continental Expert on the Common African Defence and Security Policy and Counter-terrorism, with responsibility for the African Centre for the Study and Research on Terrorism (ACSRT). Subsequently, he served as a senior consultant to the Department of Political Affairs (DPA) of the UN in New York and wrote a Secretary-General's Report for the Security Council on 'The relationship between the UN and regional Organisations especially the African Union' in 2008. He also serves on the World Economic Forum's (WEF) Council on Conflict Prevention. In 2015, he was appointed by the UN Secretary General as a member of his Advisory Group to the Peacebuilding Fund. Kwesi has several publications on peace and security issues in Africa.

## CONTENTS

Abstract.....	1
Introduction.....	2
In the Throes of Violence and Fear.....	2
Gambia, R2P and the Challenges of Implementation.....	6
The Slide Towards Ethnic Cleansing.....	6
The formal and informal institutional mechanisms for atrocity prevention.....	8
The Trials and Travails of State Sovereignty and International Responsibility and Action.....	9
Silence and Failure of ECOWAS to Fulfil its R2P Protect Gambians.....	9
Conclusion.....	10

## Abstract

Popularly known as The Smiling Coast of West Africa, The Gambia, has since 1994 until the elections of December 2016 had only experienced the rule and control of a single leader, Yahyah Jammeh. Transforming from a military into a democratic autocratic ruler, Jammeh ruled his country with an iron fist. During his two-decade rule, national and traditional institutions were decimated, politics ethnicised with majority groups marginalised and the civil and security services were mainly controlled by his minority Diolla ethnic group. During this period, violence, torture, pain and death characterised his regime. Perceived as a maverick or eccentric leader, these characterisations rather masked a calculated political operative who managed to ridicule the international community and through a deliberate refusal to abide by the international instruments to which the Gambia was a signatory. This paper analyses one aspect of The Gambia's compliance failure with, and respect for, the tenets of the Responsibility to Protect (R2P) norm. Furthermore, it explores how ECOWAS, a guarantor of the normative framework applied the obligations imposed on the state to protect citizens from mass atrocity crimes in a situation where the regime of Yahyah Jammeh manifestly failed to and threatened its citizens. It assesses the formal and informal institutional mechanisms that were in place for atrocity prevention and how in the democratic transition phase, processes and mechanism are being instituted to prevent such breeches. Recognising the scale of the task ahead of the country, the paper concludes by suggesting a hybrid system of formal and informal institutions to strengthen the states responsibility for atrocity prevention.

**Keywords:** *The Gambia, R2P, atrocity prevention, formal and informal institutions, security sector.*

## Introduction

Characterised as the ‘smiling coast of West Africa’ because of its nature reserves, The Gambia’s smile started to wane from 1994, when Yahya Jammeh, as part of a triumvirate of soldiers seized power from the former President, Dauda Jawara. Eventually declaring himself the leader of the junta in 1996, Jammeh manipulated elections to stay in power for 22 long years characterised by intimidation, torture, abuse of the rule of law and death. And in all this, the world had few or no instruments to restrain him. Confident of his ability to continue to manipulate and dictate results of elections, Jammeh went into the December 1, 2016 elections confident of his usual victory. Therein lay his miscalculation. Both domestic and regional dynamics had shifted dramatically. Domestically, a new coalition had been formed and led by a non-professional politician, who sought to build a strong coalition and was perceived as a non-threatening consensus candidate. Jammeh completely miscalculated the potential threat that candidate Adama Barrow could pose to him. Furthermore, the Independent Electoral Commission (IEC) and its Chair, Alieu Momar Njai, had witnessed the bravery of other West Africa Electoral Commission Chairpersons in Ghana and Nigeria, who against great odds had organised free, fair and credible elections and declared the results against the incumbent. Finally, on the regional front, Jammeh had become a pariah, the only former and present autocrat in a region of democrats. His presence among West Africa’s leaders and as a member of the Economic Community of West African States (ECOWAS) had become an anathema and an embarrassment to the democratic regime that ECOWAS had established.

This paper discusses: (a) the status of R2P since its introduction in the Gambia; (b) examine particular instances where atrocity crimes may have been committed; (c) how the international community responded to and prevented the possibility of the commencement of possible crimes through the preventive intervention by the ECOWAS Mission in The Gambia (ECOMIG) who through their operations code-named *Operation Restore Democracy* – comprising forces from Ghana, Senegal and Nigeria intervened to restore constitutional order; (d) it then discusses what it perceives as the silence and failure of ECOWAS to fulfil its responsibility to protect Gambians; and finally, the paper concludes with some recommendations relating to strengthening institutional measures.

## In the Throes of Violence and Fear

Gambia’s implementation of the R2P norm has been cursory at best since its adoption in 2005 and almost unknown among critical institutions and stakeholders<sup>1</sup>. Since the adoption of this norm, due to the nature of governance in the Gambia, the Alliance for Patriotic Reorientation and Construction (APRC) governed in an autocratic manner and backed by an ethnically biased security sector forces comprising predominantly the Diolla, who made up to 70 per cent of the statutory security forces<sup>2</sup>. Between 2005 and 2016, the former President commissioned several crimes against humanity comprising:

- ((a) The order to torture and kill perceived political opponents;
- (b) The murder of 56 West African migrants;
- (c) “Witch hunts” in which hundreds of women were arbitrarily intimidated, harassed and detained; and
- (d) Allegedly participated in the commission of ‘protocol girls’, rape and sexual assault of women brought to his residence.

These cases will be described briefly to demonstrate a pattern of state perpetrated fear and abuse against citizens, and in most instances ordered from the very top echelons of the state and its accomplices.

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<sup>1</sup>. The information in this paper was gathered during two extensive field work trips to the Gambia in February and March 2021. I am grateful for the funding from the Governments of Denmark and Norway that facilitated this research.

<sup>2</sup>. Interview, Banjul, March 2021.

### (a) Torture and Murder of Political Opponents:

To facilitate and perpetrate these atrocity crimes, the Jammeh regime established a special elite unit known as the “*Junglers*”, who in the aftermath of the democratic transition in January 2017 have confessed to participating in particular murders including:

- (i) The 2004 murder of a newspaper editor, Dayda Hydera: According to Lieutenant Malick Jatta<sup>3</sup>, the leader of the *Junglers*, Tumbul Tamba, gave each member 50,000 GMD (US\$1,250 at the time) as a token of appreciation from Jammeh for undertaking this act after the killing.
- (ii) In 2013, two murders occurred involving Alhajie Ceesay<sup>4</sup> and Ebou Jobe<sup>5</sup>. These were two Gambian-American businessmen whose bodies were decapitated and mutilated.

According to reports, ex-soldier Jallow said he and other jungulars were instructed by their commander, Major Nuha Badjie, to gather at their base in Kololi. He named Captain Momodou Jarju alias Rambo, Lt. Mustapha Sanneh, Lt. Michael Jatta, Warrant Officer Class 2, Fansu Nyabally, WO2 Pa Sanneh, Staff Sgt. Amadou Badjie, Staff Sgt. Sulayman Sambou and Cpl. Saikouba Jarju as members of the team that converged at the Kololi base. After having presented these two men to the President, ‘...They ... said Yahya Jammeh has given instructions that we kill them and chop them into pieces’. Sgt. Omar Jallow and Staff Sgt. Amadou Badjie<sup>6</sup> have both stated categorically that the former president personally ordered them to ensure that “they be chopped into pieces.”

### (b) The Murder of 56 West African Migrants

In 2005, 56 West African migrants, including 44 Ghanaians<sup>7</sup>, were murdered in the Gambia on the orders of the former president. Accused of being mercenaries who had come into the country to overthrow Jammeh, these 56 West Africans were executed by the “*Junglers*” paramilitary elite hit squad across the Gambian border in Senegalese territory. In this case, the 56 West Africans had embarked from Senegal on 22 July, 2005, trying to reach a ship that would take them to Europe. The migrants landed in Barra, Gambia where they were arrested and accused of mercenarism. Among the victims were reportedly between: 41 and 44 Ghanaians, seven Nigerians, two Senegalese, two Ivoirians, two Togolese and one Gambian. About 30 former Gambian officials, including 11 officers who were implicated in the episode, divulged that the West African citizens, were falsely accused of being mercenaries who had come into the Gambia to depose Jammeh. After interrogation and detention, they were murdered by Jammeh’s closest deputies in the army, navy, and police forces. Witnesses identified the “*Junglers*,” as the members of the hit squad: “We were told they were mercenaries”. Investigations into these murders were stifled by the Jammeh regime added to a nonchalant attitude by the different governments of the victims who were citizens of these countries. Leaders of these states showed limited interest in resolving this crisis. In the aftermath of this case, a Ghanaian Commission of Inquiry visited Gambia on a fact-finding mission in March 2006. In August 2008, the Economic Community of West African States (ECOWAS), conducted a joint mission with the UN to Gambia. However, the families of the murdered individuals received nothing in the form of feedback: ‘no report, no findings, no change in status’.<sup>8</sup>

Former Executive Director of the Media Foundation for West Africa (MFWA) and lead campaigner of Justice for GH44, Kwame, Karikari, stated:

“What we are doing is very important. In Africa, our leaders are not interested in seeking justice for victims of abuse, but are only interested in protecting their peers.”

<sup>3</sup>. See the testimony of this murder by Malick Jatta at *Ex Jungler Admits take part in Deyda Hydra's killing* - YouTube; <https://www.youtube.com/watch?v=hrvarCPCmhs> . See also, ‘Gambia: Proper Investigations Still Demanded Into Deyda's Murder, 10 Years On’, at <https://allafrica.com/stories/201412161826.html> accessed 1 April, 2021.

<sup>4</sup>. James Moore. 2014. ‘Two Americans Disappear in West African Dictatorship’, at [https://www.huffpost.com/entry/two-americans-disappear-i\\_b\\_4850904](https://www.huffpost.com/entry/two-americans-disappear-i_b_4850904) 24 February, accessed 3 April, 2021.

<sup>5</sup>. Kebba Ansu Manneh. 2019. ‘Strangled, Decapitated and Chopped into Pieces: Jungular's Graphic Details of Alhajie Ceesay and Ebou Jobe's Alleged Killing’, 24, at <https://www.chronicle.gm/strangled-decapitated-and-chopped-into-pieces-jungulars-graphic-details-of-alhajie-cesay-and-ebou-jobs-alleged-killing/> accessed 1 April, 2021.

<sup>6</sup>. Kebba Ansu Manneh. 2019. ‘Not in Our Name: Victims' Families Say Plan to Release Jungulars is a Slap in the Face’, August 7 at <https://www.chronicle.gm/not-in-our-name-victims-families-say-plan-to-release-jungulars-is-a-slap-in-the-face/> . The decision by the Barrow government to release these three officers has met with stiff opposition from the families of the victims.

<sup>7</sup>. Isaac Kaledzi. 2018. ‘Ghanaian migrants shot and thrown in wells under Jammeh’, June 7, at <https://africafeeds.com/2018/06/07/ghanaian-migrants-shot-and-thrown-in-wells-under-jammeh/> accessed 2 April, 2021. A full transcript of the confessions of the murders and where they were buried are at: [https://web.facebook.com/Jammeh2Justice/posts/2071583916447521?\\_rdc=1&\\_rdi](https://web.facebook.com/Jammeh2Justice/posts/2071583916447521?_rdc=1&_rdi)

<sup>8</sup>. West Africa: New Documentary Revisits Quest for Ghanaians Murdered in Gambia - allAfrica.com at <https://allafrica.com/stories/202001230784.html> accessed on May 16, 2021.



According to Karikari, many abusers of power are currently “on vacation” in other countries. He called on the Government of Ghana to demand for Jammeh to be tried in Ghana, since most of the victims were Ghanaians. He argued that: ‘15 years is too long for those who lost their relatives to endure this pain.’ Legal practitioner, Akoto Ampaw, on his part, took a swipe at the leadership of ECOWAS for their disinterest in the issue, stating:

When something happens to US or UK citizens, their states take all the measures to ensure that justice is done. But we have an ECOWAS which is not interested. We have a political system which does not have a relationship with its citizens.

### (c) Detention of Women in “witch hunts”

In 2009, Jammeh, reportedly lost his aunt. In retribution, the security forces were ordered to arrest hundreds of “sorcerers” accused of engaging in witchcraft. From 2009 until 2016, intermittent attacks and raids were directed in “witch hunts” across the country. Victims were usually poor, elderly farmers, who were abused and tortured into drinking hallucinogenic liquids before pressuring them into confessing to murders by sorcery.<sup>9</sup> According to several accounts, up to 1000 people were rounded up in different villages<sup>10</sup> and forced to drink a horrible hallucinogenic concoction at gunpoint and pressured into confessing to murders by sorcery<sup>11</sup>. The drink had lasting, detrimental health effects, such as stomach problems, weakness, body pains and anxiety, and is believed to have caused the death of many.<sup>12</sup> Women were disproportionately targeted in these ‘witch hunts’<sup>13</sup>. These deaths that followed either days, months and years later were mainly the consequences of the health difficulties sparked by the consumption of such mood-altering fluids made from the *kubejaro* plant. It is alleged that, this plant has mind-altering powers and is commonly grown in the country and used by traditional healers.<sup>14</sup> Because sorcery is widespread in the Gambia, the Jammeh regime misappropriated it as a political tool to intimidate even members of the Gambia Police Force (GPF)<sup>15</sup>, threaten and strengthen his power through the intimidating tactics of his *Green Boys*.

### (d) Alleged Rape and Sexual Assaults on Women as Political Intimidation.

One other facet of the state’s failure to protect its citizens was in area of how rape and sexual assaults were used by the former president and his allies as a form of political intimidation and for social exclusion. Although there were intimations of how consciously there were systematic rape and sexual assaults against girls and women emerged, the vile nature of the Jammeh regime and the overbearing presence of the *Green Boys* and *Jungulars* prevented victims from speaking. In the aftermath of the democratic transition that has occurred, victims have started to speak up and to testify before the TRRC. In several interviews, the role of the uniformed forces generally but that of the *jungulars* were perceived as ‘security services being the largest group of bandits backed by law’.<sup>16</sup>

From various interviews, a vicious, but well-oiled system of inducements and abuse had been put in place that ensnared women, where some were put on the state payroll and worked at State House as so-called ‘protocol girls’. To cover up their real responsibilities, some were given basic clerical duties but were mainly on call to have sex with the president and his favoured accomplices, including among others a deputy secretary in the ministry of foreign affairs.<sup>17</sup> Rape and sexual assault became an extension of state policy, certainly at the Presidency, where eight former Gambian officials and several others were said to have direct access to

<sup>9</sup>. Sally Hayden. 2018. ‘Gambia’s dictator ordered a witch hunt. This village is still haunted by it’, Retrieved from [https://www.washingtonpost.com/world/africa/gambias-dictator-ordered-a-witch-hunt-this-village-is-still-haunted-by-it/2018/05/27/bb8a4fc2-32a9-11e8-b6bd-0084a1666987\\_story.html](https://www.washingtonpost.com/world/africa/gambias-dictator-ordered-a-witch-hunt-this-village-is-still-haunted-by-it/2018/05/27/bb8a4fc2-32a9-11e8-b6bd-0084a1666987_story.html) accessed 3 April, 2021.

<sup>10</sup>. ‘Gambians reveal horrors of ‘witchcraft’ purge’, March 25, 2009; ‘Rights group: 1,000 seized in Gambia ‘witch-hunt’’, <http://edition.cnn.com/2009/WORLD/africa/03/18/gambia.amnesty.witchcraft/> March 18, 2009 accessed 8 April, 2021.

<sup>11</sup>. Colin Freeman, 2012. ‘Witchcraft and execution: the darker side of Gambia’, 25 November, at <https://www.telegraph.co.uk/news/worldnews/africaandindianocean/gambia/9700397/Witchcraft-and-execution-the-darker-side-of-Gambia.html> accessed 8 April, 2021.

<sup>12</sup>. Shana Pareemamun. 2019. ‘Witch Hunts in Gambia’, December 02, <https://www.irinsider.org/subsaharan-africa-1/2019/12/2/witch-hunts-in-gambia> accessed 1 April, 2021.

<sup>13</sup>. Women in Gambia describe Torture after Ex-President called Them Witches Retrieved at <https://www.nytimes.com/2019/11/12/world/africa/gambia-witch-hunt-testimony.html> accessed on March 12, 2021.

<sup>14</sup>. Pareemamun, op cit.

<sup>15</sup>. Abdoulaye Bah. 2019. ‘The Gambia confronts the nightmare of witch hunts under former regime’, 28 November 2019 at <https://globalvoices.org/2019/11/28/the-gambia-confronts-the-nightmare-of-witch-hunts-under-former-regime/>

<sup>16</sup>. Interview in Banjul, 23 February, 2021.

<sup>17</sup> Jason Beaubien. November 4, 2019. Beauty Queen’s Rape Allegation Against Former Gambia President Sparks #MeToo Movement <https://www.npr.org/sections/goatsandsoda/2019/11/04/775480089/beauty-queens-rape-allegation-against-former-gambia-president-sparks-metoo-movem> accessed 4 April, 2021.

and knowledge of the events. Such accomplices included: two men who worked for the Protocol Department at State House (the presidential palace); four close protection officers for Jammeh who also worked at State House; a woman who worked at State House; and a former National Intelligence Agency (NIA) senior official. In several interviews, the officials and two of the women requested anonymity.<sup>18</sup> Systematic abuse of state power to intimidate was so widespread that according to Human Rights Watch (HRW), several former officials claimed that the former president ordered them and others to get the phone numbers of women he identified. Officials confirmed that, Jammeh also sexually abused women soldiers assigned to his close protection and other civil servants working under him.<sup>19</sup>

Such were the levels of intimidation and violence that those who refused had either to escape or risk having their lives and that of their families destroyed. In enticing these women, state resources were applied in a manner that did not differentiate between private and public funds. According to reports, '[p]rotocol staff were mostly women and they were hired to satisfy the president's fantasies.'<sup>20</sup> Those who refused to accept the president's coercive, deceptive, and violent actions and overtures were sacked from their jobs, families intimidated and promises made not fulfilled. The "protocol girls" were overseen by his female cousin, Jimbee Jammeh, who also procured other women for him.<sup>21</sup> In the aftermath of these revelations, a spokesperson for Jammeh's APRC party expressed both his personal and the party's frustration with these allegations when confronted with them: 'We as a party and The Gambian people are tired of the steady stream of unfounded allegations that have been reported against our ex-president,'<sup>22</sup> Ousman Rambo Jatta has argued. However, this is in sharp contradistinction to what pertains on the ground in the Gambia and the sense of relief and ability to speak openly about the extensive and widespread sexual assaults that occurred during the 22-year reign of Jammeh. Unsurprisingly, Jatta's dismissive attitude to what has been public knowledge for more than a decade and his attempt to align his party's seeming frustration and disgrace to that of '...The Gambian people' is not only abhorrent but despicable. Such refusal to acknowledge that sexual assaults and rape and the demeaning of women's self-worth as chattel or property to be used anyhow are crimes punishable by law<sup>23</sup>. So far, '941 cases of sexual violence have been recorded by the Network Against Gender-Based Violence in just four years in The Gambia'.<sup>24</sup>

An attempt to rewrite history and reformulate what took place in the Gambia is already underway by the APRC leadership. While the party has not protested at the factuality or otherwise of the three other examples of human rights crimes above, the party has tried vehemently to deny any wrong doing by Jammeh. Yet, the evidence of rape and sexual assaults have been documents for close to seven years from 2014. In presenting a denial statement as an alternative to the mounting stories, Jatta, the APRC's Deputy leader argued that: 'APRC is utterly disappointed to have been, once again, confronted with malicious allegations against its party leader and the ex-President of The Republic of The Gambia.'<sup>25</sup> According to him, there is a conspiracy by '*Western corporations that have been and will continue to lead smear campaigns to tarnish the good reputation of Gambia's legendary and visionary leader.*'<sup>26</sup> In this propagandist and aggressive denial of the experiences and realities of living witnesses, Jatta does not provide alternative facts nor information about these Western corporations. If anything at all, the party and its leadership must be consistent in accepting the atrocities that occurred as a form of the healing that is necessary. In the aftermath of these testimonies, and after Jallow's press conference, there were protests in the Gambian capital to support her and social media

<sup>18</sup> June 26, 2019. Gambia: Women Accuse Ex-President of Sexual Violence. Investigate Yahya Jammeh for Rape , Sexual Assault. Retrieved at <https://www.hrw.org/news/2019/06/26/gambia-women-accuse-ex-president-sexual-violence> accessed on April 10, 2021.

<sup>19</sup> Ibid.

<sup>20</sup> Louise Dewast. 2019. 'Beauty queen 'raped by Gambia's ex-President Jammeh', at <https://www.bbc.com/news/world-africa-48757981> 26 June, accessed on 4 April 2021. A chilling recollection of the victims was that: 'He started undressing me and saying that he was in love with me, that *he will do anything for me and my family*, that I should not tell anyone because *if I do I will face the consequences*'. (my emphasis). "I felt I had no choice. That day he slept with me without protection."

<sup>21</sup> 'Gambia's Jammeh 'handpicked' women for rape, abuse' at <https://www.aljazeera.com/news/2019/6/26/gambias-jammeh-handpicked-women-for-rape-abuse> accessed on March 19, 2022.

<sup>22</sup> Ibid.

<sup>23</sup> Reed Brody. 2019. 'Gambia: Women Accuse Ex-President of Sexual Violence - Investigate Yahya Jammeh for Rape, Sexual Assault', 26 June at <https://www.hrw.org/news/2019/06/26/gambia-women-accuse-ex-president-sexual-violence> accessed on 7 April, 2021.

<sup>24</sup> 'NGBV records 941 cases of sexual violence in 4 years', September 26, 2019 Retrieved from <https://standard.gm/ngbv-records-941-cases-of-sexual-violence-in-4-years/> accessed 5 April 2021. For example, '...Marie Antoinette Corr-Jack, general secretary of Gambia Teachers' Union (GTU), said the Union's recent nationwide Bantaba on gender-based violence in schools has yielded tremendous results.'. These figures were recorded between 2014 to 2018.

<sup>25</sup> Stephanie Busari. 2019. 'Gambia's ex-president Yahya Jammeh accused of rape and sexual assault', 26 June at <https://edition.cnn.com/2019/06/26/africa/yahya-jammeh-gambia-rape-allegations-intl/index.html> accessed 5 April, 2021. (My emphasis)

<sup>26</sup> 'Beauty Queen's Charge of Rape by Gambia's Ex-President Is a Smear, His Party Says' at <https://www.nytimes.com/2019/07/01/world/africa/gambia-president-rape-toufah.html> accessed 6 April, 2021. See also, Dionne Searcy, 'A Beauty Queen Accuses Former Gambian President of Rape', <https://www.nytimes.com/2019/06/25/world/africa/gambia-president-rape-toufah.html> Accessed 6 April, 2021. See also, Dionne Searcy, 'A Beauty Queen Accuses Former Gambian President of Rape', <https://www.nytimes.com/2019/06/25/world/africa/> accessed on April 28, 2022.

in the country experienced massive exchanges with the hashtag #IamToufah<sup>27</sup>.

Jatta's exercise in denial contrasts sharply with the documented patterns of abuse and the compelling testimonies internationally by Fatou 'Toufah' Jallow who states that: 'in the end the silence is as uncomfortable and more damaging than the consequences of speaking.'<sup>28</sup> Such is the importance of this testimony especially in a country that does not want to admit that systematic sexual assaults are a problem. Furthermore, The Gambia is a very patriarchal society where women are severely suppressed and marginalized. Thus, for women to stand up publicly and recount their ordeals against the powerful, high and mighty in society, it takes courage, strength and determination to share such stories, that never again should state power and resources be used by the elites to abuse the rights of an important segments of the society. In The Gambia, Hunt argues that, 'the culture of silence comes from family honour being more important than the survivor.'<sup>29</sup> But she argues further that the hashtag and *MeToo* movements are leading to 'the Gambia beginning to confront a culture of silence around sexual violence, led by a group of women breaking taboos by revealing the alleged abuse they endured at the hands of some of the country's once most powerful men'.<sup>30</sup> Because of The Gambia's interdependent and male-controlled culture, victim and perpetrator are ever so often associated.

More critically, endeavours by the APRC and its henchmen to argue that their actions could be brought under the immunity clauses, a landmark judgement in January 2021 clearly stated 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....[Furthermore] that the accused, Yankuba Touray, is not entitled to Constitutional immunity from prosecution for the alleged murder of Ousman Koro Ceesay pursuant to paragraph 13(1), (3), (4) and (5) of the Second Schedule to the Constitution.'<sup>31</sup>

## Gambia, R2P and the Challenges of Implementation

The above serves as the context within which the utterances of Jammeh and the Gambian states' endeavors at fulfilling its international and domestic obligations towards the responsibility to protect norm should be located. As argued above, the nature of the crimes and atrocities against humanity throughout Jammeh's 22-year rule were both state sponsored, planned, supported and executed by the regime and its accomplices. An outcome of such deliberate state manipulation and hollowing out of institutions was that, state institutional capacity and willingness to protect were systematically hollowed out and emasculated. State bodies, that ought to have provided protection themselves became the purveyors of violence, and the former President's utterances should be examined within that context.

### *The Slide Towards Ethnic Cleansing.*

Under the R2P framework, novel norms of collective responsibility, which underlined the protection of citizens regardless of race, religion, ethnicity, gender or political affiliation came into force after the world summit on 2005. Under such norms, states have a responsibility to protect all citizens from genocide, ethnic cleansing, crimes against humanity, and war crimes. When states are reluctant, unwilling or fail to protect its citizens from such grave crimes, it is the responsibility of the International community to provide protection. From the Gambian experience though, the international community's role was at best ineffective, and at worst a gross avoidance of responsibility.

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<sup>27</sup>. Louise Hunt. 2019. 'The Gambia's 'MeToo' year breaks silence on rape...' Retrieved from <https://www.thenewhumanitarian.org/news-feature/2020/02/05/Gambia-SGBV-gender-Jammeh-MeToo> accessed June 1, 2021.

<sup>28</sup>. Jason Beaubien. 2019. 'Beauty Queen's Rape Allegation Against Former Gambia President Sparks #MeToo Movement', Retrieved from <https://www.npr.org/sections/goatsandsoda/2019/11/04/775480089/beauty-queens-rape-allegation-against-former-gambia-president-sparks-metoo-movement> accessed 3 April, 2021.

<sup>29</sup>. Louise Hunt. 2019. 'The Gambia's 'MeToo' year breaks silence on rape...' Retrieved from <https://www.thenewhumanitarian.org/news-feature/2020/02/05/Gambia-SGBV-gender-Jammeh-MeToo> accessed June 1, 2021.

<sup>30</sup>. Ibid.

<sup>31</sup>. 'Gambia Supreme Court Judgement Paves the Way for Accountability for Serious Crimes' in *IN THE SUPERIOR COURTS OF THE GAMBIA, IN THE SUPREME COURT OF THE GAMBIA, Case No. SC. NO CR/001/2020*

Throughout Jammeh's reign, he consistently singled out one ethnic group, the Mandinka, for extermination through a deliberate policy of criticism and false historical representations, such as:

- Mandinka's are foreigners and enemies and shall be killed 'where even a fly cannot see them'<sup>32</sup>;
- 'bury Mandinkas six feet under.'<sup>33</sup>
- Mandinka's think they own Gambia;
- All Mandinkas will be killed<sup>34</sup>
- Mandinka's are evil;
- "kill mandinka's like ants"<sup>35</sup>; and
- Mandinka's will never assume political leadership of The Gambia.

Though these utterances were dismissed by some Gambians as reflective of the ex-president's eccentricities and therefore people were inclined to dismiss such public inflammatory rhetoric as 'insanity'. A resultant impact of such discourses against Mandinkas was that over time, they transitioned from mere personal verbal pronouncements and eventually translated into executive and government policy wherein Mandinkas became targeted, discriminated against, marginalized and their history denigrated. The extent of his bigotry sought to create both ethnic and international tensions as he manipulated and fabricated stories against "those of you Fulas who have been part of APRC, Mandinkas were threatening you that if they take over the government they will send all of you to Guinea".<sup>36</sup> While these deliberate efforts at manipulating ethnic identities and sympathies were ongoing, it contradicted the reality of Gambian ethnic relations and society. For example, in the Foni region where Jammeh originates from, Jola, Mandinka, and Fula communities have lived harmoniously side-by-side and intermarried for generations.

While these deliberate efforts at maligning the Mandinkas were being perpetrated, ECOWAS, AU and the Arab League looked on unconcerned about the deliberate use of inflammatory and inciting language against the Mandinka who formed the largest ethnic group in the country. It was rather the UN that issued a statement expressing its concern about such utterances.<sup>37</sup> Adama Dieng, the UN's Special Adviser on the Prevention of Genocide, condemned ex-President Jammeh's 'public stigmatization, dehumanization and threats against the Mandinka,' arguing that they constituted possible incitement to commit mass atrocities.<sup>38</sup> Jammeh's vitriolic rhetoric was a possible dangerous trigger and incitement to violence as history has shown the correlation between hate speech and how it constitutes incitement to violence which can be both a warning sign and a powerful trigger for atrocity crimes. Jammeh was reminded by the Special Advisor of his responsibilities under both domestic and international human rights law.

Ex-President Jammeh's incendiary utterances were not only limited to particular ethnic groups. He also previously threatened to "slit the throats" of all gay men in The Gambia<sup>39</sup> and described them as vermin, and threatened "satanic" homosexuals who visit Gambia' of regretting ever being born.<sup>40</sup> On this score, Jammeh is in very comfortable society among his African heads of state peers and the general thrust of society's attitudes. According to Jammeh:

Homosexuality is anti-humanity. I have never seen homosexual chicken, or turkey, ... If you are convicted of homosexuality in this country, there will be no mercy for offenders. Homosexuality is anti-god, anti-human, and anti-civilization. Homosexuals are not welcome in the Gambia. If we catch you, you will regret why you are born. I have buffalos from South Africa and Brazil and they never date each other. We are ready to eat grass but we will not compromise on this. Allowing homosexuality means allowing satanic rights. We will not allow gays here.<sup>41</sup>

<sup>32</sup>. James Courtright. 2018. 'Tensions escalate in the new Gambia', New Internationalist, 21 March. These derogatory words were used by Jammeh at a rally in Tallinding on 3 June, 2016.

<sup>33</sup>. Ibid.

<sup>34</sup>. 'Yahya Jammeh Threatens Electorates At Brikama Meeting', at <https://fatunetwork.net/yahya-jammeh-threatens-electorates-at-brikama-meeting/> accessed 7 April, 2021.

<sup>35</sup>. 'Editorial: Gambia's President Dangerously fanning the flames of Tribalism; threatens to wipe out the largest ethnic group', 6 June 2016 <https://gainako.com/editorial-gambias-president-dangerously-fanning-the-flames-of-tribalism-threatens-to-wipe-out-the-large-ethnic-group/> accessed 7 April, 2021.

<sup>36</sup>. Ibid. The danger with Jammeh's effort at ethnic cleansing is that he has the state apparatus skewed towards his ethnic affiliates to easily carry out such a pogrom because, '...Jammeh is the one who has the majority cabinet secretaries from his Jola tribe. The last we checked all heads of security apparatus from Inspector General of Police, Chief of Defense Staff, Minister of Interior, the Director of the National Intelligence agency (NIA).

<sup>37</sup>. See United Nations Press Release, 2016. *Statement by Adama Dieng, United Nations Special Adviser on the Prevention of Genocide, on recent inflammatory rhetoric by President Yahya Jammeh of the Gambia, targeting the Mandinka ethnic group* 16 June at <https://www.global2p.org/wp-content/uploads/2019/06/2016-Jun-SASatement-Gambia.pdf> accessed 7 April, 2021.

<sup>38</sup>. Ibid.

<sup>39</sup>. Aditya Tejas. 2015. 'Gambia's President Yahya Jammeh Threatens to Slit the Throats of Gay People', 13 May at *International Business Times*

<sup>40</sup>. Meredith Bennett-Smith. 2013. 'Yahya Jammeh, Gambia's President: 'Satanic' Homosexuals Who Visit Nation Will Regret Being Born', at [https://www.huffpost.com/entry/yahya-jammeh-homosexuals-gambia\\_n\\_3000249?ir=India&adsSiteOverride=in](https://www.huffpost.com/entry/yahya-jammeh-homosexuals-gambia_n_3000249?ir=India&adsSiteOverride=in) accessed 7 April, 2021.

<sup>41</sup>. Ibid.

Jammeh's gradual slide in vitriolic language has a long pedigree. In a speech to the United Nations on 27 September 2013, Jammeh said:

Homosexuality in all its forms and manifestations which, though very evil, anti-human as well as anti-Allah, is being promoted as a human right by some powers, who want to put an end to human existence.

On 18 February 2014, Jammeh called homosexuals "vermin" arguing that

We will fight these vermin called homosexuals or gays the same way we are fighting malaria-causing mosquitoes, if not more aggressively.

He also went on to disparage the LGBT by saying that:

As far as I am concerned, LGBT can only stand for Leprosy, Gonorrhea, Bacteria and Tuberculosis, all of which are detrimental to human existence.

In May 2015, in non-compliance with western criticism, the former president applied hyperbolic language to tell his listeners:

If you do it [in the Gambia] I will slit your throat – if you are a man and want to marry another man in this country and we catch you, no one will ever set eyes on you again, and no white person can do anything about it.

However, such homophobic utterances resulted in international criticism before. US and European states suspended aid in 2014,<sup>42</sup> citing its atrocious human rights record, after it introduced a law in October outlawing homosexuality.<sup>43</sup> Some of his supporters have recently blamed political instability in the country on gays and their alleged foreign supporters.<sup>44</sup>

### *The formal and informal institutional mechanisms for atrocity prevention*

Is there an argument to be made for building the capacity of the state? Or we should look to informal preventive mechanisms?

In spite of the glaring evidence of state-sponsored atrocities, what factor(s) have inhibited ethnic-based mass violence in the Gambia? You stated that in some communities, different ethnic groups have lived side-by-side peacefully for generations.

Did the fieldwork reveal any indigenous processes that have served as inhibitors to atrocity crimes in the country? If yes, can these structures be leveraged for the prevention of future atrocity crimes?

Can these formal/informal mechanisms (probably reflected in the existing alternative dispute resolution system and cousin relationships) provide the basis for building a hybrid structure for atrocity prevention?

### *The Trials And Travails Of State Sovereignty And International Responsibility And Action*

#### *Silence and Failure of ECOWAS to Fulfil its R2P Protect Gambians*

Why did ECOWAS, the guarantor of sub-regional norms, values and principles keep mute while Gambians and other West Africans were murdered, humiliated and their rights unprotected? ECOWAS failure to act by using the multiple instruments at its disposal is an indictment on the organisations capacity to elicit compliance from its members who have voluntarily signed on to international documents. In an opinion piece analysing

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<sup>42</sup> Lora Mofteh. 2014. 'Gambia 'Getting Away With Murder' As European Donors Grapple With Funding Effort', *International Business Times*, 15 December. In October 2014, the leader signed a law that would punish people with life in prison for the crime of "aggravated homosexuality" at <https://www.ibtimes.com/gambia-getting-away-murder-european-donors-grapple-funding-effort-1758395>. Jammeh understood how to play the aid game and quickly got support from the Gulf States when the European Union withheld funding. 'Qatar, Gambia sign pacts to enhance bilateral ties', November 18 2014 *Gulf Times*. Even the U.S. struggled with how to handle Jammeh because according to the Banjul Embassy website, The Gambian government, 'has provided steadfast, tangible support for the war on terrorism.'. See, [https://www.huffpost.com/entry/yahya-jammeh-homosexuals-gambia\\_n\\_3000249?ir=India&adsSiteOverride=in](https://www.huffpost.com/entry/yahya-jammeh-homosexuals-gambia_n_3000249?ir=India&adsSiteOverride=in)

<sup>43</sup> See, United Nations. *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, Christof Heyns, on his mission to the Gambia (3–7 November 2014) A/HRC/29/37/Add.2

<sup>44</sup> Stuart Reid. 2016. 'To be or not to be a dictator', at <https://www.nytimes.com/2016/12/13/opinion/gambias-jammeh-weighs-whether-to-be-or-not-to-be-a-dictator.html> accessed 3 April, 2021.



the breakdown in ECOWAS's ability to apply its sanctions regime, among a panoply of possible instruments was an act of failure. Luke Onyekakeyah<sup>45</sup> argued that ECOWAS's failure to reign in Jammeh and apply its normative frameworks was a 'misplaced honour ...[and] [h]onour should not be given to whom honour is not due'. That by tolerating and seeking to appease him after his vitriolic pre- and post-electoral statements and seeking to annul the electoral results in which he lost, 'ECOWAS leaders crowned this culture of impunity that is the bane of African leadership'.<sup>46</sup> Omodanisi agrees with this dismal performance of ECOWAS and argues that, 'ECOWAS also failed to meet the requirement for the application of Responsibility to Protect in Gambia'.<sup>47</sup> Surprisingly, a different conclusion after examining the Gambian case superficially is arrived at: '...the Gambian situation did not meet the threshold to allow intervention on humanitarian ground[s] as none of the mass atrocities have been committed against citizens to warrant application of R2P'<sup>48</sup>

ECOWAS, in the Gambian case did not only fail to act, it did not even attempt to issue an atrocity alert as a result of Jammeh's behaviour leading to conflict, persecution and the commissioning of varied atrocities. This demonstrates a retrogression in what was previously optimistically perceived to be an emerging 'African Agency in R2P'-<sup>49</sup> related issues. ECOWAS, has through its conflict prevention, management, and resolution protocol and framework sought to deepen and put into practice the notion of sovereignty as responsibility. These frameworks from ECOWAS have close similarities to the R2P norms and how issues of convergence and divergence may occur in applying the R2P norm to ECOWA's conflict prevention framework.<sup>50</sup> However, although these notions are captured in official documents, their actual operationalization faces challenges relating to sovereignty, limited institutional capacity, a restricted appetite for enforcement action in the post-cold war era, and a lack of explicit instruments to activate their intervention clauses in R2P-like situations.<sup>51</sup> And the Gambia case epitomizes, the dilemmas of implementation against an incumbent president albeit one in a weak state such as the Gambia is a challenge and threat to the implementation of the norm that needs reconsideration.

Recent scholarship, however, have sought to locate the ECOWAS intervention in The Gambia through its ECOMIG force within the context of R2P and to argue that, 'The regional framework comprising ECOWAS lists protecting democracy as a permissible reason to conduct an R2P action'.<sup>52</sup> Harmann presents a similar argument that, 'the revised ECOWAS Treaty (1993) and especially the Protocol on Democracy and Good Governance (2011) formally enshrined the commitment of the organisation to *promote democracy and good governance and to adopt what was later to be called the Responsibility to Protect (R2P)*'.<sup>53</sup> But herein lies the dilemma. If Jammeh has been allowed free reign to torture, rape and murder his citizens without ECOWAS's ability or willingness to apply the norm to serve as a deterrent, what use is the norm's application *ex poste facto*? ECOWAS's delayed resort to coercive diplomacy after the fact of 22 years of atrocities makes the argument of intervening on an R2P mandate fallacious at best and at worst disingenuous and hypocritical. R2P as a norm is clear in its applicability to specific situations. In the Gambian case, the prospect of ethnic cleansing had been ongoing similar to crimes against humanity and the spectre of genocide looming. Yet, ECOWAS watched as these cases of impunity manifested. Therefore, the argument that ECOWAS, '...in incorporating the ideas of R2P norm into its peace and security framework shows the contributory role of sub-regional organisations to the implementation of R2P-related measure to protect civilians',<sup>54</sup> is inadequate and fallacious. Fundamental misconceptions seem to permeate the literature when it relates to ECOWAS's intervention in The Gambia and locating it under the rubric of R2P. Incorporating the norms into official documents were not meant simply to show 'a contributory' indication. R2P is about preventive engagement and protecting lives. ECOWAS showed indecisiveness in accomplishing its R2P responsibilities in The Gambia as Gambian and West African lives were lost. This was related to false notions of state sovereignty, a culture of not criticizing members of the West African Heads of State club and in sum represented a failure of monumental proportions that a subsequent intervention that also paved the way into comfortable exile for the perpetrator of R2P crimes is far from the

<sup>45</sup> By Luke Onyekakeyah. 2016. 'Jammeh, ECOWAS and misplaced honour', 20 December at <https://guardian.ng/opinion/jammeh-ecowas-and-misplaced-honour/> accessed 8 April, 2021.

<sup>46</sup> Ibid.

<sup>47</sup> Omodanisi, Kemi Beatrice. 2019. 'How sovereign is a state from foreign intervention' Gambia as a case study', *International Journal of Law and Public Administration*, Vol. 2, No. 2 December, p. 10.

<sup>48</sup> Ibid., p. 21 Emphasis mine.

<sup>49</sup> Kwesi Aning, Fifii Edu-Afful. 2016. 'African Agency in R2P: Interventions by African Union and ECOWAS in Mali, Cote D'ivoire, and Libya', *International Studies Review*, Volume 18, Issue 1, March 2016, Pages 120–133, <https://doi.org/10.1093/isr/viv017>

<sup>50</sup> Sampson, I. 2011. The Responsibility to Protect and ECOWAS Mechanisms on Peace and Security: Assessing their Convergence and Divergence on Intervention. *Journal of Conflict and Security Law*, 16(3), 507-540.

<sup>51</sup> Aning and Edu-Afful, op cit.,

<sup>52</sup> Emmah Wabuke. 2019. 'Regional Organizations' Application of R2P: The ECOWAS Military Intervention Into the Gambia', May 22, 2019 at <https://www.lawfareblog.com/regional-organizations-application-r2p-ecowas-military-intervention-gambia> accessed 6 April, 2021.

<sup>53</sup> Hartmann, Christof. 2017. 'ECOWAS and the restoration of democracy in the Gambia', *Africa Spectrum*, 1.

<sup>54</sup> Nizeimana, John Bosco. 2018. 'The Responsibility to Protect and subRegional organisations: The case of The Gambia', University of Leeds

aspirations of an organisation that seeks to play an instrumental role in the successful prosecution and norm diffusion underpinning R2P. It seems that the jury is still uncertain about ECOWAS's Gambian intervention. For example, Samson argues that:

Theoretically, the ECOWAS mechanisms cannot be equated with R2P as what constitutes a threat to West African peace and security may not necessarily be suitable for an R2P response. In the same vein, the threats that may demand intervention under the ECOWAS mechanisms may not attain the R2P threshold for intervention.<sup>55</sup>

The Gambian examples noted above more than met the R2P thresholds and ought to have elicited a more robust earlier preventive response than undertaking an intervention that was too little too late.<sup>56</sup> Spies' arguments and discussion about ECOWAS and AU's responses to La Cote d'Ivoire serves as a benchmark for effective preventive intervention,<sup>57</sup> though Aning and Atuobi had in an earlier work concluded that the lack of unity of response, duplication of efforts and confusion between the two regional bodies that were supposed to find an African solution to the Ivorian crisis (similar to the Gambian case), hindered their effectiveness and any leadership role they could have played.

Finally, however, other obstacles to ECOWAS implementation of R2P persist – the greatest being the challenge of improving member state willingness to abide by their treaty commitments. While there is abundant political will to sign documents and take decisions, the actions of leaders in the region reflect a glaring lack of commitment to adhere to those decisions. This is compounded by the fact that ECOWAS still lacks the capacity to enforce sub-regional decisions at the national level. For example, as the Gambian conflict revealed, one cannot be sure how many members will be willing to challenge the eccentricities of a leader while in power though willing to contribute troops or provide logistical support for collective enforcement.<sup>58</sup>

## Conclusion

During the fieldwork, there was a clear reluctance to speak about atrocities prevention and denial of the existence of such cases. This seems to paint a pattern of see no evil, hear no evil and speak no evil, a deliberate manipulate process of silences and denials that seems to be an aspect of Gambian statecraft experienced earlier on by the Human Rights Council. According to their report,

The Special Rapporteur gets the distinct impression from a number of contacts with officials of the State of the Gambia that they are, at best, unaware of the serious human rights issues facing their country, or are pretending not to know about them, in some cases because they fear for their jobs. This “disinformation” may to some extent be understandable if it were confined to the lower ranks, but it is also prevalent at the highest level<sup>59</sup>.

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<sup>55</sup>. Samson, op cit.,

<sup>56</sup>. Aning K & Atuobi S, 2013. 'The Role of Regional and Sub-regional Arrangements in Strengthening the Responsibility to Protect' , New York: The Stanley Foundation, 2011, p. 13; John Mark-lyi. 2016. *Humanitarian Intervention and the AU-ECOWAS Intervention Treaties Under International Law: Towards a Theory of Regional Responsibility to Protect* London: Springer.

<sup>57</sup>. Yolanda Spies. 2016. 'African Solutions to African Problems? The AU, R2P and Côte d'Ivoire', *South African Journal of International Affairs*; See also, Aning K & Atuobi S, 'Responsibility to Protect in Africa: An analysis of the African Union's Peace and Security architecture', *Global Responsibility to Protect*, Vol. 1, No. 1, pp. 90-113.

<sup>58</sup>. Kwesi Aning and Samuel Atuobi. 2011. 'Application of and Responses to the Responsibility to Protect Norm at the Regional and Subregional Levels in Africa: Lessons for Implementation', in --- (New York: The Stanley Foundation) May 11, 2011.

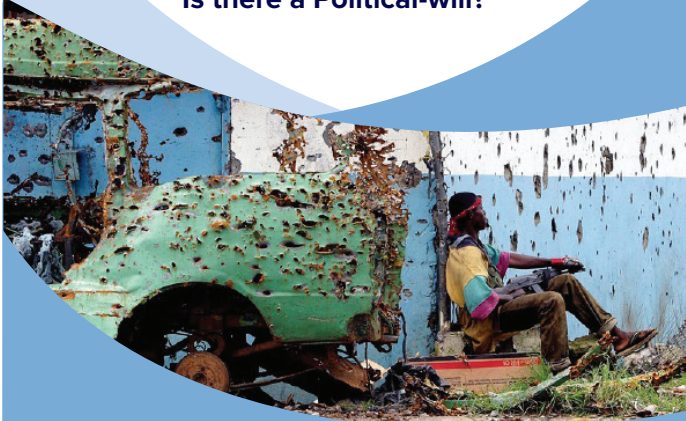
<sup>59</sup>. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns.

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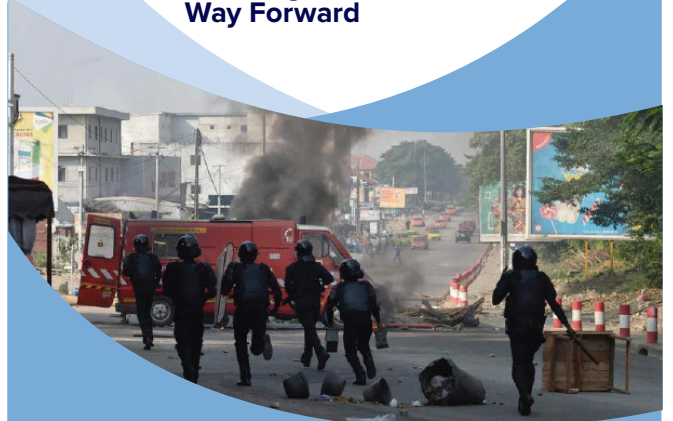


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