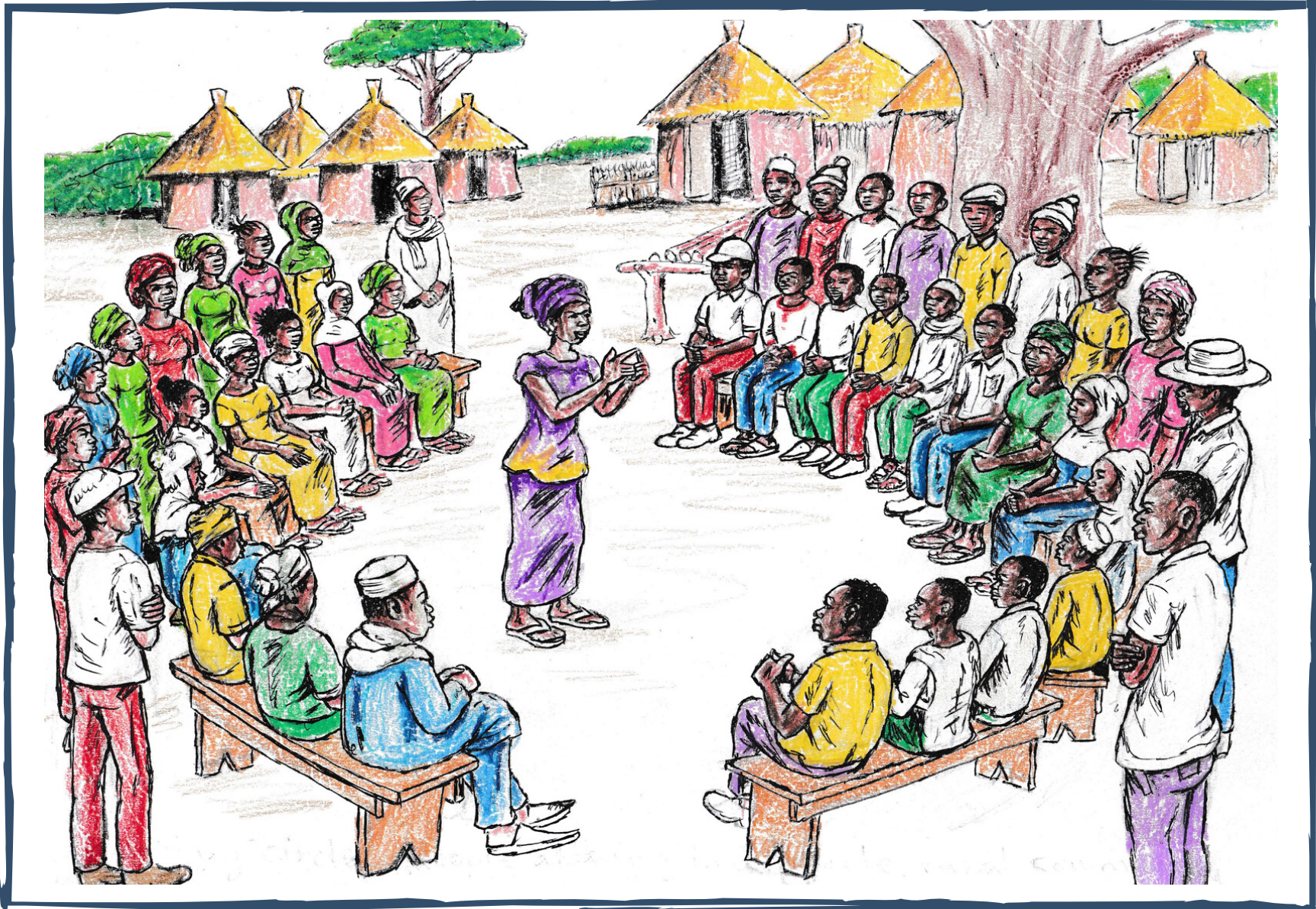


# Transitional Justice and The Gambia



# Acknowledgments

Founded by the International Coalition of Sites of Conscience, the Global Initiative for Justice, Truth and Reconciliation (GIJTR) is a Consortium of nine organizations around the globe dedicated to multi-disciplinary, integrated and holistic approaches to transitional justice. Grounded in a spirit of collaboration, each GIJTR project is managed by a specific Consortium member with support from other members.

This book was created to raise awareness about the Gambian transitional justice process, and it has been published in English, Wolof, Pulaar, Jola and Mandinka. The book was managed by the International Coalition of Sites of Conscience (ICSC) with support from the Centre for the Study of Violence and Reconciliation (CSV), Women in Liberation and Leadership (WILL) and Search for Common Ground (SFCG).

All illustrations were created by Gambian artist Amadou Barry.

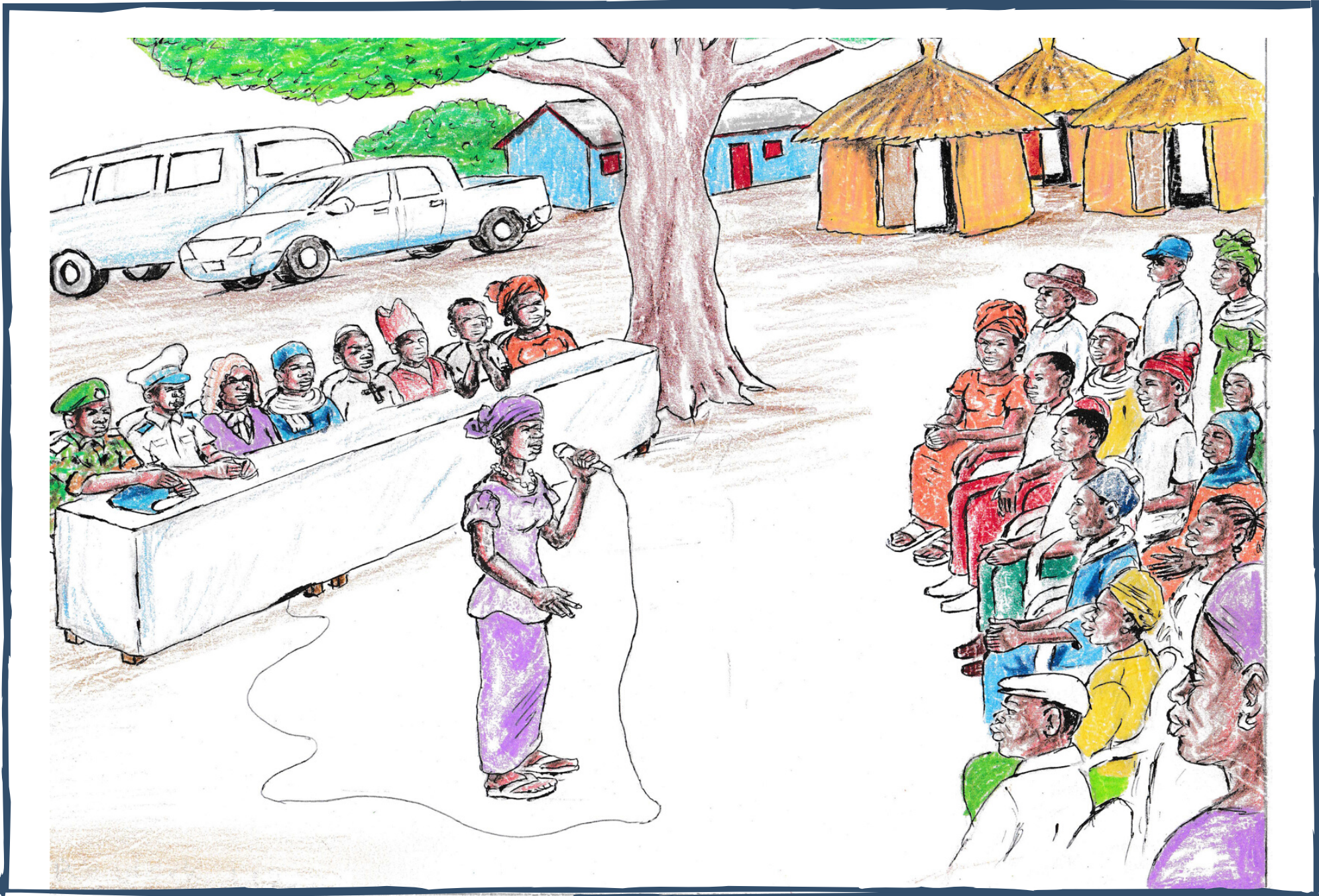
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Global Initiative for  
JUSTICE, TRUTH +  
RECONCILIATION





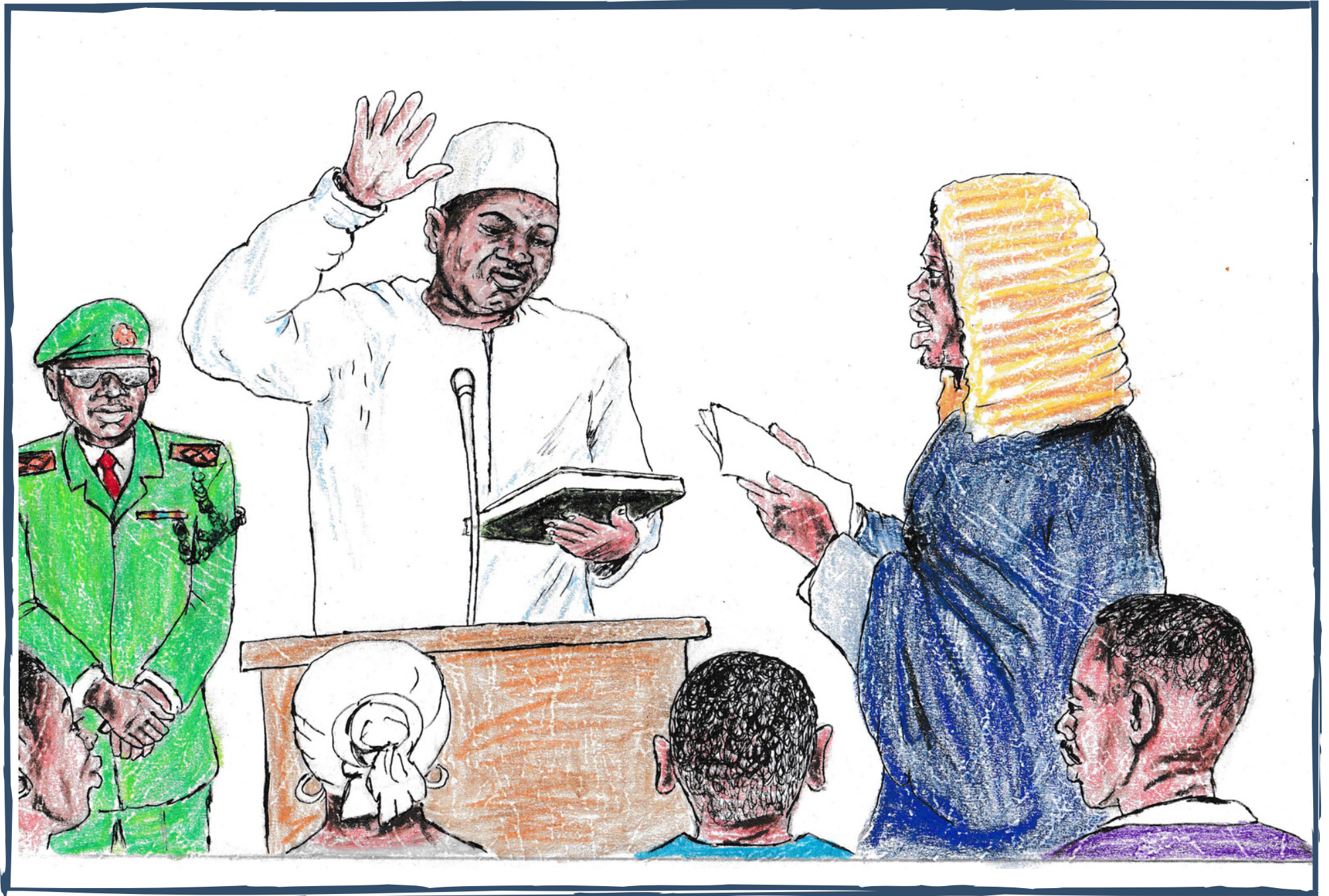
# What is Transitional Justice?

Transitional justice consists of both formal and traditional, or non-formal, measures designed to redress legacies of human rights abuses.

According to the African Union Transitional Justice Policy, societies adopt transitional justice measures through an inclusive consultative process “in order to overcome past violations, divisions and inequalities and to create conditions for both security and democratic and socio-economic transformation. Transitional justice is meant to assist societies with legacies of violent conflicts and systemic or gross violations of human and peoples’ rights in their effort to achieve transition to the future of justice, equality and dignity.”

Such measures can include criminal prosecutions, truth commissions, reparations programs, traditional justice measures and various kinds of institutional reforms, including security reforms, constitution review, human rights promotion and protection.





# What does TRRC stand for?

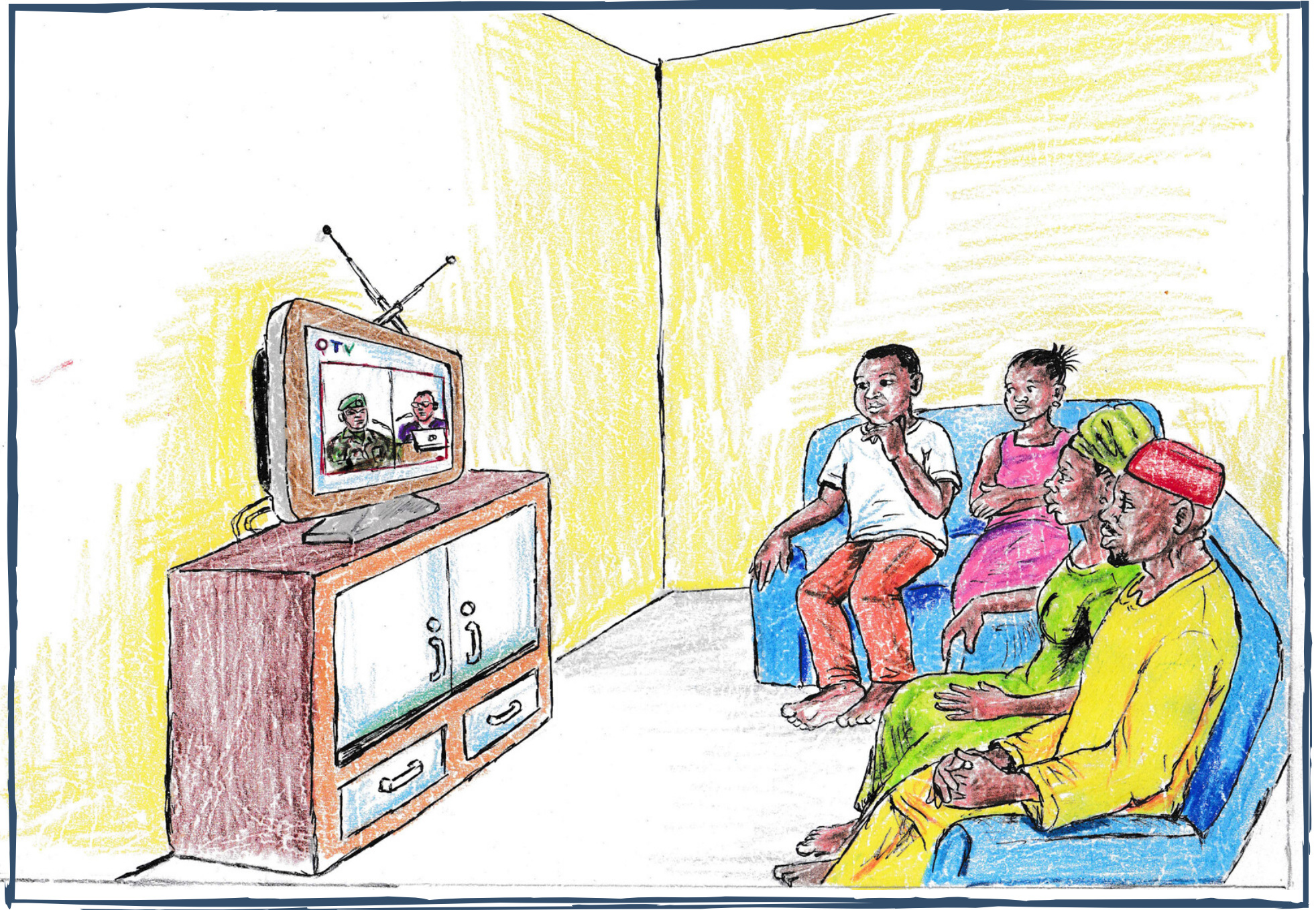
TRRC means Truth, Reconciliation and Reparations Commission.

## Why did The Gambia create a TRRC?

The coalition of political parties set up before the December 2016 elections had in its manifesto the need to establish a Truth and Reconciliation Commission in order to address human rights violations committed by the Jammeh regime that was in power at the time, and also to reconcile Gambians as a result of the ethnic, religious and political divisions brought about by the former regime.

Following the election of Adama Barrow as President, the Ministry of Justice along with other government institutions and agencies, members of civil society, youth and women's organisations, as well as representatives from the international community, conducted nation-wide consultations on the need to establish the Commission.







# What is the mandate of the TRRC?

The mandate of the TRRC is to investigate and establish an impartial historical record of the nature, causes and extent of violations and abuses of human rights committed during the period July 1994 to January 2017. The TRRC further aims to promote healing and reconciliation, provide victims with an opportunity to relate their own accounts of abuses they suffered, promote non-recurrence, and, in appropriate cases and depending on available resources, grant reparations to victims. At the end of its mandate, the Commission shall submit a report containing its findings and recommendation on measures that are needed to ensure that never again do we encounter such rights violations and abuses in The Gambia. The recommendations also aim to prevent perpetrators of gross human rights violations from staying in public service or holding important public office. The recommendations may also include the establishment of institutions to build upon and implement important aspects of the TRRC's findings after the Commission itself is dissolved.

The TRRC aims to provide a historical record of the human rights abuses of the former regime and reveal the truth about past abuses to ensure accountability and an end to impunity. This is especially important because a lot of what happened was kept silent and not spoken about.





## **How long will the TRRC last?**

The initial tenure of the TRRC is for two years, but it can be extended by the President for another year.

## **Is the TRRC only the hearings that are seen on TV and heard on radio?**

The TRRC consists of many different parts that are not seen on TV. There are the commissioners, and also the staff of the Commission. The staff of the Commission make sure that all victims are registered, do the necessary research and investigations and provide support before people testify.

The second main area of the TRRC is the outreach component to promote the #NeverAgain slogan. This is mainly done by the Women's Unit, Youth and Children's Unit and Reconciliation Unit.





## **Who can access the TRRC?**

Anyone who was affected by or witnessed the human rights violations within the TRRC mandate, including direct and indirect victims. An important part that helps the investigations is people who come forward to provide information about what may have happened. This can also be done anonymously. Not everyone has to testify – it is each individual's choice whether to do so. But it is important that what happened to all those affected is a part of the truth that the TRRC is trying to establish.

## **What are the emotional effects of hearing the truth?**

People can feel shock, horror, anger, sadness or a range of other emotions. Many people did not know the violations that took place, so there can be strong reactions to hearing the truth, as it changes what people think about the world around them. For some, it may be a reminder of their own trauma, and for others, it begins the grieving process all over again. An important part of the healing process is finding out the truth, but essential in that is also the truth of the pain and suffering that the various events may have caused for individuals, families and communities. The reality is that the truth is sad, and what we can do is acknowledge and support those who are affected.







## **Is the TRRC the only TJ process?**

No, there are lots of ongoing processes that are part of the transitional justice process, such as:

- The Constitutional Review Commission
- National Human Rights Commission
- Security sector reforms
- Institutional reforms

## **What is the role of the National Human Rights Commission?**

It is expected that the National Human Rights Commission will monitor the government's compliance with its plans to implement the recommendation. The National Human Rights Commission also aims to help end human rights violations in The Gambia by monitoring ongoing violations in an effort to seek effective remedy for victims and to recommend reforms both to state institutions and civic life.





# Who is a victim?

According to the TRRC Act, "Victim" includes:

(a) a person who, individually or together with other persons, suffered harm in the form of physical or mental injury, emotional suffering, pecuniary loss or a substantial impairment of rights-

- (i) as a result of a violation or abuse of human rights, or
- (ii) as a result of the commission of a crime

(b) a person who, individual or together with other persons, suffered harm in the form of physical or mental injury, emotional suffering, pecuniary loss or a substantial impairment of rights, as a result of such person intervening to assist persons contemplated in paragraph (a); and (c) the relatives or dependents of such victims, as may be determined by the commission.





# What are reparations?

Reparation is making amends for a human right violation one has done by providing payment or other assistance to victims. It very rarely means the recovery of what one has lost or the exact value thereof. Reparations can include compensation, ex-gratia payments, restitution, as well as community reparations for communities that were denied public services or deprived of State funding. Medical and psychological rehabilitation of victims can also be an important form of reparations.

The most successful reparations programmes are designed in consultation with affected communities, particularly victims and women groups. Reparations are dependent on available resources.

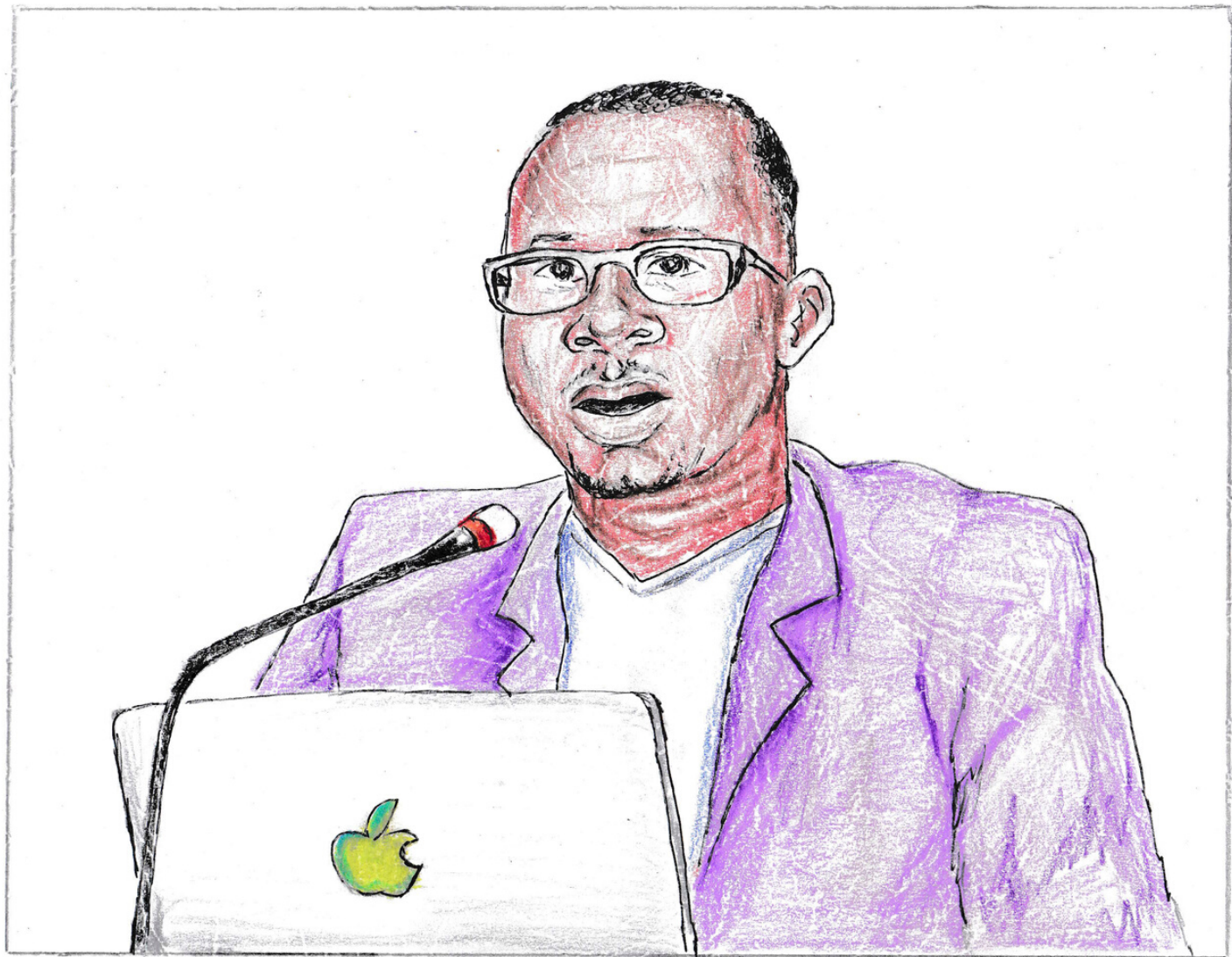




# What are the purposes of reparations?

Reparations seek to redress systemic violations of human rights by providing a range of material and symbolic benefits to victims. They are dependent on available resources. Reparations constitute a form of justice being done to victims and/or their families in order to restore their human dignity; repair and redress, where possible, the harm suffered as a result of the state's failure to protect their rights; and bring a sense of closure to past human rights violations and abuses.





## **Will the victims be compensated?**

The TRRC will determine whether there will be compensation, and if so, what type. The TRRC is empowered to grant reparations to victims, but it has very limited financial means to do so. The Commission will grant reparations to a victim upon consideration of the evidence received, in order to restore the dignity of the victim. The TRRC has drafted a framework that will be used to guide how reparations will be granted. Victims are not required to testify on TV to receive reparations.





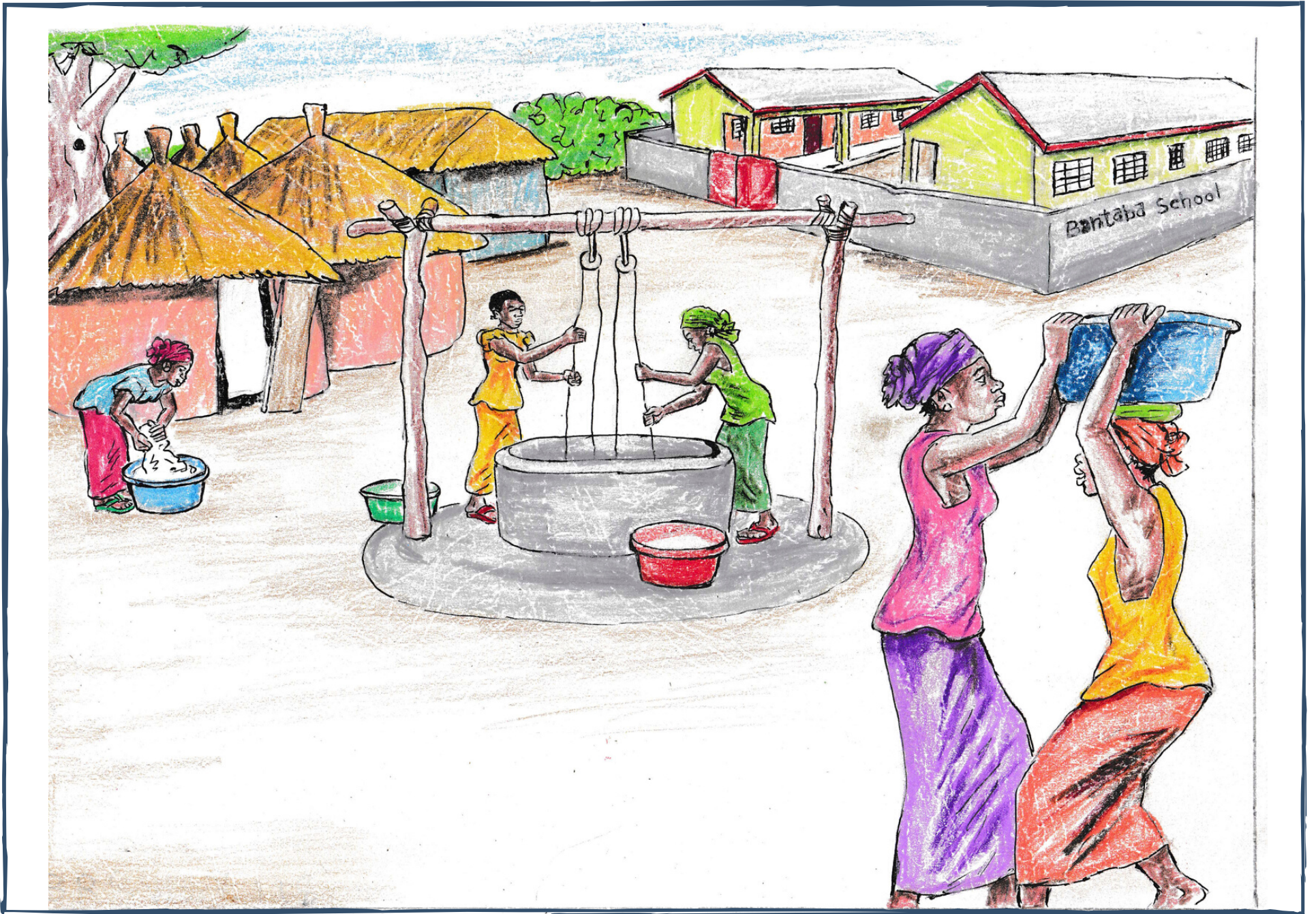


# What are the forms of reparations?

Reparations can take the form of individual, collective, material or symbolic reparations. Reparations can include monetary compensation, medical and psychological services, health care, educational support, return of property or compensation for loss thereof, but also official public apologies, building museums and memorials, establishing days of commemoration, rehabilitation, satisfaction, and guarantees of non-repetition. According to the African Union Transitional Justice policy, reparations may take the form of:

- “Material reparation, which may include the restitution of access and/or title to property taken or lost, rebuilding of property destroyed by violence, and provision of a job, a pension and monetary compensation;”
- “Healing complements and completes truth and reconciliation and constitutes one of the objectives of truth and reconciliation. It is the process by which affected individuals and communities mend the physical and psychological wounds that they have suffered and recover from the emotional and moral effects of violence;”
- “Rehabilitation, which is the provision of basic services, including victim-specific support such as medical and psychosocial services, as well as services specific to women and children;”

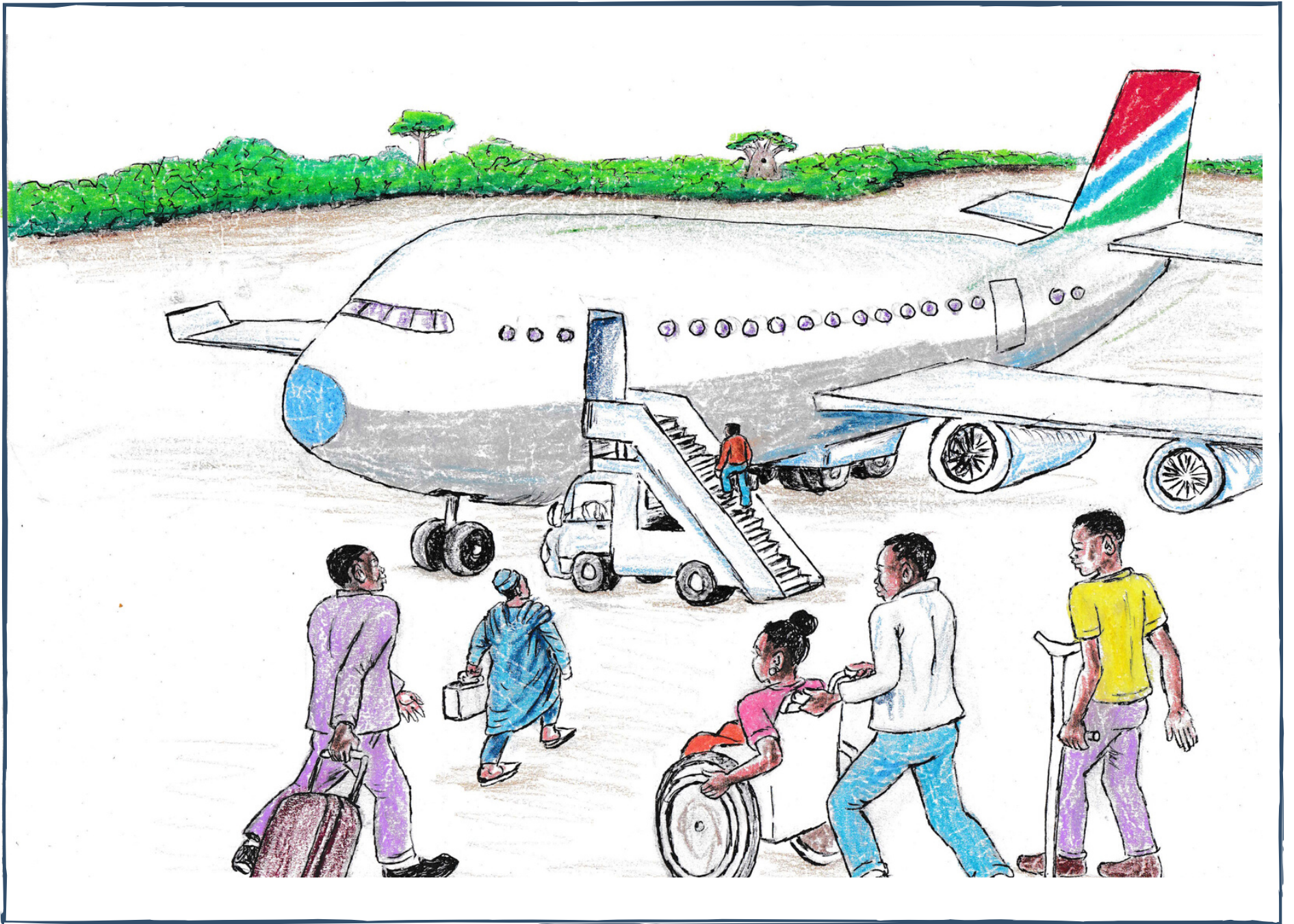




# What are the other forms of reparations?

- “Collective reparation, which may include the restitution of communal lands; rebuilding health, education, security, judicial and other public service infrastructure as well as the livelihood systems of affected communities, with due regard to the interests of children and youth; and compensation in the form of money or services to the community;”
- “Moral reparation, which involves non-material forms including disclosure of facts about the actors and circumstances of a victim’s mistreatment or death, public acknowledgement and apology, the identification and exhumation of the bodies of loved ones and provision of support for burial ceremonies and memorialization.”





## **How will reparations be supported?**

Reparations will be supported by a Special Fund. There is currently a Victim Support fund that supports urgent interim reparations, such as medical treatment.

## **Where does funding for the TRRC come from?**

The majority of the funding of the TRRC comes from the United Nations and the donor community.





# **What will happen to the perpetrators responsible for violating human rights?**

TRRC will recommend actions to be taken against alleged perpetrators.

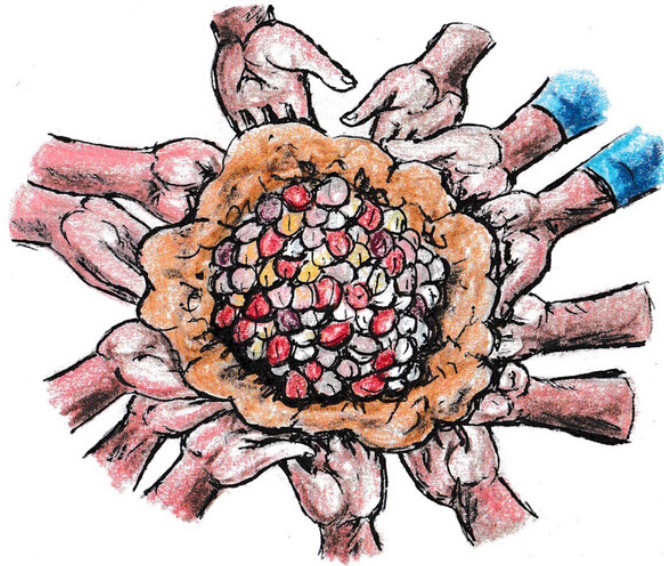
## **What is Amnesty?**

Amnesty is an official pardon that the President can grant to people that have committed crimes and human rights abuses, meaning that they cannot be prosecuted for the crimes that they have committed. The TRRC Act states that the TRRC has the power to recommend individuals for amnesty, provided that they did not commit a crime against humanity.

## **Will the victims of the Jammeh regime receive justice?**

The TRRC has the power to recommend prosecutions for individuals. However there are many forms of justice, and the TRRC is one formal mechanism for accessing justice.



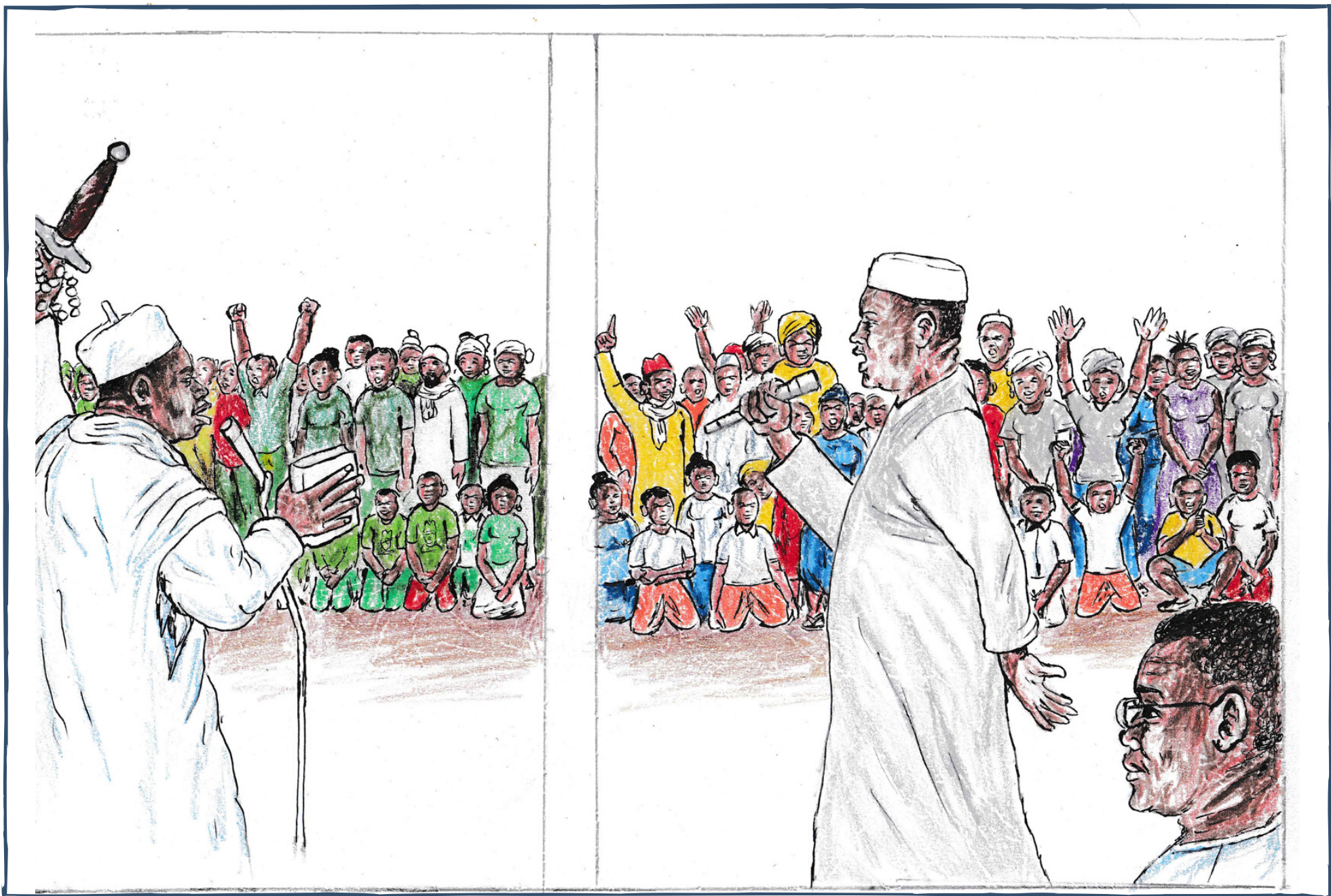


# Can the TRRC promote national reconciliation?

One of the main objectives is to promote healing and reconciliation. Reconciliation is both a goal and a process based on building the trust necessary for a degree of cooperation between individuals and communities. Full redress and reparation are essential to building reconciliation. Reconciliation involves addressing legacies of past violence and oppression, reconstructing broken relationships and finding ways for individuals and communities to live together. Getting to know the truth with regard to what transpired in the 22 years of Jammeh's rule and recognizing the rights of victims can help to serve as a basis for national reconciliation, as can holding perpetrators accountable and granting reparations to victims.

The TRRC's National Healing and Reconciliation Committee aims to engage and involve Gambians in a national discourse on what happened in our past and on ensuring that it never happens again. Through its ongoing engagements and initiatives, the Committee will promote national reconciliation, unity and a common overarching national identity. These efforts will foster civic education as a safeguard against the recurrence of dictatorship and gross human rights violations in this country. As provided in the TRRC, the Committee may seek assistance from traditional and religious leaders to help facilitate reconciliation and healing.

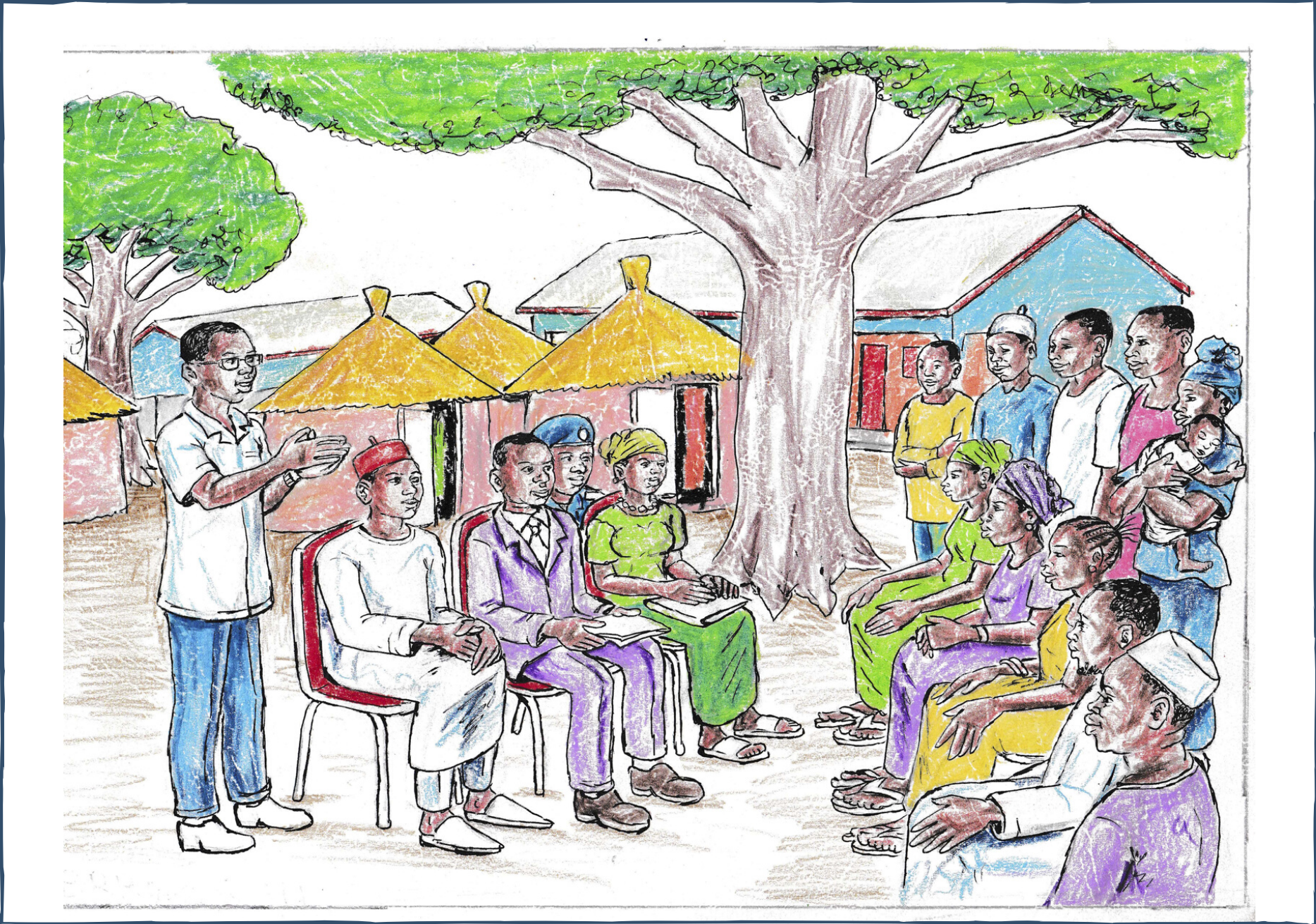




## **Will the TRRC further divide the country?**

The TRRC is conceived as a mechanism to provide healing for victims. It is an opportunity to give voice to the victims to tell their stories in a way that the judicial system cannot give them, provide victims with reparations in the broader sense of the word, and restore their dignity. The whole approach should be based on consultations with victims in order to put victims' interests and welfare at the core of the process.







# **How does the TRRC ensure participation and inclusion of all Gambians in the transitional justice process?**

Outreach programs play a very important role in the activities of the TRRC. The nationwide consultations about the possibility of setting up a TRRC were preceded by radio programmes throughout the Country. This was also the case for the selection and appointment process of the Commissioners. The TRRC has a communications and outreach department that has commenced massive sensitization programmes together with other organizations and institutions.





# **What is the role of youth in the Gambian transitional justice process?**

All segments of society have been and continued to be engaged in the process. There have been special programs targeted at the youth as well as children. Nationwide consultations have been conducted focusing on youth and children. Community and focused-group discussions have also involved the youth. The National Youth Council is very much engaged in TRRC activities. The TRRC has a Youth and Children's Unit specifically focused on educating and engaging youths about the TRRC, as well as about the transitional justice process in the country.





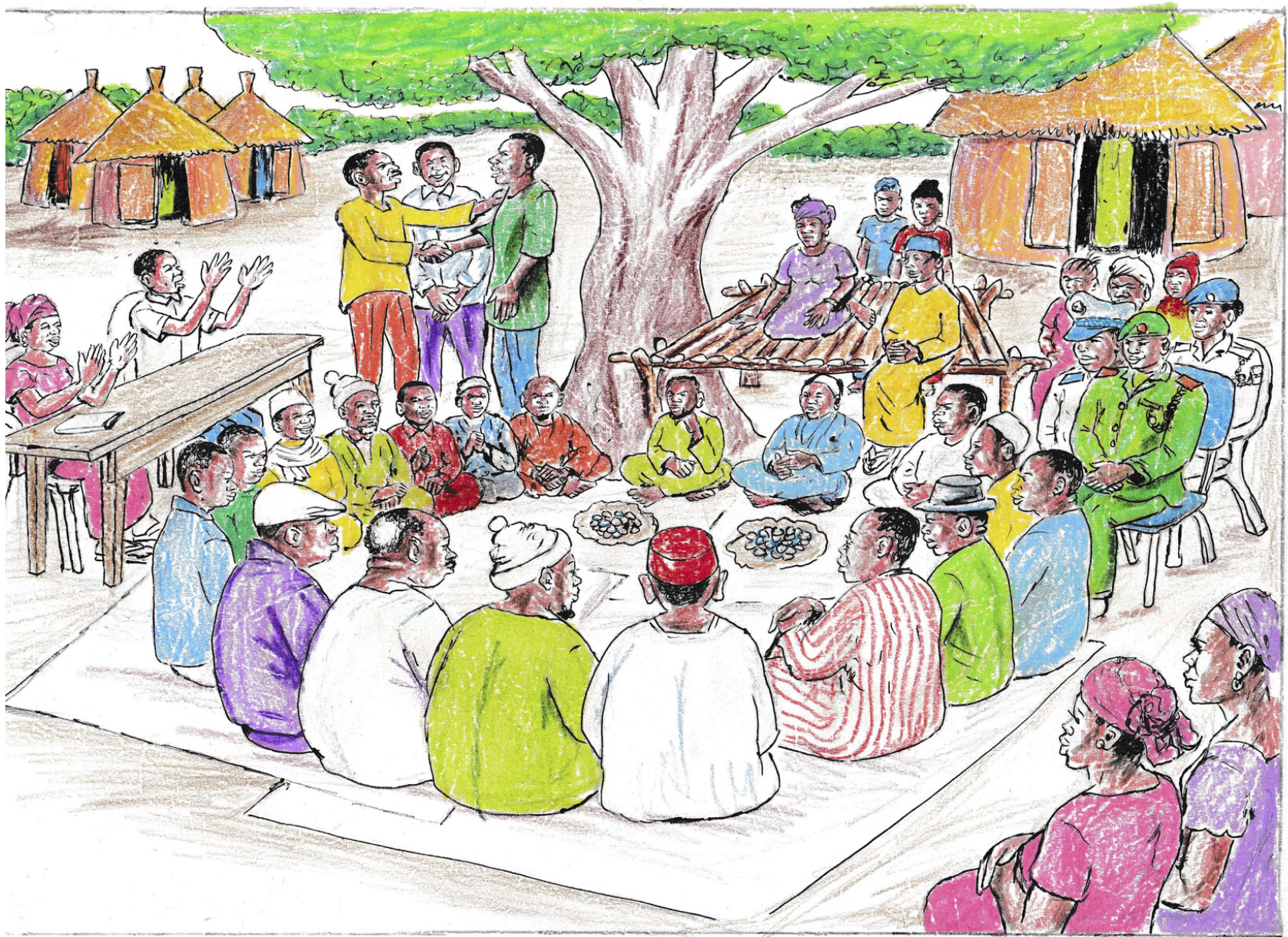


# **What are the mechanisms for monitoring and following up on the transitional justice process?**

Upon receiving the recommendations from the TRRC, the Government is mandated to issue a white paper containing its proposed plan on the implementation of the recommendations.

The role of civil society is also very important for monitoring the TRRC and ensuring its recommendations are implemented. According to the TRRC, "Civil society organizations are integral to the work of the TRRC as leaders in the educative, outreach and public engagement elements of the truth commission. The TRRC is committed to strengthening partnerships with civil society and is actively reaching out to these important stakeholders as partners and as watchdogs."



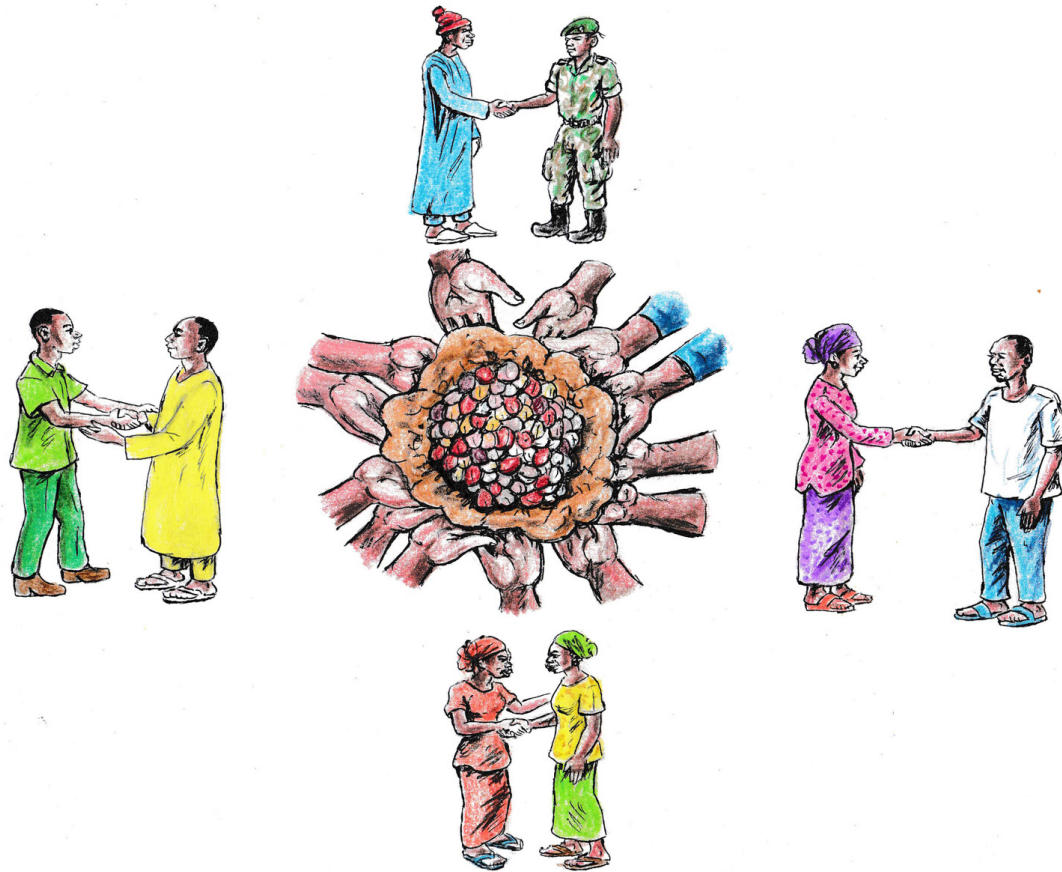




# **How will the transitional justice process prevent further rights violations?**

The TRRC process is meant to ensure that Never Again do we have such rights violations repeated. The TRRC is expected to serve as an important step toward transforming The Gambia by uncovering silences around past human rights violations and reforming the security services, the judiciary, and the civil service, among others.





*Please note that this document is not a document emanating from the TRRC.*

*February 2020*





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