SOMALI REGIONAL STATE

TRUTH AND RECONCILIATION COMMISSION

GUIDELINE FOR THE VICTIMS' EMERGENCY REPARATIONS

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Operational Definition

unless the context requires otherwise, in this Guideline

1. **Reparation**, means measures taken by the state or any mandated organization to redress the injuries suffered by victims due to gross violations of human rights or humanitarian law
2. "**Interim, immediate or urgent reparation**" means reparative measures provided to victims of gross human rights violations or their families in a timely manner, before the final settlement or comprehensive reparations program is established. These reparations are aimed at addressing urgent needs and preventing further harm, and can include medical care, psychological support, temporary housing etc.
3. **Comprehensive reparation**, means a full range of measures taken to address the consequences of gross human rights violations and to facilitate the healing and restoration of victims and affected communities.
4. **Fund,** means a specific allocation or commitment of financial resources by the Somali region's respective sector bureaus. These funds are designated to support the execution of emergency repairs for victims following referrals from the technical committee established by this guideline.
5. **Victims,** means, any individual or group who has suffered physical, mental, social, or economic difficulties as a result of actions that violate international law and international human rights law within the Somali Regional State during the period from May 1991 to August 2018

1. Introduction

Reparations play a vital role in addressing severe human rights violations and facilitating peaceful reconciliation in many post-conflict societies. Urgent interim reparation refers to the provision of immediate assistance to victims who are in dire need of access to suitable services and facilities.

According to General Assembly Resolution No. 60/147, "*The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian* ***Law"***, states are obligated to offer suitable, efficient, and timely reparation to victims.

The process of designing and implementing reparations for victims in the aftermath of large-scale and serious human rights violations is difficult with numerous challenges. These challenges often arise in transitional contexts where state institutions responsible for upholding the rule of law and supporting victims may be weak. Unfortunately, investing in victims' rights, whether in terms of political, meaningful acknowledgment, or budgetary allocation, tends to be a **low priority** for both **national and international actors** in these settings. the regional governments should, therefore, seek ways to navigate the implementation of emergency reparations despite their limited resources.

The establishment proclamation of the Somali region TRC commission outlines two types of reparations: **emergency reparations** and **comprehensive reparations.** The commission is tasked with implementing a program of emergency reparations that can be feasibly achieved during its mandate. Additionally, it is responsible for preparing recommendations for a full and comprehensive program of reparations to be executed by the government after the conclusion of the commission's temporal mandate.[1]

This Guideline aims to propose approaches and methods for implementing emergency/immediate reparations with the assistance of the regional government. It outlines the process of establishing the reparation fund, the institutional arrangement of its management, and the process of verification and criteria for accessing funds by the victims. The approaches and method for implementing the emergency reparation will be presented in the upcoming sections of this paper.

[1] A Proclamation for The Establishment of The Commission of Investigation of Violence and Reconciliation and Reparation of Victims in Somali Region, Proclamation No.205/2021, DHOOL GAZETA,

1.2 Implementation of Interim or Immediate or Emergency Reparation in Various Countries and International Best Practices.

Transitional justice addresses past human rights abuses and violations in a country through Truth and Reconciliation Commissions (TRCs). TRCs investigate and report on abuses, recommend measures to prevent future ones, and offer interim or emergency reparations for victims. "Transitional Justice Mechanisms (TRCs) have been established in over 40 countries, providing immediate reparation relief with variations in their implementation. Let's examine below various countries and how they implement emergency reparation

1) South Africa

In South Africa, the TRC commission has recommended interim reparations for victims of gross human rights violations who are in urgent need of assistance. The Reparation and Rehabilitation Committee (RRC) oversees the implementation of these reparations. The TRC commission has established three committees: Committee on Human Rights Violations, Committee on Amnesty, and Committee on Reparation and Rehabilitation of Victims.

The Committee on Reparation and Rehabilitation of Victims makes recommendations for appropriate reparation measures. The President's fund is responsible for paying all amounts payable to victims by way of interim or emergency reparation in terms of regulations made by the president. In south Africa immediate reparations provide immediate relief to victims while they wait for the final recommendations of the TRC.[2]

2) Chile

In Chile, immediate reparations were implemented through **the National Commission on Political Imprisonment and Torture** (Known as Valech Commission). The Valech Commission was responsible for identifying victims of human rights abuses during the military dictatorship of Augusto Pinochet. The commission's findings led to the establishment of the **National Corporation for Reparation and Reconciliation**, which provided reparations such as compensation, healthcare, and social services to the victims.

[2] A Summary off Reparation And Rehabilitation Policy, Including Proposals To Be Considered By The President, https://www.justice.gov.za/trc/reparations/summary.htm accessed October 8, 2023.

These programs were designed to provide compensation to victims of human rights violations committed during the military regime (1973-1990). The programs targeted various groups, including relatives of missing and executed persons, people who were dismissed from their jobs for political reasons, peasants who participated in land reform and were expelled from the land for political reasons, and Chilean exiles returning to the country. Political prisoners and torture victims were considered only in 2003.

3) **Uganda:**

In Uganda, the government implemented immediate reparations through the Amnesty Act of 2000. This act granted amnesty to former rebels who had been involved in the Lord's Resistance Army (LRA) conflict. The process involved individuals renouncing violence and going through a process of reintegration into society, including receiving support for education, vocational training, and small-scale economic projects. The Amnesty Commission was responsible for overseeing this process and ensuring the implementation of reparations and reintegration programs.

Immediate Reparations: Immediate reparations in Uganda included medical and psychosocial support services, educational support, vocational training, and small-scale economic projects. The Amnesty Commission and **various government ministries were responsible for implementing these interim reparations.**

International best practices

For interim or emergency reparations include providing immediate relief to victims while they wait for the final recommendations of the TRC. These reparations should be tailored to meet the specific needs of each victim and should be provided in a timely and efficient manner. It is also important to ensure that interim reparations do not exclude victims from being considered for final reparations.

Interim reparation programs are implemented differently in various countries, with each nation adopting its own approach. This shows the diverse strategies that countries employ in addressing the urgent or immediate needs for reparations.

2. Somali Regional State Context and Reparations

The Somali Region has been marred by a history of atrocities and severe human rights violations. Countless individuals have endured unimaginable suffering, including widespread displacement, torture, extrajudicial killings, sexual violence, and forced disappearances. These egregious violations have left a lasting impact on the victims and their communities, necessitating an immediate response to address the harm suffered and provide reparations.[3] The serious violations were significant during the period from 1991 to 2018.

Recognizing the urgent need to address the legacy of human rights abuses in the Somali Region, the regional administration has undertaken significant efforts to promote justice and accountability. In this regard, the Regional Council has passed a landmark law (Proclamation No. 205/2021) that establishes a framework for transitional justice and the establishment of a Truth and Reconciliation Commission (TRC). The TRC, as mandated by the law, will serve as an independent body tasked with investigating and documenting the wide range of human rights violations committed in the Somali Region. Its primary objective is to uncover the truth, promote healing, and foster national reconciliation. Additionally, the TRC Somali Region, as mandated by Proclamation No 205/2021, will play a crucial role in ensuring that **victims receive the reparations they deserve** for the harms they have endured.[4]

However, many victims and survivors are in dire need of immediate support, as they are living in poverty and poor health due to the economic and livelihood devastation caused by the violations. They may also face barriers to accessing government assistance and support, such as marginalization and ostracization from the community and the government system. Therefore, it is imperative that the government provide emergency support for the victims and survivors who are facing severe livelihood challenges, health problems, psycho-social needs, and legal issues.

[3] The Commission for Investigation of Violence and Reconciliation and Reparation of Victims in Somali Region, Reparation Guideline No 1
[4] Ibid pp no 2

3. Establishment and Management of the Fund

3.1. Setting up the Fund

The commission will set up a victim's fund to support victims who require urgent and immediate interventions. The commission will allocate a budget from the government's funds, depending on the availability of the resources. The regional stakeholder line bureaus will also commit earmarked resources, both in kind and in cash, to contribute to the fund. Moreover, the commission will establish a system to coordinate the in-kind efforts of other government agencies to provide support to the victims. The system will help victims access the existing government-supported programs, such as livelihood support, free health service, and free legal and psycho-social support.

3.2. Stakeholders and Engagement with Government Departments

The commission and the victims' networks have conducted a needs assessment to identify the urgent needs of the victims, which include health care, livelihood support, psycho-social support, and legal support. Therefore, the victims' support stakeholders will comprise the following line bureaus that can contribute to the support of the victims in various ways.

1. President office
2. Health bureau
3. Justice bureau
4. Disaster Risk Management Bureau
5. Finance Bureau
6. Irrigation Development Bureau
7. Pastoral and Livestock Development Bureau
8. Agriculture bureau
9. Job creation bureau
10. Burau of Labor Social Affairs
11. Women and Children Bureau
12. Sheikh Hassan Yabare Referral Hospital

The institutions have different roles (see the table below) in supporting the victims of human rights abuses. The health bureau will facilitate access to health services for the victims, especially those who need urgent medical attention. The institutions that provide social and economic services will prioritize the victims who are in dire conditions and need livelihood support and empowerment to

lead their lives. The institutions that provide social psycho-social and legal support will also extend their service to the victims to help them recover from trauma and marginalization. These institutions are expected to provide support to the victims by exempting fees where applicable and allocating funds to support the victims.

Role of the Government Sector Bureaus for the Emergency Reparation			
Heath Service Support	**Livelihood Support**	**Psycho-Social Support**	**Legal Support**
Health bureau	Disaster Risk Management Bureau	Health bureau	Justice bureau
Sheikh Hassan Yabare Referral Hospital	Finance Bureau	Sheikh Hassan Yabare Referral Hospital	Women and Children Bureau
	Irrigation Development Bureau	Bureau of Labor Social Affairs	
	Pastoral and Livestock Development Bureau	Women and Children Bureau	
	Agriculture bureau		
	Job creation bureau		

3.3. Institutional arrangement and coordination mechanism

The fund will be established under the auspices of the president's office and will be directly administered by the commission. The line bureaus of the regional administration will commit resources to the fund, both in cash and in kind, and will support the victims by giving them priority and waiving charges where applicable for the services they receive.

Various levels of coordination mechanisms might be established to coordinate and integrate the efforts of the stakeholders and streamline the services to enhance accessibility and efficiency for the victims. The fund will have a steering committee and technical working groups.

The steering committee:

The steering committee will consist of the strategic leaders of all the identified stakeholders and will be led by the president's office, the commission will also serve as the secretariat for the committee. The committee will be responsible for providing strategic guidance for the management and administration of the fund, such as allocating budgets, preparing and approving strategic plans, engaging development partners, mobilizing resources, and ensuring the effective implementation of the plans and commitments made by the line bureaus.

The technical working teams:

The technical working teams will have a similar institutional arrangement as the steering committee and will be responsible for implementing the operational plans of the fund and undertaking day-to-day activities. All stakeholders will assign a senior official who will serve as a focal point at their respective offices and will assist the victims to obtain support based on the resources committed and the developed plan, and report back to the steering committee. The technical working teams will assist the victims to obtain the health, livelihood, and psychosocial support they need by referring them to the nearest service points, upon the identification and confirmation of the commission through a rigorous process to determine the eligibility of the victims for emergency support.

3.4. Eligibility Criteria for Emergency Reparations

1.) Any individual, who has suffered direct or indirect human rights violations by the government or the armed groups shall be eligible for reparations.

2.) Reparations shall only be granted for crimes of a political nature committed by the government or armed groups.

3.4.1 Prioritization Criteria of Emergency Reparation Awards

The following factors shall be given consideration in prioritizing reparations for victims of human rights violations:

(a) The seriousness of the crime committed and the violation on the victim's rights;

(b) The impact of the violation, including continuing physical, psychological, and economic impact;

(c) The vulnerability of the victim, including women, children, and persons with disabilities;

(d) The need to account for any reparations already received by the victim;

(e) The appropriateness of non-monetary reparations.

3.4.2. Criteria for Verification of Authenticity

1.) Emergency reparation is assistance for people in urgent need, to provide them with access to appropriate services and facilities. Emergency Reparation is the delivery of reparative measures to victims who are in urgent need. Individuals seeking reparations must provide evidence supporting their claim of being a victim of human rights violations.

2.) This evidence may include, but is not limited to, testimonies, medical reports, eyewitness accounts, or any other relevant documentation.

3.) The victims must demonstrate a causal link between the alleged human rights violations and the specific political nature of the crimes committed by the government or armed groups.

4.) To ensure fairness and equality in the distribution of reparations, individuals with multiple claims or overlapping instances of harm may need to provide additional evidence or documentation to support each claim separately.

5.) The eligibility criteria outlined in this Section shall be periodically reviewed and updated, as necessary, to ensure compliance with applicable international standards and the evolving nature of human rights violations

3.4.3. Victim Centeredness of the Reparation Program

1.) Without prejudice to the preceding paragraphs and in pursuant to Art 25(d) of the establishment proclamation No. 205/2021, reparation shall avoid overly technical or unreasonable procedural and evidentiary requirements that may hinder victims in need of assistance from accessing especially in emergency reparation measures.

2.) The aggrieved person should be afforded easy access to the reparation process. In this context, it is necessary to recognize that large numbers of aggrieved persons have either lost and misplaced personal documentation and certification of violations or been unable to obtain any, during conflicts and displacement. Hence a flexible approach such as eyewitness or testimonies plus reasonableness shall be admitted as evidence in recognizing eligibility for reparation.

3.4.4. Feature of the process of verification

The process of verification will be simplified, user friendly and easy to access, bearing in mind that the greater majority of the applicants, will be from the rural sector, many of whom may not possess the knowledge, the capacity or the financial resources to secure assistance to engage in formal procedures involving detailed documentation and hearings.

3.5. Victims and Survivors Emergency Reparation Delivery Model

Victims and survivors are individuals with diverse needs, and therefore there is no single approach which will suit everyone; and the commission may assess the individual needs based on the need and urgency of the individual victims. However, given the limited resources and the large number of victims, the program should be discreet and focused in order not to distract the commission from its mission of truth-seeking and establishing accountability. The main reparation for victims should be postponed until the end of the process, when the government will be expected to establish a comprehensive victims reparation program.

The victims who are in dire need of emergency assistance will be identified by the statement takers during their field exercise, or reported by the victims' network, or registered through direct application to the commission.

Verification of the victims will be done firstly by Woreda level committee (composing the woreda admiration, elders, victim network and Majlis) using clear criteria set in the guideline and forward their recommendation to the Commission. Then the commission will further verify the victims'

identity and claim through clear and objective criteria stipulated in the manual, and refer the victims who need emergency support to the focal person of the technical team of the relevant bureaus. If the victim in need cannot be supported through the regional institutions, the technical team will present the case to the steering committee to explore other opportunities, such as providing further medical attention outside of the region.

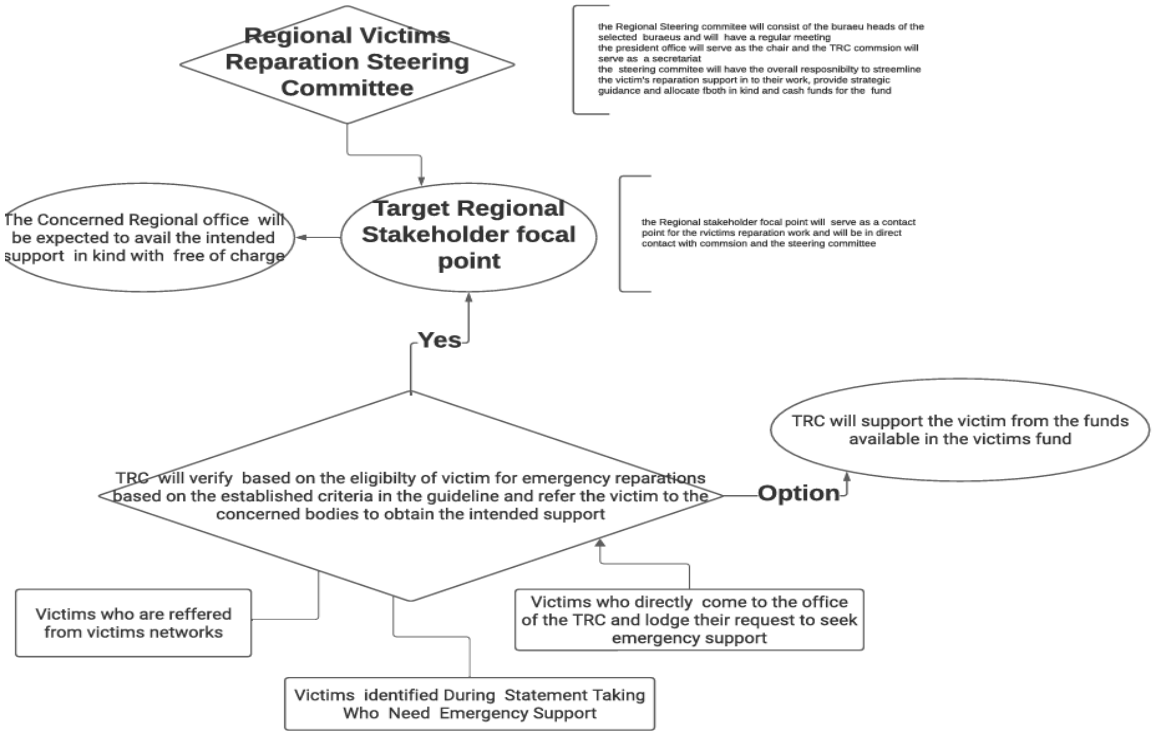

Figure 1: Victims and Survivors Emergency Reparation Delivery Model

3.6 Monitoring, Reporting and Reviewing of the Implementation of Emergency Reparation

Monitoring of the emergency reparation is a continuous of periodic review of emergency reparation project implementation to assess delivery, identify difficulties, ascertain problem areas and recommend remedial action. It seeks to ensure that input deliveries, work schedules, targeted results and other required actions are proceeding according to plan. TRC tools for periodic monitoring are: the emergency work plan and activity reports or periodic reviews that can be made on a monthly basis.

The work plan assigns each activity a timeframe, organizational responsibility, results, costs of inputs and assumptions.

Activity reports or periodic reviews assess the quality, quantity, and timeliness of results and activities, the use of resources, management problems and constraints. The report will include information update, progress vis-s-vis plan, problem or potential problem identification and corrective measures.