

**VICTIMS REPARATIONS ACT**

**ARRANGEMENT OF SECTIONS**

**Section**

**PART I – PRELIMINARY**

1. Short title
2. Interpretation

**PART II – ESTABLISHMENT OF THE FUND**

3. Reparations Fund
4. Purpose of the Fund
5. Sources of money for the Fund
6. Bank account for the Fund
7. Payment out of the Fund
8. Prohibition of use of Fund for non-Fund purposes
9. Accounts and Audit
10. Annual Report

**PART III – ESTABLISHMENT OF THE COMMISSION**

11. Establishment of the Victim Reparations Commission
12. Composition of the Commission
13. Appointment of Commissioners
14. Term of office of Commissioners
15. Remuneration of Commissioners
16. Resignation of Commissioners
17. Removal from office of Commissioners
18. Immunity of Commissioners
19. Filling of Vacancies

**PART IV – FUNCTIONS OF THE COMMISSION**

20. Objectives of the Commission
21. Functions of the Commission
22. Powers of the Commission
23. Independence of the Commission
24. Declaration of Interest by Commissioners

25. Establishment of Committees
26. Meetings of the Commission
27. Rules of procedure
28. Commission to Publish Guidelines and Forms

#### **PART V – ADMINISTRATIVE AND FINANCIAL PROVISIONS**

29. Executive Secretary and Deputy
30. Functions of the Executive Secretary
31. Other staff of the Commission
32. Immunity of staff
33. Staff Regulations
34. Annual estimates, accounts and audit
35. Operational budget of the Commission

#### **PART VI – INVESTIGATION BY OR ON BEHALF OF THE COMMISSON**

36. Meaning of Investigation under this Part
37. Assistance by Ministry and State Agencies
38. Power of Commission to request information
39. Privilege in respect of disclosure of information

#### **PART VII – REPARATIONS**

40. Reparations to be made by Commission
41. Database of victims
42. Non-monetary Reparation
43. Entitlement to monetary compensation.
44. Reparation of deceased Victim
45. Determination of Compensation amount
46. Standard of evidence
47. Compensation to be tax free and non-attachable
48. Double compensation
49. Reimbursement of Compensation by perpetrator
50. Reparation by Government
51. Commission to give reasons for decisions
52. Appeals

**PART VIII – DISSOLUTION OF THE COMMISSION**

- 53. Commission's Final report
- 54. Dissolution of the Commission
- 55. Final Audit
- 56. Residual Administrative Arrangements

**PART IX – MISCELLANEOUS**

- 57. Oversight
- 58. Recordkeeping and archiving
- 59. Offences
- 60. Regulations



## VICTIMS REPARATIONS ACT, 2023

---

committed during the period from July 1994 to January 2017 by person acting in an official capacity or an agent of the State, but shall not be limited to the following:

- (a) Any search, arrest and/or detention without a valid search warrant or warrant including any warrantless arrest or detention carried out pursuant to the orders or directives of the former President;
- (b) The infliction by a person acting in an official capacity and/or an agent of the State of physical injury, torture, killing, attempted killing, mental and emotional torture, SGBV, or violation of other human rights, of any person exercising civil or political rights, including but not limited to the freedom of speech, assembly or organization; and/or the right to petition the government for redress of grievances, even if such violation took place during or in the course of what the authorities at the time deemed an illegal assembly or demonstration.
- (c) Any enforced or involuntary disappearance caused upon a person who was arrested, detained or abducted against one's will or otherwise deprived of one's liberty until disappearance is made known;
- (d) Any force or intimidation causing the exile of a person from The Gambia;
- (e) Any act of force, intimidation or deceit causing unjust or illegal takeover of a business or forced labour, arbitrary closure of business, confiscation of property, detention of owner/s and or their families, deprivation of livelihood of a person by Former President and or persons acting in an official capacity

## VICTIMS REPARATIONS ACT, 2023

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or as agent of the state;

- (f) Any act or series of acts causing, committing and/or conducting the following:
  - (i) kidnapping or otherwise exploiting a person suspected of committing acts against the Jammeh regime;
  - (ii) mental, emotional and psychological distress;
  - (iii) Other violations and/or abuses similar to the above, including those recognized by international law.

**“institution”** includes a State-Owned Enterprise and Non-Governmental Organisation;

**“Interim compensation”** means monies paid to victims by the TRRC from its reparations fund;

**“Minister”** means the Attorney General & Minister of Justice;

**“Perpetrator”** means a person who has been found to have committed human rights abuses and violations by the TRRC and confirmed in the Government Whitepaper, and any person who may in the future be found guilty of having committed human rights violations by a Court of law or Tribunal either in the Gambia or elsewhere between July 1994 and January 2017.

**“President”** means the President of The Republic of The Gambia;

**“Reparations”** includes:

- (a) **“Restitution”** a mode of reparation which includes measures to restore a victim or group of victims to a situation close to the one they were in before the violations of their Human

Rights occurred,

- (b) **“Satisfaction”** a mode of reparation that includes a broad range of measures including but not limited to truth seeking, the search for the disappeared, the recovery and reburial of remains, public apologies, judicial and administrative sanctions, commemoration, memorialisation, archiving and human rights training,
- (c) **“Compensation”** refers to any monetary or financial consideration equivalent to an economically assessable damage resulting from the violation of the victim’s human rights or collective punishment meted out on communities through the denial of public services or deprivation of state funding,
- (d) **“Guarantees of Non-recurrence”** a mode of reparation which comprises broad structural measures of a policy nature such as institutional reforms, security sector reforms, strengthening judicial independence, civil society and victim-led organisations, the protection of human rights defenders, the promotion of human rights standards in public service, law enforcement, the media, and psychological and social services, and
- (e) **“Rehabilitation”** a mode of reparation which includes, education, medical and psychological care as well as legal and social services;

**“Secretariat”** means the secretariat of the Commission;

**“SGBV”** means any non-consensual sexual act, a threat or attempt to perform such an act, or compelling someone else to perform such an act on or with a third person. This definition applies irrespective of the sex or gender of the

## VICTIMS REPARATIONS ACT, 2023

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victim and the perpetrator, and of the relationship between the victim and the perpetrator.

**“Torture”** means any act or omission, by which severe pain or suffering whether physical or mental, is intentionally inflicted on a person by or at the instigation of or with the consent or acquiescence of any person, whether acting in an official or private capacity, for such purposes as-

- (a) obtaining information or a confession from the person or any other person;
- (b) punishing that person for an act he or she or any other person has committed, or is suspected of having committed or of planning to commit; or
- (c) intimidating or coercing the person or any other person to do, or to refrain from doing, any act.

(2) For purposes of this Act, “severe pain or suffering” means prolonged harm caused by or resulting from the –

- (a) intentional infliction or threatened infliction of physical pain or suffering;
- (b) administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;
- (c) threat of imminent death; or
- (d) threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality.

(3) Without limiting the effect of sub-section (1), the acts constituting torture shall include the acts set out in the Schedule of the Prevention and Prohibition of Torture Act, 2023.

## VICTIMS REPARATIONS ACT, 2023

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[Act. No.3 of 2023]

(4) The definition of torture set out in sub-section (1) does not include pain or suffering arising from, inherent in or incidental to a lawful sanction.

**“TRRC”** means the Truth, Reconciliation and Reparations Commission;

**“Victim”** includes –

- (a) a person designated as such by the TRRC;
- (b) Institutions that suffered pecuniary loss or impairment of human rights as a result of a human rights violations committed between July 22<sup>nd</sup> 1994 and January 31<sup>st</sup> 2017.
- (c) a person who, individually or together with other persons, suffered harm in the form of physical or mental injury, emotional suffering, pecuniary loss or an impairment of human rights as a result of a human rights violations that must have been committed between July 22<sup>nd</sup> 1994 and January 31<sup>st</sup> 2017.
- (d) a person who, individually or together with other persons, suffered harm in the form of physical or mental injury, emotional suffering, pecuniary loss or an impairment of human rights, as a result of such person intervening to assist persons contemplated in paragraph (b); and
- (e) a relative or dependent of a victim as may be determined by the Commission; and

**“Whitepaper”** means the Government’s Whitepaper containing its position on the recommendations contained in the TRRC Report.

## **PART II – ESTABLISHMENT OF THE FUND**

### **3. Reparations Fund**

A fund is hereby created to be known as the Reparations Fund.

### **4. Purpose of the Fund**

- (1) The fund shall be utilised to finance the making of reparations to victims as are defined under this Act and in accordance with the guidelines set by the Commission.
- (2) The Fund shall be to –
  - (a) finance individual and collective restitution for victims
  - (b) provide compensation directly to victims; and
  - (c) provide for the rehabilitation of victims.

### **5. Sources of money for the Fund**

- (1) The Fund shall consist of –
  - (a) monies appropriated to it by the National Assembly;
  - (b) the proceeds of the sale of the assets of the former President;
  - (c) grants; and
  - (d) donations from any lawful source.
- (2) The Commission may invest a portion of the Fund's resources in various financial instruments in consultation with the Minister for Finance and in compliance with applicable laws and regulations.

**6. Bank account for the Fund**

The fund shall open and maintain a Bank account at the Central Bank of The Gambia. The Fund may operate bank accounts in both Dalasi and Foreign currencies.

**7. Payment out of the Fund**

Payments shall only be made out of the fund with the approval of the Commission in accordance with its guidelines.

**8. Prohibition of use of Fund for non-Fund purposes**

The fund may not be used for any purposes that are not specifically provided for under this act and may not be used for any activity not consistent with the making of reparations to victims.

**9. Accounts and Audit**

(1) The Commission shall-

- (a) In respect of each financial year prepare a statement of the accounts of the Fund.
- (b) Within three months after the end of each financial year submit a statement of the Fund's accounts to the Auditor General for audit; and
- (c) Keep proper records and books of accounts of monies paid into and out of the fund according to standard record keeping guidelines and procedures.

(2) The audited accounts of the Fund and the Auditor General's report on those accounts shall form part of the Auditor General's annual report to the National Assembly.

## **10. Annual Report**

- (1) Within three months of each calendar year the Commission shall prepare and submit to the National Assembly a comprehensive report of the fund utilisation including but not limited to beneficiaries, form of reparation received, quantum of benefit, and recommendations for improving the efficiency of the reparations.
- (2) The Minister shall table the report before the National Assembly for discussion.
- (3) The Commission shall make public an anonymised version of the report.

## **PART III – ESTABLISHMENT OF THE COMMISSION**

### **11. Establishment of the Reparations Commission**

- (1) There is established by this Act, the Reparations Commission.
- (2) The Commission shall operate for a period of five years and may be extended by the President for such further period as he or she may determine by publication in the gazette.
- (3) The Commission is a body corporate with a common seal and can enter into contracts, acquire, hold, manage and dispose of property, and do such things or acts necessary for the proper performance of its functions under this Act, which may be lawfully done by a body corporate.
- (4) The application of the common seal of the Commission shall be authenticated by the signature of the Executive Secretary the Chairperson, the Vice-Chairperson, or any other member authorised by the Commission in writing to sign on behalf of the Commission.

- (5) A document bearing the common seal of the Commission is deemed to be properly sealed, unless the contrary is proved.

## **12. Composition of the Commission**

- (1) The Commission shall consist of seven members, at least three of whom shall be women, and shall possess the following qualifications:
- (a) Must be of known probity, competence and integrity;
  - (b) Must have a deep understanding and knowledge of human rights violations committed during the regime of former President; and
  - (c) Must be a Gambian citizen.
- (2) The Chairperson of the Commission shall, in addition to the qualifications specified under subsection (1) –
- (a) possess an undergraduate degree from a recognised institution;
  - (b) have ten years' experience in public administration and finance or related fields;
  - (c) have a proven track record of good leadership.
- (3) The Commission shall consist of two victim representatives, two youth representatives and one from a disability organisation.
- (4) In selecting members, the Panel shall have regard to victim representation, gender and youth balance as well as relevant expertise for the proper administration of the fund.

## **13. Appointment of Commissioners**

## VICTIMS REPARATIONS ACT, 2023

---

- (1) There is established by this Act, a Selection Panel which shall consist of a representative of –
  - (a) The Public Service Commission;
  - (b) The Association of Non-Governmental Organisations;
  - (c) The Gambia Association of Local Government Authorities;
  - (d) The Accountant General's Department;
  - (e) The Medical and Dental Council;
  - (f) a representative of the Government who shall be nominated by the Minister; and
  - (g) two members from the umbrella body for victims or if there is no umbrella body for victims, the Minister may appoint two victims.
- (2) The Selection Panel shall include at least two women.
- (3) The Selection Panel shall shortlist nine qualified candidates.
- (4) The Minister shall, after the selection panel has shortlisted nine candidates for membership of the Commission, cause the shortlist of nine candidates to be published in the Gazette for fourteen days.
- (5) Any person who, within this period, has an objection to any of the shortlisted candidates may do so with reasons in writing to the Minister, who shall place the objection before the selection panel to consider and reach a conclusion on.
- (6) The selection panel shall decide whether or not to disqualify the candidate or remove the candidate's

## VICTIMS REPARATIONS ACT, 2023

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name from the list of shortlisted candidates.

- (7) The selection panel shall then present the shortlist of nine candidates to the National Assembly for approval of seven of the candidates as members of the Commission.
- (8) After approval, the National Assembly shall forward the names of the seven candidates to the President for formal appointment as members of the Commission.
- (9) The Minister shall publish in the Gazette, the names of the seven persons appointed by the President as members of the Commission.
- (10) A member of the Selection Panel is disqualified from applying for the position of member of the Commission.
- (11) The President shall designate the Chairperson and Vice-Chairperson from amongst the individuals appointed as members of the Commission, one of whom shall be a female.
- (12) A person shall not be qualified for appointment as a Commissioner if her or she –
  - (a) holds office in a political party;
  - (b) holds views that are contrary to the principles of the Transitional Justice process;
  - (c) has been convicted of a felony;
  - (d) has had adverse findings made against him or her by the TRRC or a Commission of Inquiry set up under the Laws of The Republic of The Gambia;

(a) has been banned from holding public office; and

(b) is an undischarged bankrupt.

#### **14. Term of office of Commissioners**

(1) A member of the Commission shall hold office for a term of four years and is eligible for re-appointment for one further term, provided that in the case of the Chairperson and Vice-Chairperson the term shall be five years.

#### **15. Remuneration of Commissioners**

(1) The Commission shall be ad-hoc and shall meet on a periodic basis to review proposals and make decisions on reparations.

(2) The Commissioners shall be paid such allowances and benefits as may be determined by the Minister.

(3) The Minister shall not vary the allowances or benefits of a Commissioner to his or her disadvantage during his or her tenure of office.

#### **16. Resignation of Commissioners**

A Commissioner may resign his or her office by notice in writing to the President and the resignation shall take effect within one month of the receipt of the notice by the President.

#### **17. Removal from office of Commissioners**

(1) The President may remove a Commissioner from office only on the following grounds;

(a) Inability to perform the functions of his or her office arising from infirmity of mind or body;

(b) Failure to disclose an interest or conflict with a particular subject or beneficiary before the

Commission;

(c) Gross misconduct as defined under the Commission's guidelines;

(d) Incompetence;

(e) Conviction for a felony or any offence constituting a human rights violation; or

(f) Disqualification pursuant to Section 13(6).

(2) The President shall not remove a Commissioner from office under sub-section 1(a) unless he or she receives a report from a properly constituted Medical Board.

(3) The President shall not remove a Commissioner from office under sub-section 1(b) (c) and (d) unless he or she receives a report from a Committee appointed by the Minister.

(4) The Committee appointed by the Minister shall comprise a lawyer in good standing at the bar with at least 10 years post call experience, a representative of Victims Organisations and a retired civil servant.

### **18. Immunity of Commissioners**

A Commissioner or a former Commissioner shall not be subject to civil or criminal proceedings for any act done or omitted to be done in good faith in the performance of his or her official functions.

### **19. Filling of Vacancies**

When a vacancy occurs due to the resignation of a Commissioner, his or her removal, the expiry of his or her term, or death, he or she shall be replaced using the same procedure for appointment.

**PART IV – OBJECTIVES AND FUNCTIONS OF THE COMMISSION**

**20. Objectives of the Commission**

The principal objective of the Commission shall be to manage the Fund for the making of reparations to victims.

**22. Functions of the Commission**

(1) The Commission shall –

- (a) review reparations paid out by the TRRC and make necessary adjustments;
- (b) receive, evaluate, process and make a determination as to new victims not identified by TRRC;
- (c) create and maintain an up-to-date database of victims;
- (d) develop and publish guidelines and procedures for the granting of reparations;
- (e) administer the Fund and provide reparations to victims;
- (f) refer new complaints of human rights violations to the relevant authorities;
- (g) work with relevant government agencies and third parties on the provision of non-monetary reparations;
- (h) perform such other functions as are necessary or expedient under this Act or any other enactment of the National Assembly.

**22. Powers of the Commission**

The Commission shall –

- (a) grant reparations to victims;
- (b) request information from relevant authorities, victims, or other third parties for the fulfilment of their objectives;
- (c) issue summonses and subpoenas as it deems necessary for fulfilment of its objectives;
- (d) conduct independent administrative proceedings and resolve disputes over claims; and
- (e) promulgate such rules of procedure as may be necessary to carry out the purposes of this Act.

### **23. Independence of the Commission**

- (1) The Commission shall be independent, impartial and objective in the performance of its functions.
- (2) In the exercise of its functions, it shall not be subject to the control of any person or authority.

### **24. Declaration of Interest by Commissioners**

- (1) A member of the Commission who has an interest in any matter before the Commission, shall –
  - (a) Disclose to the Commission the fact of such interest and the nature of it; and
  - (b) Not take part in any proceedings or decision of the Commission relating to the matter.
- (2) A disclosure of interest by a member shall be recorded in the minutes of the Commission.
- (3) A member who contravenes sub-section (1) may be

removed from the Commission subject to section 18.

- (4) For purposes of this section, “**interest**” means any matters that has the potential to undermine or compromise the independence or judgment of a Commissioner.

## **25. Establishment of Committees**

- (1) The Commission shall be composed of three Committees which may function simultaneously and collaboratively in the resolution of claims for reparations.
- (2) The Committees may include the following –
- (a) Compensation Committee;
  - (b) Restitution Committee; and
  - (c) Rehabilitation Committee.
- (3) A committee may invite to its meetings, specialists in various human rights fields as resource persons or in such other capacity as the committee shall determine.
- (4) A decision of a committee shall not have any effect until the Commission approves it.
- (5) A report issued by a committee is deemed, after approval by the Commission, to be an official report of the Commission.
- (6) The Commission shall regulate the procedure of its committees.

## **26. Meetings of the Commission**

- (1) The Commission shall not be a permanent body and shall meet at such frequency as it may determine.
- (2) The Chairperson shall preside over meetings of the

Commission and the Vice-Chairperson shall preside over meetings in the absence of the Chairperson.

- (3) The quorum for a meeting of the Commission shall be 5 members, including the Chairperson or the Vice-Chairperson.
- (4) All decisions of the Commission shall be taken on the basis of a majority vote and the Chairperson or other member presiding shall have a casting vote on any matter for decision by the Commission.

#### **27. Rules of procedure**

The Commission shall regulate its own procedure, provided that its rules of procedure shall be made public.

#### **28. Commission to Publish Guidelines and Forms**

The Commission shall develop and publish all guidelines and forms relevant to its functions.

### **PART V – ADMINISTRATIVE AND FINANCIAL PROVISIONS**

#### **29. Executive Secretary and Deputy**

- (1) The Secretariat of the Commission shall be headed by an Executive Secretary
- (2) The Commission shall after consultation with the Public Service Commission, appoint the Executive Secretary of the Commission.
- (3) The Executive Secretary shall hold office for a renewable term of five years, on such terms and conditions as the Commission may determine in consultation with the Public Service Commission.
- (4) The Executive Secretary shall –

- (a) have an in-depth understanding of the TRRC process;
  - (b) have at least 10 years' experience in administration and financial management; and
  - (c) hold advanced academic qualifications in a relevant field.
- (5) The Executive Secretary may only be removed from office due to –
- (a) inability to perform the functions of his or her office, arising out of physical or mental incapacity;
  - (b) Bankruptcy;
  - (c) Conviction for a felony or any offence constituting a human rights violation; or
  - (d) misconduct or incompetence.
- (6) Before the Executive Secretary is removed, he or she shall be informed of the case against him or her and be given adequate opportunity to defend himself or herself against any allegations.
- (7) The Commission shall, in consultation with the Executive Secretary, appoint a Deputy Executive Secretary.

### **30. Functions of the Executive Secretary**

- (1) The Executive Secretary shall –
- (a) be responsible for the day-to-day administration of the Commission;
  - (b) receive, and process claims under this Act;
  - (c) assist the Commission in technical Functions;

- (d) supervise staff of the Secretariat;
- (e) facilitate the business of the Commission;
- (f) keep all records of the Commission;
- (g) initiate and maintain contacts or relations with government departments, agencies and third parties for purposes connected with the granting of reparations;
- (h) be responsible for the financial management of the Commission;
- (i) ensure that there are mechanisms in place for the decentralisation of the Commission's services; and
- (j) perform such other functions as the Chairperson may assign to him or her.

### **31. Other Staff of the Commission**

- (1) The Commission may appoint, through a transparent recruitment process, such other staff as the Commission may require for the efficient performance of its functions, provided that the Commission shall have a lean and effective administrative structure.
- (2) The Commission shall from time to time, determine the terms and conditions of service (including terms and conditions as to competitive remuneration, allowances, pensions, gratuities and other benefits) of the persons employed by the Commission.
- (3) The Commission may delegate to the Executive Secretary, the power to appoint such grades or categories of staff as the Commission may determine.
- (4) The Commission may engage such consultants and advisers as it may require for the efficient performance

of its functions.

### **32. Immunity of Staff of the Commission**

The Executive Secretary and any other staff of the Commission shall not be subject to civil or criminal proceedings or be personally liable for any act done or omitted to be done in good faith in the performance of his or her functions.

### **33. Staff Regulations**

- (1) The Commission shall make staff regulations generally for the conditions of services of the employees of the Commission.
- (2) Regulations may provide for –
  - (a) The appointment, appraisals, promotion and discipline (including dismissal) of employees of the Commission;
  - (b) Appeals by employees against dismissals or other disciplinary measures; and
  - (c) Such other matters as may lawfully be provided for under this Act.

### **34. Operational budget of the Commission**

- (1) The operational budget of the Commission shall be distinct from the Fund and shall consist of –
  - (a) moneys appropriated to it by the National Assembly,
  - (b) Grants, and
  - (c) donations made towards the Commission.

- (2) The Commission shall have control over the use of its funds.

**35. Annual estimates, accounts and audit**

- (1) The Commission shall, no later than three months before the end of each financial year, prepare and submit to the Minister responsible for Finance for onward transmission to the National Assembly estimates of the operations budget of the Commission for the ensuing year.
- (2) The Commission shall prepare in respect of each financial year, a statement of accounts.
- (3) The Commission shall keep proper records and books of accounts of its income, expenditure and transfer.
- (4) The Commission shall, within three months after the end of each financial year, submit its statement of accounts to the Auditor General for audit.
- (5) The audited accounts of the Commission and the Auditor General's report on these accounts shall form part of the Auditor General's overall annual report to the National Assembly.

**PART VI – INVESTIGATIONS BY OR ON BEHALF OF THE COMMISSION**

**36. Meaning of Investigation under this Part**

In this Part, “investigation” means an investigation that is relevant to the work of the Commission.

**37. Assistance by Ministry and State Agencies**

- (1) A Ministry, investigative agency or State agency requested by the Commission to carry out an investigation on behalf of the Commission shall comply with the request.

- (2) Where a Ministry, Investigative agency or State Agency determines that it does not have and is not likely to have the financial and human resources to carry out investigation, the Minister shall take such steps as may be required to enable the investigation to proceed.

**38. Power of Commission to request information**

- (1) This section applies where the Commission has cause to believe that a person or entity is in possession of information that will be relevant to the attainment of its objectives.
- (2) The Commission may serve a written notice on an entity or on any other person that appears to be in possession of relevant information or documents.
- (3) The Commission may, in the notice, require the entity or person on whom it is served to do all or any of the following –
- (a) provide to the Commission, either forthwith or within a time specified in the notice, information or documents that the Commission reasonably requires for its investigation;
  - (b) answer questions in respect of any information the Commission requires for the purposes of its investigation, either forthwith or at a time and place specified in the notice.
- (4) A person who –
- (a) fails to comply with a notice served under subsection (2); or
  - (b) knowingly or recklessly provides information that is false, misleading or incomplete,

(c) commits an offence and is liable on conviction, if an individual, to a fine of not less than one hundred thousand dalasi or imprisonment for a term not exceeding five years, or to both the fine and imprisonment, or if a body corporate, to a fine of not less than five hundred thousand dalasi.

### **39. Privilege in respect of disclosure of information**

- (1) Nothing in this Part requires a person to disclose or produce information, document or other material if the person would in an action in a court be entitled to refuse to disclose or produce it on the grounds of legal professional privilege.
- (2) Notwithstanding subsection (1), a legal practitioner shall disclose the name and address of a client to the Commission when required to do so by the Commission in the exercise of its powers under this Act.

## **PART VII – REPARATIONS**

### **40. Reparations to be made by Commission**

- (1) The Commission shall have the primary mandate of making reparations to victims as may be laid out by this Act.
- (2) The reparations to be made by the Commission shall be complementary to other transitional justice mechanisms.
- (3) Reparations made to a victim under this part does not affect a victim's entitlement to reparations in other parts.

### **41. Database of victims**

- (1) Persons who are Victims, regardless of whether they opt to seek reparation or not, shall be given recognition by enshrining their names in a Database of Victims to be

prepared by the Commission.

- (2) The Commission shall include in this database the database of victims created by the TRRC as well as any new Victims that may be designated as such by the Commission.

#### **42. Assistance by Government**

- (1) The Government Ministries, Departments and Agencies responsible for Health, Gender & Social Welfare and Education shall render the necessary services and assistance as may be required by the Commission in the provision of reparations to Victims and their families.
- (2) The provision of reparations to victims under subsection (1) shall be subject to section 50.

#### **43. Entitlement to monetary compensation**

- (1) A victim qualified under this Act shall receive compensation from the Commission, free of tax as herein prescribed, provided that for a deceased or forcibly disappeared victim, his or her survivor, or such other person named by the executor or administrator of the deceased or involuntary disappeared victim's estate in that order, shall be entitled to receive such reparation.
- (2) Monetary compensation shall be the property of the Commission until such time as payment is made to the victim or his or her next of kin.
- (3) A victim who has been found to have been a perpetrator by the TRRC shall not be entitled to monetary compensation under this Act.

#### **44. Amount of Compensation**

- (1) The amount of Compensation under this Act shall not be lower than the standard set by the TRRC and shall be proportionate to the gravity of the human rights violation

committed on the Victim and in accordance with the number of points assigned to the individual under section 45.

**45. Determination of Compensation amount**

- (1) The Commission shall follow the point system in the determination of the award. The range shall be one to ten points, as follows:
  - (a) Victims who died or who disappeared and are still missing shall be given ten points;
  - (b) SGBV victims or victims who were tortured shall be given seven to nine points;
  - (c) Victims who were detained shall be given four to six points; and
  - (d) Victims whose rights were violated under section 2, paragraph (d), (e), (f) under this Act shall be given one (1) to three (3) points.
- (2) The Commission shall exercise its powers with due discretion in the determination of points for each victim, which shall be based on the type of violation committed against the Victim, frequency and duration of the violation.
- (3) In instances where a victim is classified in less than three categories, one shall be awarded the points in the highest category, provided, that in cases where there are more than three eligible claims filed for reparation by or on behalf of a particular Victim, the Commission shall award points for the two highest categories.
- (4) The Commission shall then compute the final monetary value based on a base figure to be determined by the commission multiplied by the number of points obtained.

- (5) In the event a victim has already received interim compensation, such amount shall be deducted from the final monetary figure.
- (6) Within forty-five days after the Commission has approved with finality each eligible claim pending before it and after due notification of such legitimate claim, the award of monetary compensation shall take effect. Provided, that any pending appeal filed by an aggrieved Victim must be resolved within sixty days.

**46. Standard of evidence**

The Standard of evidence used by the Commission in evaluating claims shall be of a lesser standard than is expected in Court proceedings.

**47. Compensation to be tax free and non-attachable**

- (1) All monetary compensation granted to Victims shall be free of any tax whatsoever and shall be non-attachable in any judicial proceedings.

**48. Double compensation**

- (1) A victim who has received monetary compensation in any judicial proceedings in connection with the human rights violation suffered by him or her will not be eligible to receive monetary compensation from the Commission.

**49. Reimbursement of Compensation by perpetrator**

- (1) Any perpetrator found guilty of having committed a human rights abuse by a competent court of law may in addition to his or her sentence be ordered by the court to reimburse the Fund for any reparation made in connection with that offence.
- (2) The State may through lawful processes seize and liquidate any assets identified to belong to the said

perpetrator and remit such proceeds to the Fund.

**50. Reparation by Government**

- (1) The Government shall be directly responsible for making Reparations that consist of Satisfaction and Guarantees of non-recurrence in accordance with the Whitepaper.

**51. Commission to give reasons for decisions**

- (1) The Commission shall upon making a decision with regard to a claim under this Act promptly give reasons for such decision to the concerned party.

**52. Application for review**

- (1) Any aggrieved claimant or victim may request for a review of a decision within forty-five calendar days from the receipt of a written decision on a claim to the full Commission, whose decision shall then become final.

**PART VIII – DISSOLUTION OF THE COMMISSION**

**53. Commission's Final report**

At the end of its term, the Commission shall submit a final report of its work to the National Assembly outlining amongst others the utilisation of the Fund and beneficiaries.

**54. Dissolution of the Commission**

The President shall, not later than six months after the submission of the final report of the Commission, dissolve the Commission by Notice in the Gazette.

**55. Final Audit**

- (1) The Commission shall notify the Auditor General at least six months before the end of its term and the latter shall cause an audit to be done on the Commission.

(2) The final Audit Report shall be completed within five months and submitted to the National Assembly and the Minister.

(3) The National Assembly shall make the report public within one month of receiving it.

#### **56. Residual Administrative Arrangements**

The Executive Secretary shall within three months after the submission of the report, among the final administrative activities of the Commission -

(a) organise its archives and records as appropriate and hand over to the Minister or such entity as the Minister may direct; and

(b) Organise in a transparent manner the disposal of the property of the Commission in consultation with the Minister.

### **PART IX – MISCELLANEOUS**

#### **57. Oversight**

The Commission shall be under the oversight of the Ministry.

#### **58. Recordkeeping and archiving**

The Commission shall keep records and organise archives in accordance with standard record keeping guidelines and procedures in consultation with the National Records Office. After the dissolution of the Commission, its records and archives shall be catalogued reviewed and turned over to the entity at that time charged with the management of the TRRC Archives.

#### **59. Offences**

(1) Any Person who –

- (a) makes a fraudulent claim for reparation before the Commission;
- (b) being a member of the Commission or its Secretariat fraudulently processes a claim; or
- (c) with the use of force, undue influence or duress deprives a victim of their monetary compensation;

Commits an offence and is liable on conviction to a fine of not less than five hundred thousand dalasi or imprisonment for a term not exceeding five (5) years or both the fine and imprisonment.

(2) Any member of the Commission and its Secretariat, public officer, or individual mandated to implement this Act, who misappropriates moneys from the Fund commits an offence and is liable on conviction to a fine of five hundred thousand dalasi or imprisonment for a term of seven (7) years or both fine and imprisonment.

## **60. Regulations**

(1) The Minister may, with consultation with the Commission, make regulations for the effective implementation of this Act.

(2) Regulations made under this Act shall provide for -

- (a) transparency in the processing of the claims;
- (b) a victim-centred and gender sensitive process;
- (c) protection of victims' identities;

## VICTIMS REPARATIONS ACT, 2023

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- (d) avoidance of re-traumatisation in the execution of its mandate;
- (e) a procedure that allows any concerned party to oppose an application or claim on the ground that it is fraudulent or fictitious and gives that party the opportunity to question the same and to present evidence in support thereof; and
- (f) a procedure that is speedy and expeditious without sacrificing any of the parties' fundamental rights.