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Questionnaire

TRNUC Survey seeking the views of **Complainants** on the best options for (a) reparations and compensation for victims of human rights abuses committed during or in relation to the Coup d'Etat of 5th June 1977, and (b) the granting of amnesty.

March 2021

*To be returned to TRNUC by Friday 5 March 2021, either
By email to: survey@trnuc.sc
Or deposit at the office of the Mayor of Victoria, State House Avenue.*

Thank you for assisting us.

PART A - Reparation and Compensation

In considering reparations measures, the TRNUC is guided by the UN's OHCHR's Basic Principles and Guidelines on reparations (A/RES/60/147, 2006, sections 19 to 23), which acknowledges the duty to provide redress for harm suffered, in the form of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition¹. These possible options for reparation range from the material to the symbolic and the benefits may be distributed both individually and collectively.

For the purposes of addressing reparations, and consistent with the Basic Principles and Guidelines victims eligible to receive reparations are *"... persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law. [...] the term "victim" also includes the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization."* (Section V 8, p5)

The TRNUC notes that its anticipated reparations programme is meant to compensate a relatively large number of potential beneficiaries, as well as help to strengthen the rule of law and essential systems of norms that had been weakened by the one-party system. It also acknowledges that such a programme is being considered during a period of greatly reduced financial resources nationally and internationally, largely due to the COVID19 pandemic.

Within this stated context, the TRNUC is seeking the views of complainants and non-complainants on various aspects of Compensation as indicated in the questions that follow.

¹ **Restitution:** measures which "restore the victim to the original situation before the gross violations of international human rights law and serious violations of international humanitarian law occurred," such as restoration of liberty, human rights, identity, family life and citizenship, return to one's place of residence, restoration of employment and return of property.

Compensation: for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, resulting from gross violations of international human rights law and serious violations of international humanitarian law," such as lost opportunities, loss of earnings and moral damage.

Rehabilitation: "should include medical and psychological care as well as legal and social services."

Satisfaction: a broad category of measures, ranging from those aiming at a cessation of violations, to truth-seeking, the search for the disappeared, the recovery and reburial of remains, public apologies, judicial and administrative sanctions, commemoration and memorialization, and human rights training.

Guarantees of non-repetition: includes institutional reforms tending towards civilian control of military and security forces, strengthening judicial independence, the protection of human rights workers, human rights training, the promotion of international human rights standards in public service, law enforcement, the media, industry, and psychological and social services. p7 & 8.

Complainant: *(You may give your name if you wish)*

Name: *(Optional)*

A. Levels and types of Compensation

1. In your view, on what basis should compensation levels be determined? *(Your answer can include more than one factor):*

- (a) The severity of the human rights violation
 - (b) The impact on the victim and their family
 - (c) The financial situation of the country and the Government's ability to pay
 - (d) A combination of all these factors
 - (e) Other *please specify:*
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2 (a). Would you be willing to accept non-monetary compensation, such as:

- (a) Official / public apologies
- (b) Commemorations and tributes to victims including yourself - such as memorials, memory paths, special memorial days, a museum or park dedicated to victims, changing the names of public spaces etc.
- (c) Other suggestions:

Please tick the options that would be most appropriate and specify other suggestions (if any)

2 (b). If you are seeking financial compensation, in the present difficult financial situation, would you consider accepting a token payment in recognition of the human rights violations you have suffered?

Yes: No: *(Tick Yes or No, and if No, please give reasons)*

If No, Specify reasons:

B. Modalities of Distribution of Monetary Compensation

3. What, in your view, would be the best ways to allocate monetary compensations to victims:
- (a) As a lump sum payment?
 - (b) Through payment of a 'victims' pension' – paid over time to victims and/or their immediate family members?
 - (c) Service packages, covering the costs of special services such as health, housing, education and training, etc...
 - (d) Other suggestions? *Please specify:*
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C. Financing Reparations

4. As a complainant, what in your view would be the best ways to finance a 'reparations programme'? Where should the money come from? (*Here are some options; select as appropriate and add others*)
- (a) Through setting up a trust fund – financed by voluntary contributions
 - (b) Setting up a trust fund – financed by the Government
 - (c) Setting up a dedicated line in the yearly national budget
 - (d) Special taxes targeting those proven through court proceedings to have benefitted from the violations
 - (e) Recovery of unexplained wealth, as proven through court proceedings, obtained during the specified temporal period of the TRNU process
 - (f) Other *Please specify:*
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NOTE: *Options (c) and (d) are likely to take very long periods of time and would necessitate a long-term commitment by Government to follow through the judicial process.*

PART B - Granting of Amnesty

Under Section 12 of its Act the Commission has the possibility of granting amnesty to perpetrators. A person may file a petition for amnesty prior to or after being named by a complainant, within 24 months from the start of the Commission's mandate (May 2019). The Commission may consider the petition for admissibility provided it is satisfied that:

- (a) The petitioner has given a full and frank disclosure of his/her culpable acts in relation to any violation;
- (b) The petitioner has made a statement of sincere apologies to the victim or victims.

The Commission's decision to grant amnesty will be made after hearings of the testimonies of all parties involved - complainants, victims, petitioners, perpetrators and other persons deemed appropriate by the Commission.

The Commission also notes that its Act requires that all grants of amnesty must "abide by universally recognised legal principles and human rights norms" (TRNUC Act, Section 3(9)), and that Seychelles is a signatory to all major human rights, criminal and humanitarian law treaties.

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1. One of the major aims of the TRNUC is to help bring about reconciliation and national unity; as a complainant, would you consider accepting the apology of and forgiving the person or persons you believe caused you harm?

Yes: No:

- 1(a). If 'Yes' - what would be the conditions (if any) under which you would consider forgiveness?
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- 1(b). If 'No' – what are the reasons that would stop you from offering forgiveness?
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2. How important is it to the grant of an amnesty, in situations where the perpetrator was following an order from someone else?

(a) Very important

(b) Irrelevant

(c) Other - *Please specify:*

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3. What types of violations do you think should not be considered in relation to the granting of amnesty?

- (a) Unlawful killing
- (b) Unlawful imprisonment or other deprivation of physical liberty
- (c) Torture
- (d) Rape
- (e) Enforced disappearance of persons
- (f) Kidnapping
- (g) Forceful eviction from legally owned building or land
- (h) Unjustified acquisition or loss of property or business
- (i) Wrongful denial of the right to employment
- (j) Wrongful termination of employment
- (k) Forced exile
- (l) Abuse of office by a Government official, including the executive, judiciary or legislature
- (m) Other acts of a similar character causing suffering, or injury to body or to mental or physical health