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'From victims to active citizens'



SUBMISSION TO THE PORTFOLIO COMMITTEE ON DEFENCE AND MILITARY VETERANS, KHULUMANI SUPPORT GROUP, March 11, 2011

INTRODUCTION

Khulumani Support Group welcomes the opportunity to make this submission to the Portfolio Committee on Defence and Military Veterans on the Military Veterans Bill (B1-2011).

Khulumani Support Group appreciates the efforts of the Department of Defence and Military Veterans to develop draft regulations to address the range of issues that remain to be addressed for individuals who made sacrifices “in the service of or for their country or (through playing a) role in the democratisation of South Africa.” (See Article 3 of the Military Veterans Bill on “Fundamental principles recognized by the State, and policy objectives”).

Khulumani Support Group makes this submission as a civil society organization whose membership comprises some 65,000 victims and survivors of gross human rights violations sustained in the struggle against apartheid political oppression, including both victims and veterans and others who fall into both categories. Khulumani makes this submission as a member of the South African Coalition for Transitional Justice, an alliance of eight organizations that have worked on the issues of veterans and of victims since the country’s transition to democracy in 1994. The organizations in this coalition have significant experience and expertise to draw on in developing proposals that could provide for the successful reintegration of both veterans and victims into mainstream society.

Khulumani notes that while many made sacrifices as members of political movements and thereby lost potential educational and job opportunities with associated earnings, many victims sustained equally devastating losses of breadwinners and children and physical and mental health. Khulumani believes therefore that veterans and victims should be equally considered for benefits within a programme of reparation and compensation for sacrifices made in the liberation struggle.

Khulumani expresses concern that the adjudication of sacrifice should not be restricted to the membership of any particular organization but should include the facts and evidence of real suffering of victims who continue to expect the fulfillment of the State’s promises on reparations and of the exclusion that has resulted from the involvement of many as veterans in the struggle.

Khulumani Support Group notes that the range of active participants in the struggle for liberation, included those who became involved in non-violent direct action and in other forms of resistance and opposition to apartheid; while others supported military organizations (with logistic or other forms of support) without being directly involved themselves; while others took up arms.

Khulumani Support Group notes that as the struggle against apartheid was a struggle for human rights, it would be inappropriate to omit victims of gross human rights abuses from considerations of those who should receive benefits and / reparations. Any such omission or inconsistency in the

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provision of measures for reparation, would create risks for the State, if veterans (as detailed in Section 3.1b in addressing the reality that many veterans are persons with disabilities) were to receive reparations without reparations simultaneously being provided for victims.

BACKGROUND

Khulumani Support Group has advocated over several years for the development and adoption of policies and regulations to provide for the recognition of the contributions of all those who fought for freedom and justice in South Africa, whether as members of organized military formations or as civic actors who suffered political detention, torture and other gross human rights abuses as a result of the stands that they made for truth and justice. Khulumani notes that there are individuals who fall into the category of being both a victim and a veteran.

As the collective voice of individuals who were harmed as a result of the stands they made, Khulumani has advocated for the creation and adoption of measures to assist both victims and survivors and veterans to be assisted to overcome the consequences of their victimization and of their years of sacrifice of life, limb, education and opportunities.

Khulumani Support Group has previously made written and oral submissions to Parliament in efforts to secure expanded access to Special Pensions for those who meet the pension's criteria. The advocacy included the extension of the age range of individuals who could be considered for the Special Pension, a measure that was adopted. Khulumani has assisted thousands of military veterans to apply for Special Pensions through its outreach to rural areas where access to officials of the Special Pensions Regional Offices has been difficult. Khulumani Support Group was hosted in the offices of local municipalities in order to assist qualifying individuals to make their applications.

To the present, Khulumani continues to assist hundreds of individuals with their Special Pensions by supporting their efforts to meet the requirements of the special pensions Act for particular documentation and information and it has assisted many individuals with their appeals against rejections.

In its advocacy, Khulumani Support Group has consistently refused to differentiate between veterans and victims. The organization has stood by the principle that the struggle was a united struggle against an illegitimate regime, that was characterized by a range of different strategies, some involving the taking up of arms with others using non-violent direct action strategies, as documented in the publication, "The Purple Shall Govern".

REVIEW OF RECOMMENDATIONS

Given the reality that South Africa's Liberation Struggle is the story of a shared struggle in which both victims and military veterans have participated and made sacrifices, Khulumani Support Group proposes that the situations of victims and of veterans not be discussed separately, given that both veterans and victims wish to be acknowledged and valued through the development and adoption of policies and regulations that provide for equal recognition of the service and sacrifice of both categories of those who made sacrifices in the service of liberation.

Khulumani recognizes the attempts of the draft policy to create a system whereby the benefits that current veterans of the South African Armed Services receive, is provided equally to veterans.

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Khulumani suggests that a better solution may be the creation of equivalence between victims and veterans rather than between veterans of the struggle of the past and those currently serving the military. The basis of this recommendation is the experience in other parts of the world that veterans of political struggles tend to have more in common with victims and survivors than with the military and that military benefits tend to be based on hierarchies of rank, rather than on actual need. Military benefits are also usually distributed by institutions that do not share the culture of veterans of political struggles and these institutions rarely demonstrate empathy with the cause of veterans. Better and more appropriate services have been found to be more effectively provided by organizations tailored for victims, survivors and veterans of historic struggles for justice who share more in common.

Khulumani thus opposes provisions that set up unhelpful distinctions between veterans of the struggle for liberation and victims of the liberation struggle because these have the potential to lay the foundation for the provision of preferential treatment and opportunities to certain categories of survivors of political struggle, while neglecting others, thereby creating resentment and conflict within and amongst communities and their members.

Khulumani is concerned that the exclusion of victims from any deliberations of provisions for those who suffered in the struggle, may result in veterans actually forgetting the reasons for their participation in the struggle. While victims bore the brunt of insulting accusations that their advocacy for reparations for the harms they suffered was unreasonable because they had surely not taken part in the struggle for financial reasons, similar accusations could become attributed to veterans in the present. Such accusation should be avoided at all costs. Victims and veterans require acknowledgement and appreciation, not insults and denigration.

Khulumani Support Group thus recommends that benefits and services be provided to all survivors of the harms caused by their resistance to political oppression without distinction in order to further the enablement of both veterans and victims to find ways of making useful contributions towards the “building better communities” in which they are able to exercise their skills and abilities. This approach would prevent the undermining of the country’s efforts to build inclusive and socially cohesive communities.

In South Africa, veterans of the struggle and victims of the struggle engaged in struggle for a shared cause. Khulumani Support Group is advocating that the respective contributions of both categories of struggle survivors, be equally valued and recognized, in line with the proposals that were presented by Khulumani Support Group with the support of its partners in the South African Coalition for Transitional Justice to the National Department of Justice and Constitutional Development on December 13, 2010.

Khulumani Support Group is requesting the opportunity to present these proposals in Parliament to the wide range of committees involved in deliberating on the issue at hand – the recognition and honouring of the sacrifices made by South Africans in the struggle for liberation and democratization, without distinction, in life and through remembering them in death; the provision of appropriate compensation for “disablement” as a right and not as a welfare benefit; the provision of access to quality health care for both physical and mental needs and for rehabilitation; the avoidance of all disparities and inequalities in the treatment of survivors of the liberation struggle; and the provision of a system of grants for a designated period to provide the baseline from which victims and veterans would begin to be able to rebuild their lives and their livelihoods.

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Khulumani Support Group supports the principles underlying the proposals contained in the Military Veterans Bill as they apply to all categories of those who made sacrifices in the struggle for freedom and democracy in South Africa – that the purpose of all assistance provided to individuals identified as falling within this definition, should be aimed at facilitating the transformation of victims and veterans into active citizens who are able to contribute effectively to the life of their local communities and of their families, recognizing that this is the foremost wish of both veterans and victims – that they are able to provide for their own families and that their potential as catalysts for positive change in their local communities, is supported and valued.

Khulumani requests that the same criteria be adopted to establish the means (and subsequently the needs) of the beneficiaries and the type of benefits for which they may qualify, in order to avoid inconsistencies in the benefits provided to different categories of potential beneficiaries. As far as possible, Khulumani would advise that independent criteria be used to validate the applications of veterans and victims for benefits towards efforts to avoid possible corruption or political manipulation.

Khulumani proposes that any form of reparations or benefit needs to address the situation of people who are veterans and victims and that decisions about benefits for veterans and victims involve broader dialogues to draw on the experiences of organizations who have been working with both veterans and with victims so that the policies that are developed, support these efforts and are based on participatory processes.

Khulumani Support Group supports the proposals for benefits to be distributed through the existing mechanisms for the delivery of state financial support.

Khulumani Support Group confirms that the range of interventions required by both veterans and victims as detailed in the Bill, include:

- ◆ Compensation for disabling injuries or psychological trauma;
- ◆ Access to quality health care for any terminal diseases resulting from participation in activities related to the liberation struggle, including access to treatment, management and support for life-threatening illnesses;
- ◆ Access to psychosocial rehabilitation services taking account of the prevalence of experiences of torture and of its consequences including post-traumatic stress disorder or related conditions;
- ◆ Access to active participation in the memorialisation of those who sacrificed their lives;
- ◆ Access to opportunities for education, training and skills development;
- ◆ Assistance in the creation of work opportunities and support for victim and veteran economic development initiatives;
- ◆ Access to business mentoring services including access to start-up capital for business operations;
- ◆ Provision of a system of access to subsidized public transport;
- ◆ Access to a grant as detailed in Khulumani's proposals to the Department of Justice and Constitutional Development – that every victim and veteran that suffered harm through their participation in the struggle for liberation and for whom there is corroborating evidence of the gross human rights violations suffered by each veteran or victim, receives a payment of R120,000.00, distributed as a special grant on a monthly basis over 5 years.
- ◆ Access to adequate quality health care including to prostheses and other specialist services that may be needed; and

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- ◆ The provision of adequate and safe housing for those whose sacrifices prevented them from providing adequate shelter for their families or for those whose homes were destroyed as a result of political violence.

Khulumani Support Group proposes that both veterans and victims be jointly considered for their range of benefits, noting that the total envisaged number of beneficiaries would be in the region of R122,500, constituted by the 57,500 veterans on the records of the Department of Defence and Military Veterans along with the 65,000 individuals who comprise Khulumani's registered membership.

Khulumani Support Group suggests that data on the urgent needs of these some 120,000 individuals to collated to substantiate the process of providing support and recognition, in line with the objectives that are made explicit in the Preamble to the country's Constitution.

Khulumani Support Group notes that the provision of the financial provisions described above would require an allocation of an estimated R2 billion per annum for each of 5 years and is envisaged as providing appropriate social assistance which would meaningfully address the needs of both veterans and victims and would facilitate the progressive realisation of the socio-economic rights of veterans and victims and their dependants.

The proposals in the Bill under consideration provide for a Director General and an Advisory Council in whom are invested the discretion to make decisions about who should qualify and for what kind of benefit. This may create a situation whereby the Director General or the Advisory Council decides case by case, with little standardization or transparency in the process.

Khulumani Support Group has experienced that there has been a degree of arbitrariness in the making of decisions about the selection of the names of those who died in the struggle that are approved for inscription on the Sikhumbuto – Wall of Remembrance at Freedom Park. Khulumani recommends decisions are made within processes that are as far as possible free from fear, favour, prejudice or influence.

Khulumani advocates for a system that is as objective as possible to avoid the impression amongst potential beneficiaries that some have not been treated fairly in circumstances in which they perceive their situations as identical to others. A system that distributes the same benefits to all who qualify using objective criteria, is preferable to a system in which some are perceived as being favoured over others. As far as possible, comparisons, suspicions of corruption or cronyism and envy, should be avoided through the creation of a simple and straightforward system that could be applied equally to veterans and to victims. The process of registration and recognition as a beneficiary must be simple and transparent and as far as possible, above contestation.

The rules of such a system might provide for identical pensions to all (See Khulumani's proposal of R120,000.00 per person as a grant of R2,000.00 per month for 5 years) plus something additional in the case of disability; with the provision of educational benefits and scholarships for children, including university or technical education; with access to skills training and to health care, including psychosocial support and counseling for in fulfillment of the right to rehabilitation , as well as physical care, for all conditions, and not just those directly related to certain incident or violation.

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An example to draw from is the Comprehensive Reparations Programme on Health Care (PRAIS) created in Chile which combines the creation of small teams with special knowledge and sensitivity to the conditions of victims and veterans, with a system of referrals to the broader health care system available.

It is advisable that the number of members of the Advisory Council is specified and that the members of the Council are seen as independent and autonomous of government and of the ruling party, with limited terms of office. If the main focus of the Advisory Council is to settle questions of law, the Advisory Council may need adequate expertise within its ranks.

CONCLUSION

Khulumani notes that it would be important to provide similar measures and remedies for victims and veterans of the country's struggle not only so that the message of recognition is equivalent for both categories of liberation fighters, but also to avoid the possibility of certain individuals making false claims or changing the narrative about what happened or how different groups of individuals contributed to the struggle, whether as civilians or as members of a particular organization. Programmes for benefits or reparations have been known to have created incentives for some people to distort the truth. (See Cristian Correa's explanation of the experience in Colombia, Latin America).

Khulumani appreciates the seriousness with which Parliament is applying its mind to the resolution of the urgent unaddressed issues of both victims and veterans. Khulumani looks forward to an opportunity to present these issues in oral testimony in Parliament.

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APPENDIX: Some Provisions of the Comprehensive Reparations Programme on Health Care (PRAIS) from Chile, for reference purposes.

PURPOSES:

1. To contribute, within the field of health, to the physical, psychological and social reparation needed by the persons affected by the politically-based repression exercised by the military dictatorship in Chile during the period 1973 – 1990. To that end the Programme seeks to guarantee to beneficiaries access free of charge to all the health services available from within the public health-care system and to offer specialized care for the treatment of sequelae in the area of mental health. Beneficiaries of the programme are directly affected persons (a person who has undergone a repressive/traumatic experience) and the immediate family group (parents, children, spouse, partner and other persons attached to the family nucleus) affected by the State repression as well as any person who was active in the field of human rights, providing assistance to persons directly affected.
2. The Programme is to be implemented through twelve teams in several cities along the country, working within the National Health-Care Services System. These teams have created facilities for the reception and care of the beneficiaries, which have permitted an evaluation of the degree of injury suffered by the victim and at the same time development of types of psychotherapeutic treatment in which the patients play an active role in their rehabilitation through their organizations and through participation in self-help and social integration activities.
3. The programme is to form part of the National Policy of Social Reparation. The ethical and legal basis of this policy are to be found in the recommendations of the National Commission on Truth and Reconciliation, in Act No. 19,123 concerning reparation and conciliation, Acts Nos. 19,234 and 19,582 concerning politicians removed from office and the Act concerning employees dismissed for political reasons.
4. According to estimations some 800,000 persons were directly affected by the politically-based repression exercised by the State during the period of military dictatorship; a substantial percentage of which suffered from extreme trauma, which had serious effects on their physical and mental harm. The consequences of the ill-treatment have frequently proved irreversible or requiring protracted treatment and still require attention. In addition, in cases of loss of members of the family, heads of household, and in cases of prejudice suffered by many victims in the employment and social spheres, led to deprivation of resources needed to obtain adequate health care.
5. The status of beneficiary is established on the basis of the concept of a directly affected person, namely a person who has himself or herself undergone a repressive/traumatic experience and the person or persons making up his or her immediate family group at the time of the repressive/traumatic experience. The immediate family group consists of those persons with whom the affected person had blood ties (parents, siblings) and those persons with whom financial resources, meals and daily living were shared (spouse, partner and other persons attached to the family nucleus). The definition of repressive/traumatic experience covers abduction with disappearance, execution for political reasons, physical and/or psychological torture, detention on political grounds, exile and return, banishment, dismissal on political grounds and having to go into hiding on account of politically-based persecution.
6. The status of beneficiaries is compatible with membership of other health-care schemes, but a beneficiary of the programme with at all times enjoy priority over beneficiaries of other schemes for purposes of care within the public health-care system.

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7. It has been observed that physiological and mental symptoms became to a marked degree chronic; this observation is in line with the experience of other countries where similar kinds of politically-based repression have occurred. This is due, among other factors, to an insufficiency of recognition by society of the politically-based repression which the State, through its institutions, inflicted on individuals, the making the victim to feel guilty for the repression inflicted on them of the victims as responsible for the repression inflicted on them, the fears which the authorities which exercised power during the dictatorship still inspire and the impunity enjoyed by most of them.
8. The existence of this programme has been considered by users as a fragment of collective memory which has permitted the recovery of a part of history which is gradually being forgotten. It has succeeded in bringing users to recognize themselves in their sufferings and enabled them to face up to their present situations. The healing value of the programme is also recognized.
9. At the same time, and since its inception, the programme has maintained close relationships with the human rights associations and non-governmental organizations working in that field. The principal forms which those relationships have taken are those of technical exchanges and referrals and counter-referrals of beneficiaries.
10. The programme was started with a grant from the Inter-American Development Agency, and has subsequently been taken over by the Ministry of Health. The implementation of the programme in the twenty-eight health-care services throughout the country calls for a budget of approximately 2.2 billion pesos (approximately 3.5 million USD) annually.
11. One of the lessons learned from this programme is the recognition of the fundamental and inescapable role played by the health-care sector in repairing the harm caused by the violations of human rights, in promoting and disseminating knowledge of those rights and in building up the collective historical memory necessary to ensure that the grave violations of human rights which occurred between 1973 and 1990 will never be repeated.

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