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Volume **SIX** • Section **TWO** • Chapter **EIGHT**
**Report of the Reparation &
Rehabilitation Committee**
**ADMINISTRATIVE
REPORT**

Administrative Report

■ INTRODUCTION

1. Unlike the other statutory Committees of the Truth and Reconciliation Commission (the Commission), the Reparation and Rehabilitation Committee (RRC) began the bulk of its administrative work at the tail end of the processes of both the Human Rights Violations Committee (HRVC) and the Amnesty Committee. The RRC received its first list of victims'⁷⁶ findings from the HRVC in September 1998, a month before the Commission went into suspension. Since then its work has increased progressively as more victims have been referred to it.
2. To date, the RRC has processed and submitted to the President's Fund 17 088 of the total of 19 890 victim claims received.⁷⁷ This chapter focuses on the administrative and management aspects of the RRC and its functions.

THE REHABILITATION AND REPARATION COMMITTEE

3. With the handover of the Final Report in October 1998, the Commission was suspended and the activities of the RRC statutorily placed under the auspices of the Amnesty Committee in accordance with an appropriate amendment to the Commission's founding Act, the Promotion of National Unity and Reconciliation Act No. 34 of 1995 (the Act). Once that Committee had completed its work, the Commission and its three Committees reconvened on 1 June 2001.
4. At this stage, the RRC consisted of a chairperson, an executive secretary, co-ordinators based in satellite offices, victim consultants and an administrative co-ordinator and staff. The three satellite offices were based in the Eastern Cape (East London), Gauteng (Johannesburg), and KwaZulu-Natal (Durban). Regional staff represented a crucial point of access for victims, enabling them to interact directly with the RRC. Because the Commissioners and RRC members had now departed the scaled-down Commission, members of staff in charge of processing claims became the public face of the Commission.

⁷⁶ See discussion on use of the term victim, this section, Chapter One, footnote 7.

⁷⁷ See section on 'Interim Reparation Statistics' below.

5. Following negotiations between the government and the Commission, it was agreed that the RRC would be given an extended mandate to initiate the delivery of urgent interim reparations (UIR) on behalf of government. This became the primary function of the RRC after the finalisation of the drafting of the Reparation and Rehabilitation policy document. UIR entailed the promulgation of regulations (3 April 1998); the distribution of the promulgated reparation application form to all those witnesses who had been found to be victims; the determination of harm suffered, and recommendations to the President's Fund on appropriate reparations on a case-by-case basis.
6. As explained in the Final Report, the Act provided for the granting of UIR as a means of fast-tracking assistance to victims urgently in need of immediate intervention as a consequence of the violation(s) they had suffered. Although the legislators had initially conceived of this measure as applying only to a small fraction of victims, an analysis of the impact of the violations in the current lives of victims showed that this category was far larger than had been anticipated. This, together with delays in finalising a final reparations package, as well as a substantial allocation to the President's Fund, undoubtedly broadened the notion of 'urgent' and gave momentum to a more inclusive approach to UIR.
7. The following sections describe the implementation of UIR and the challenges that arose during this process.

IMPLEMENTATION OF URGENT INTERIM REPARATIONS

Administration

8. Once the HRVC had referred its victim findings to the RRC, the RRC notified each victim of the findings and sent her or him an individual reparation application form, as required by the Act. The Commission had earlier decided not to elicit the required information at the initial statement-making stage for two reasons. First, the human rights violation statement did not constitute a sworn affidavit. Second, the Commission was reluctant to raise expectations concerning reparations before a finding had been made, in order to avoid disappointment in those instances where it might make a negative finding or where it might be unable to make a finding because of insufficient corroboration.
9. Moreover, because only declared victims were eligible for reparation, the RRC eventually decided to limit access to reparation application forms to those who

had been declared 'victims' by the Commission. The risks and benefits of making application forms available at public offices such as post offices or municipal structures were considered at length by the RRC. Again it was eventually decided that public access would create confusion and lead to raised expectations on the part of those who did not make human rights violation statements to the Commission.

10. Individualised application forms greatly limited the possibilities of such confusion and disappointment, and this route was encouraged and approved by the Auditor-General's office as the safest and most controllable approach. Each form was given an individualised 'TRR' identification number in order to prevent the unauthorised distribution or submission of applications by persons other than the victims, which would allow fraudulent claims to be made.
11. These and other security measures were deemed necessary in order to reduce potential abuse of the process and the misspending of taxpayers' money.
12. The reparation form (in the form of a sworn affidavit) gathered information related to the harm⁷⁸ and suffering endured as a result of the gross human rights violations, under the categories of housing, health, mental health or emotional state, education and an 'other' category. In addition to completing the form, victims were required, where possible, to submit additional corroborative documentation. The administrative and security measures that had to be put in place and the submission of extensive corroborative documentation established a tension between the need for speedy implementation (in the face of pressing trauma-related needs) and the necessity to maintain strict and unavoidable administrative control in order to ensure accuracy and financial accountability. This tension affected both the RRC – keen to deliver as soon as possible – and those applicants who had completed application forms, who often perceived requests for additional information and documentation as superfluous and overly bureaucratic.

Outreach and assistance to victims

13. Each regional office received batches of notifications and reparation application forms and was responsible for the co-ordination and dissemination of forms to victims.

⁷⁸ Categories of harm were derived from the Act's definition of 'victim' (section 1(1)(xix)). They were: physical or mental injury, emotional suffering, pecuniary loss, or a substantial impairment of human rights.

14. In line with the Commission's policy of pursuing a victim-centred approach in its work, the RRC attempted to find ways of dealing with what might be seen as a bureaucratic and potentially alienating process in as humane a way as possible. Consequently, rather than expecting applicants to approach what consisted of no more than four small offices based in city centres, the RRC employed field-workers – or what were called Designated Reparation Statement Takers (DRSTs) – as a way of reaching out to applicants in their communities. Another reason for employing DRSTs was to promote the speed and efficiency of the process. A return rate of 92 per cent of application forms is testimony to the success of this approach.

15. The importance of the reparation application in assessing the needs of victims and the desire to provide as much back-up as possible for applicants required that DRSTs be responsible for:
 - a locating the recipient, especially where the address given was limited;
 - b assisting with any language and translation difficulties encountered;
 - c explaining, where necessary, what was meant by each question on the form;
 - d assisting in the gathering of any statutory supportive documentation that was required to process the application;
 - e assisting in the location of a Commissioner of Oaths to sign the application;
 - f being a supportive presence during what was usually an emotionally difficult time, when the victim recounted the consequences of the violation.

16. The desired profile of a DRST was that s/he be community-based, know the locality in which s/he would be working and possess the know-how to access basic facilities such as photocopying, Commissioners of Oaths, the required documentation and so forth. An international funding agency, USAID, funded the salaries and training of the DRSTs.

Assessing applications and the President's Fund Process

17. Once the forms were completed, they were forwarded to the relevant regional office where they were checked for completeness and then forwarded to the national office in Cape Town. On receipt they entered a systematic information flow involving numerous checks to avoid duplication, clarify discrepancies and rectify any omissions. After this, each form was assessed and individual recommendations were made on the basis of the responses made by each applicant. Prior to the suspension of the Commission, the assessment of applications was the responsibility of RRC members. Subsequently, it became the responsibility chiefly of the chairperson of the RRC.

18. The assessment established what harm and suffering had taken place, who the beneficiaries were, how many dependents were involved and who they were, and the consequences of the violation in terms of housing situation, emotional state, medical state, educational situation and other aspects.
19. The assessor then made a broad recommendation for (a) service intervention(s), categorising evident needs and monetary grants according to the schedule set out in the Final Report.⁷⁹
20. This assessment, together with the application form, was then forwarded to the President's Fund.

The RRC's relationship to the President's Fund and Department of Justice

21. The RRC enjoyed an interdependent relationship with the President's Fund. The mandate of the Act, as well as the regulations governing interim reparations, clearly demarcated each body's responsibilities.⁸⁰
22. The RRC was responsible for making individualised recommendations, both for a required service and a monetary grant, and the President's Fund was responsible for implementing those recommendations – that is, making the payments and informing recipients of the RRC's recommendations and of the name of the government official in their province who would act as a conduit through which they would gain access to services in the relevant department or departments.

False perceptions about the role of the RRC

23. Both victims and the public developed a perception that reparation matters (administration *and* implementation) began and ended within the domain of the Commission. As far as they were concerned, if the other two Committees of the Commission dealt with their affairs, so too did the RRC. This perception led inevitably to the belief that the RRC had reparation funds under its direct control, leading to many direct approaches for assistance.

⁷⁹ Volume Five, Chapter Five, paragraphs 54–66.

⁸⁰ Sections 4(f)(ii); 25(b)(i) and 42 of the Act, and the regulations to the Act.

24. This misperception was further perpetuated by inaccurate media reportage. Media campaigns were directed at the Commission, charging it to speed up the delivery of reparation awards.
25. This ongoing misperception left the RRC and the President's Fund with the responsibility of correcting and responding to the many complaints and enquiries it received from victims. In the face of extremely scarce human resources, this made working conditions extremely difficult. From the outset, the Fund employed three people, including the Director. Given the administrative responsibilities of processing all forthcoming applications and preparing them for payment, in addition to fielding the many enquiries that came in, a considerable burden was placed on already severely strained resources. Complicated enquiries were referred back to the RRC's offices, which employed two enquiry secretaries to deal with problems of this kind.

The process followed by the President's Fund

26. Once forwarded to the President's Fund, application forms were registered and prepared for payment and service recommendation. Victims were sent a letter from the President and a letter from the President's Fund. This included the amount of the financial grant they were to receive and the name of an official in the Department of Welfare who would assist them in accessing the services recommended by the RRC. This usually meant referring the individual to the relevant government department.

Interim reparation referral

27. This referral process lay at the heart of the interim reparation process in that it emphasised a reparative intervention based on the reported consequences of a gross human rights violation and did not focus merely on making a financial grant. The fact that this aspect of the programme has so significantly failed to deliver so far is extremely disappointing. The Commission's policy recommendations published in its Final Report depended on a carefully balanced reparation package.
28. The referral process was discussed and formulated in conjunction with the Inter-Ministerial Committee on Reparation, chaired by the then Minister of Justice, Mr Abdullah Omar. Minister Geraldine Fraser-Moleketi, then Minister of Welfare and Population Development, volunteered that her Ministry would serve as the conduit through which victims could be channelled to other government departments. This offer was not in line with the initial policy direction of the RRC, which preferred the location and responsibility of the referrals to be in an office like the Presidency, so that it would command co-operation from all government ministries.

29. Despite its reservations, the RRC decided to co-operate with this suggestion. In October 1998, Minister Fraser-Moleketi provided the framework for the following referral process through her Director-General's Office. The following memorandum, dated 14 October 1998 and written to the Minister of Welfare by the Director General of Welfare, Ms Luci Abrahams, outlined the Department's planned approach. It was forwarded to the RRC with the names of allocated officials by province.

1. The Department of Welfare in Provinces should be the focal point for referrals.

The President's Fund refers the victim to Provincial Head of Department for Welfare and the victim's application form is forwarded to the HOD. A copy of such a referral is sent to the Provincial Director General and the National Department of Welfare.

The President's Fund informs the victim that the Provincial Government has been requested to render services.

The Provincial Head of Department of Welfare constitutes an Inter-Departmental Committee (sanctioned by the office of the Premier and Provincial Director-General) comprised of senior representatives at provincial line function department.

The Inter-Governmental Committee decides which provincial department/s should render services to the victim.

Departmental services offices or institutions to give service to the victim.

Reports on services rendered to be given to the Provincial Head of Department of Welfare for channelling to the Commission and the President's Fund with copies to Provincial Director-General and the National Department of Welfare.

There should be a two-week turn around period for processing of applications and referrals.

The period within which the process is to be finalised will be four to six weeks.

2. Services provided should include the following:

Trauma Counselling and support even if the event happened a long time ago

The National Victim Empowerment programme makes provision for assistance to victims of all forms of crime and violence

Provincial victim empowerment forums should be set up and engaged as a contact point with service providers in government and NGO sector

Provincial networks on violence against women co-ordinate related services to abused women

A list of contact persons in the provinces is attached

3. Information on records of individuals and communities should be made available by the TRC.

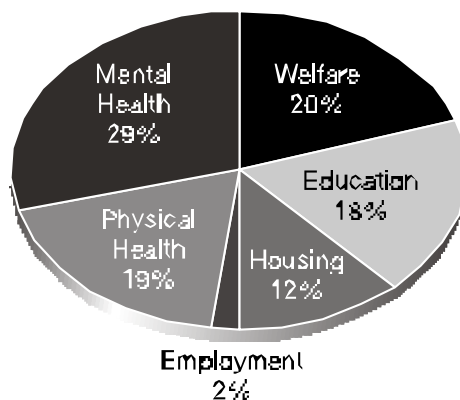
Services recommended by the RRC

30. As of 5 May 2001, the President's Fund compiled statistics reflecting which services were being recommended by the RRC, using a sample of 14 160. The following picture emerged:

Totals of recommended service interventions according to provinces, as of 06.11.01

Province	Education	Housing	Employment	Physical Health	Mental Health	Welfare
Gauteng	1697	569	194	2154	3101	1897
Eastern Cape	1219	380	136	1398	2154	1298
Northern Cape	36	6	7	73	81	30
Free State	133	67	27	217	292	148
Northern Province	225	271	27	199	303	376
Mpumalanga	347	169	45	381	606	381
North West	259	70	40	425	564	361
Western Cape	411	153	71	488	719	388
KwaZulu-Natal	4675	4184	281	4273	6596	4822
Totals	9002	5869	828	9608	14416	9701

National Interventions



31. These tables and graphs represent what the RRC officially recommended. However, the RRC has not been given reports on the actual implementation or assistance rendered to individual applicants. Information has been requested on many occasions from the Ministries of Justice and Constitutional Development, Welfare and Population Development, as well as the Social Cluster under the leadership of Dr Ayanda Ntsaluba, Director-General of Health. Up to the time of finalising this report, the Commission has been unable to establish how many approaches were made by victims and to what degree assistance was facilitated.
32. The failure of the responsible government bodies to provide the required information, combined with the fact that victims return constantly to the President's Fund and the RRC empty-handed, points to a complete breakdown in the agreement forged between government (the Inter-Ministerial Committee on Reparation) and the RRC, as recorded in the quoted memorandum of 14 October 1998.
33. The appalling failure to meet the basic urgent needs of victims partly affirms the Commission's recommendations that the implementation of the reparation and rehabilitation policy should be facilitated through the office with the highest authority, so as to ensure co-operation and accountability on the part of government departments.

CHALLENGES IN PROCESSING APPLICATIONS

Uneven flow

34. The uneven flow of application forms being received by the RRC meant that, when there was an increase in the forms received, the time it took to process them also increased. This was especially true of the period May 1999 to July 1999.
35. Four extra application form administrators were employed for the RRC, and the President's Fund was also obliged to employ additional staff. This enabled applications to be processed within a six-week period (three weeks at the RRC and three at the President's Fund).
36. At the same time, it is important to highlight that the Reparation and Rehabilitation process was at all times desperately under-resourced. The Commission's position was that the role of the RRC should be to help initiate reparation processes. Because the process would ultimately be finalised within

government, this is where full capacity should be developed. The result of uncertainty regarding the locus of responsibility for the reparation process meant that the RRC operated on an *ad hoc* basis and was, given the task at hand, ever under-resourced.

Distribution of awards

37. In addition to prioritising the speedy delivery of payment to victims, it was also necessary to synchronise the receipt of payment with an official communication from the President's Fund, informing victims of the outcome of their applications.
38. Payments were, in the main, made directly into individual banking accounts, using an electronic banking system (the BDB Data Bureau System). Whilst this was the quickest and most secure way of effecting payment, one had to ensure that the letter from the President's Fund reached the recipient by post before the money was transferred into the individual's account. Postal delays were potentially problematic in that a recipient might be unaware that a payment had been made, or might spend the money without realising where it came from or what it was intended for (for example, to facilitate access to a recommended service). This early warning system is essential and should be maintained for the future, even where the payment is sent by registered post (in this case by the Department of Justice). Pressure to deliver should not compromise providing such crucial information to recipients.

Challenges relating to payment

39. The President's Fund reports two major problems with effecting payment:
 - a Invalid account numbers: The RRC, lacking the authority to check the validity of account numbers with banks, was unable to pick up errors in this respect at the application form checking stage. Where an account number turned out to be invalid, the President's Fund would try to contact the recipient by post or telephone and request that a valid bank account be submitted.
 - b Valid accounts that had closed down: As a result of the pervasive poverty of most victims, accounts that had been opened for the purpose of receiving payment quickly became dormant in the absence of funds being transferred. Although special arrangements had been made with the Banking Council of South Africa to avoid this frustrating situation, many banks were not flexible.

In the event of the transaction being rejected due to closed bank accounts, the President's Fund would contact the recipients and inform them of the situation.

Alternative methods of payment

Requests for cheques

40. Some recipients would request that the payment be made by cheque. This practice was agreed to only in exceptional cases, and only after the President's Fund had made direct contact with the requesting individual.

Postbank payments

41. The Postbank is not on the BDB (electronic banking) system. Requests made to deposit into post office accounts were forwarded to the post office head office. Composite cheques were made out to batches of recipients – usually about ten at a time – and the funds were then paid into their accounts.

Special banking arrangements for victims

42. The RRC set up meetings with the General Manager of the Banking Council of South Africa to propose an arrangement whereby recipients of reparation, already of limited income, might encounter an 'account friendly' service that would accommodate minimal financial traffic or activity. The dilemma, as indicated above, was that, if the time between opening an account and being paid interim grants exceeded a certain number of days, the automatic banking system of any given bank would close down the account.
43. In November 1998, the Banking Council informed the RRC that a number of banks had responded positively to its request and were willing to use special savings accounts to assist victims of gross human rights violations. This positive response must be qualified, as the banks in question, although helpful in bringing the RRC's direct attention to existing products, did not initiate any new or tailor-made banking products. The banks that indicated their co-operation were: ABSA, First National, Cape of Good Hope, Meeg Bank Limited and Mercantile Lisbon, Saambou and Standard banks.
44. In retrospect, the most positive aspect of these discussions with banks through the Banking Council was that the RRC was furnished with a list of contact personnel in the banks. These lists were distributed to regional offices, enabling regional

co-ordinators to contact the personnel in the event of a reported problem. The banks' official 'co-operative' stance provided the necessary leverage to get bank accounts re-opened without resistance. In the main though, victims were obliged to use the banking products of various banks without special arrangements being made.

Disputes over the guardianship of funds

45. The RRC was very careful to make sure that all parties concerned agreed on the name of the account into which the interim grant would be paid. This assurance was certified by means of an affidavit. However, it was occasionally brought to the attention of the RRC that a person failed to behave in good faith in respect of an agreement that had been reached. In such cases, the RRC made clear how seriously it viewed such breaches and, as far as possible, facilitated fair conduct and adherence to the original commitments.

Problems and challenges encountered by regional offices

Victims who approached the Commission after the cut-off date for making the initial human rights violation statement

46. The fact that that only those declared to be victims by the HRVC or Amnesty Committee were eligible for reparation was constantly brought to the RRC's attention. The cut-off date for submissions of human rights violations (HRV) statements (December 1997) presented a number of difficulties, as many people felt they had been unable to make a statement for a number of legitimate reasons. This was especially true in KwaZulu-Natal, where many victims had been advised – either by their political party or by their traditional leadership – not to approach the Commission. The initial statement cut-off date was extended in an attempt to accommodate this group, and as many as 3000 statements were submitted at the eleventh hour.
47. The challenge for regional RRC staff was to explain the Commission's closed-list policy, often in the face of a situation where individuals who were clearly victims of political violence had missed the opportunity to make an HRV statement.

Difficulty locating victims

48. Regions and the respective fieldworkers struggled to locate victims who had moved after making their initial statement to the Commission; whose recorded

addresses were incomplete or inaccurate, or who lived in remote and inaccessible areas. This was especially marked in the Northern Province and northern KwaZulu-Natal.

49. Local radio and press were used on many occasions to call on victims either to approach regional offices or to meet at local venues where they could be assisted in completing application forms. This produced only sporadic results, but did have the effect of encouraging a number of people to make contact. *Radio Zulu, Lesedi FM, Ilanga* and the *South Coast Herald* in KwaZulu-Natal and the Free State were generous in their allocation of free air time and column space.

Providing documentation

50. Supplying the necessary supporting documentation with the application form proved to be one of the biggest delaying factors in the application process. Many individuals simply did not have original birth or marriage certificates. They then had to produce affidavits as official proof of the relevant information.

Accessing commissioners of oaths

51. Because the application form was itself an affidavit, each application had to be attested to by a commissioner of oaths. This proved to be a major, recurrent problem in rural areas, and further delayed the process. In some regions it was reported that police officers who were commissioners of oaths were reluctant to assist. Their attitude was perceived as a political or personal reluctance to support the process.

Copying documentation

52. Many people were approached in domestic situations where no photocopying facilities were available. Again, this meant delays in processing applications. Though the RRC purchased a mobile photocopier for each region, this did not solve the problem.

Inaccessible roads

53. The RRC experienced great difficulty in accessing victims in the Northern Province during the months of March to July 2000, owing to flood damage. Four-wheel drive vehicles had to be used to reach applicants.

Mistrust of the process

54. For a number of reasons, some victims felt that the Commission's mandate was a pretence that would inevitably fail to deliver anything constructive. As a result some identified victims, on receiving application forms, would send the field-worker away, presumably waiting to see if delivery seemed likely before inviting the fieldworker to return. This further delayed the process.
55. Another difficulty was that many individuals associated the Commission with the ruling political party. This issue was often raised directly with staff, whom were regularly accused of delaying or pushing forward the applications of certain individuals because of some perceived political or personal bias.

Increasing efficiency of application form recovery

56. A number of factors enabled the RRC to improve its processing times. Regional co-ordinators monitored the efficiency of DRSTs, and the analysis of performance indicators enabled the RRC to identify those who regularly took longer than the two-week turn-around period to deliver completed application forms. The contracts of these DRSTs were not extended. In this way, the national DRST team was right-sized, leading to a better quality of assistance and reducing the number of forms that had to be referred back for further information. The added incentive of a higher remuneration rate when assessing applicants helped consolidate improved performance levels.

Negotiating assistance to those who visited regional offices

57. Many victims approached regional offices directly. Staff had to exercise a great deal of creativity in limiting expectations of direct assistance from the Commission while, at the same time, providing adequate support.
58. It should be noted that the idea that the Commission would assist and support victims was founded in the spontaneous commitments made by Commissioners serving on panels during the human rights violations hearings. Although such commitments were understandable in the traumatic environment of the time, these declarations were made before a reparation policy was in place, and left the RRC with a legacy of perceived undertakings that could not possibly be met and which, in turn, led to a great deal of frustration from victims.

CAPTURING REPARATION APPLICATION FORM INFORMATION

59. When the interim reparations regulations were promulgated, it became clear to the RRC that the information submitted by applicants should be captured onto its database. This was discussed with the President's Fund, as the RRC had neither the staffing resources nor the mandate to proceed with this. Although the President's Fund undertook to carry out this responsibility, it later emerged that this information had never been captured.
60. In November 2000, the Department of Justice approached the Commission with a request that applications be captured. Cabinet had concluded that the information on the application forms should be available in a more user-friendly format. The Department allocated R350 000 for this purpose, of which the RRC used R150 000 to contract a data-capturing company. The capture of all forms currently on hand was completed by February 2001.
61. The value of this project was that any number of variables related to an individual victim or applicant could now be isolated. For example, it is now possible for the Department of Housing to request all the names, identification numbers, addresses and verbatim comments related to a housing recommendation made by the RRC. This applies equally to other departments and reparations areas: education, medical, mental health, symbolic, welfare and employment.

INTERIM REPARATION STATISTICS

62. In the three and a half years since the adoption of the regulations for interim reparations, the RRC completed the following:
 - a As at 30 November 2001, 22 274 victim finding notifications with reparation application forms had been sent out via regional offices and field workers to survivors and/or their relatives.
 - b Of these, 20 389 applications were returned (representing a 92 per cent return rate).
 - c The RRC was able to access, process and make recommendations on 17 016 of these returned applications. These were then forwarded to the President's Fund in the Department of Justice and Constitutional Development.
 - d Interim grants to the value of R50 million were awarded by the President's Fund to assist individuals to access the recommended services.

- e The unreturned applications (1821) were re-sent to identified recipients, using alternative addresses if provided. Where possible, the voters' role was used (under the auspices of the Independent Electoral Commission (IEC)) to find new addresses. If and when these are returned, they will be processed by the President's Fund.
- f The RRC has been unable to trace 1770 identified victims, for whom no identifiable addresses or identity numbers were provided. Their names are on record and will be given to the Presidents' Fund. Unidentified victims mentioned in amnesty hearings make up 20 per cent of the untraceable potential recipients. Their names are unknown to the Commission.
- g The RRC believes that the four years of collecting detailed profiles of the consequences of gross human rights violations for identified victims will assist in the costing and development of an acceptable final reparation policy. ([...p181](#))