



## Kenya National Commission on Human Rights



### TEMPLATE FOR SUBMISSION OF MEMORANDA, COMMENTS, AND INPUT ON THE DRAFT REPARATIONS GUIDELINES, 2026

In accordance with Article 10(2) (a) of the Constitution, stakeholders and members of the public are hereby invited to submit memoranda, comments and/or input in the format hereunder:

#### DRAFT REPARATION GUIDELINES, 2026

Name or Institution: Kenya Human Rights Commission

Contact [DMalombe@khrc.or.ke](mailto:DMalombe@khrc.or.ke), [MMavenjina@khrc.or.ke](mailto:MMavenjina@khrc.or.ke)

Date 23/04/2026

Page No/Guideline	Copy and paste here the specific sentence or paragraph you wish to commend about	Proposed amendment (Provide the exact wording of how your proposed amendment should read)	Explain your reason for the proposed amendment
Page 3	Accessibility The registration and verification processes shall be designed to be accessible to all victims, including those in remote areas, persons with disabilities, and other vulnerable groups. Reasonable accommodations shall be made where necessary.	Registration and verification processes shall proactively identify and address access barriers by providing tailored accommodations, including but not limited to assistive communication services, accessible materials, transportation or mobile outreach, and support personnel. These accommodations shall be provided promptly upon identification of need, without undue burden on the applicant.	The proposed amendment is premised on making this process more inclusive and less ambiguous.
Interpretation Section	“victim” means any person who suffered	“Victim” means any natural person or	The current definition, while inclusive of

	<p>harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their human rights and shall include indirect victims being family or dependents of the victim especially of cases of enforced disappearance, extrajudicial killing, or where the direct victim is incapacitated;</p>	<p>group of persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss, or substantial impairment of their human rights, as a result of acts or omissions that constitute violations of human rights or serious breaches of applicable law.</p> <p>The term shall include:</p> <p>(a) Direct victims, being persons who have personally suffered such harm;</p> <p>(b) Indirect victims, including family members, dependents, or persons closely associated with a direct victim, particularly in cases where the direct victim is deceased, disappeared, or otherwise incapacitated.</p> <p>(c) Collective victims, including communities, groups, or peoples who have suffered collective harm, including but not limited to harm to their shared identity, culture, land, environment, or collective rights;</p>	<p>indirect victims, remains primarily individualistic and does not adequately recognize collective, intergenerational, and structural dimensions of harm. It lacks explicit acknowledgment of communities as rights-holders, fails to account for future generations affected by present violations, and does not sufficiently capture victims of systemic or institutionalized harm. This creates ambiguity in distinguishing between individual and collective victimhood, with implications for recognition, accountability, and reparative measures.</p>
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		<p>(d) Victims of structural or systemic violations, including persons or groups adversely affected by patterns or practices of discrimination, marginalization, or other institutionalized forms of harm;</p> <p>(e) Future generations, where the harm results from acts or omissions that foreseeably impair the rights, environment, resources, or well-being of persons not yet born.</p>	
<p>Page 5</p>	<p>Sources of Claim:  In conducting the identification and registration of claims for reparations, a State Agency shall consider;</p> <p>(a) KNCHR’s database</p> <p>(b) Relevant State Agencies Databases and Reports;</p> <p>(c) Any other existing databases compiled by stakeholders and verified by relevant State Agency</p>	<p>Sources of Claim:  In conducting the identification and registration of claims for reparations, a State Agency shall consider—</p> <p>(a) the database of the Kenya National Commission on Human Rights (KNCHR);</p> <p>(b) databases and reports from relevant State agencies;</p> <p>(c) existing databases compiled by stakeholders, including civil society organizations and international bodies, subject to verification in accordance with this section;</p> <p>(d) claims submitted directly by victims, survivors, or their representatives,</p>	<p>The proposed Amendment is comprehensive</p>

		<p>whether individually or collectively; and</p> <p>(e) information obtained through proactive outreach, investigations, public hearings, and community-based processes.</p> <p>2) The State Agency shall establish accessible and continuous mechanisms for the submission of new claims, including—</p> <p>(a) decentralized and mobile registration processes;</p> <p>(b) procedures that accommodate persons with disabilities, language diversity, and low literacy levels; and</p> <p>(c) acceptance of individual and group claims.</p> <p>3) Verification of claims shall—</p> <p>(a) be conducted in a manner that is independent, impartial, and victim-centered;</p> <p>(b) include the participation of independent experts, civil society representatives, and community leaders where appropriate;</p> <p>(c) permit the use of multiple forms of evidence, including</p>	
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		<p>oral testimony, affidavits, and community validation; and</p> <p>(d) not be limited to official State records.</p> <p>4) The State Agency shall develop and maintain a standardized and interoperable database, which shall—</p> <p>(a) include uniform data fields for all claims;</p> <p>(b) ensure compatibility and data-sharing across relevant institutions; and</p> <p>(c) incorporate safeguards against duplication through the use of unique identifiers.</p> <p>5) The State Agency shall ensure the protection of personal data and the safety of victims, including—</p> <p>(a) obtaining informed consent prior to data collection and use;</p> <p>(b) ensuring confidentiality and, where necessary, anonymity; and</p> <p>(c) implementing secure data storage and restricted access protocols.</p> <p>6) The State Agency shall provide mechanisms for—</p> <p>(a) the updating and correction of records;</p>	
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		<p>(b) review and reconsideration of decisions; and</p> <p>(c) an independent appeals process for disputed or rejected claims.</p> <p>7) The State Agency shall designate or operate under a coordinating authority responsible for—</p> <p>(a) integration and harmonization of all relevant databases;</p> <p>(b) establishing data-sharing standards; and</p> <p>(c) ensuring consistency in the application of eligibility criteria.</p> <p>8) The relevant law or regulations shall clearly define—</p> <p>(a) the temporal scope of violations covered;</p> <p>(b) the categories of violations eligible for reparations; and</p> <p>(c) guidelines for the inclusion of borderline or complex cases.</p> <p>9) In implementing this section, the State Agency shall adopt a victim-centered and trauma-informed approach, including—</p> <p>(a) meaningful participation of victims in the process;</p> <p>(b) provision of information and feedback to claimants;</p> <p>and</p>	
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		(c) measures to prevent re-traumatization.	
Pages 12-13 Loss of life	Ksh 3 Million	In addition to the proposed amount, they should include Education scholarships for surviving children.	The proposed amount of Ksh 3 Million would not be sufficient compensation to cover education related costs for children of a victim who lost his life. An education scholarship would go a long way in ensuring that a victim's children would be educated.
SGBV	Ksh 4 Million	Lifetime medical cover for related health issues	
Torture/ Injury	To be assessed	Priority access to government social safety nets	
Property loss	To be assessed	Restitution of land or low-interest business loans	

***Key Concerns regarding the current Reparations Policy:***

1. Lack of Accountability for key perpetrators:

A critical policy gap persists within the current reparations framework of the Kenya National Commission on Human Rights, particularly in its limited integration of accountability mechanisms and memorialization initiatives as core components of reparative justice. While the framework acknowledges victims' rights to redress, it does not sufficiently operationalize strategic litigation against perpetrators of human rights violations, nor does it robustly institutionalize memorialization processes that preserve collective memory and affirm victims' dignity.

This omission weakens the realization of key transitional justice objectives, especially guarantees of non-repetition and satisfaction by allowing patterns of abuse to persist without meaningful deterrence or public acknowledgment. The recurrence of abductions and enforced disappearances in 2024 and 2025, reminiscent of violations witnessed during earlier authoritarian periods, underscores the consequences of this gap.

Without deliberate alignment between reparations, accountability, and memory, the framework risks inadvertently sustaining a culture of impunity, thereby undermining its own mandate to promote justice, human rights, and institutional reform.

Current reparations approaches, as advanced by the Kenya National Commission on Human Rights, risk over-emphasizing financial compensation and victim recognition while insufficiently integrating mechanisms for perpetrator accountability. This creates a justice deficit in which

victims may receive monetary redress, but those responsible for violations whether living or deceased are rarely subjected to meaningful legal or historical accountability. The experience of the Nyayo House torture cases illustrates this gap, where compensation was achieved without corresponding prosecutions or formal attribution of responsibility. As a result, reparations risk becoming a substitute for, rather than a complement to, comprehensive justice.

#### 2. Lack of a Specific Legal Anchor:

The absence of a specialized law on reparations may act as an impediment to the realization of this policy. Considering this, the National Treasury may be under no obligation to release funds meant for reparations and in the event they did, this could open up doors for potential litigious cases within the Courts of Law. Secondly, Reparations currently depend on executive "goodwill" rather than statutory entitlement.

#### 3. Narrow Focus on Cash Compensation:

Much of the public and political discourse focuses on monetary payouts. This often overlooks the other four pillars of reparations: Restitution, Rehabilitation, Satisfaction (apologies/memorials), and Guarantees of Non-Repetition.

#### 4. Exclusion of Historical Injustices:

While the current framework (2026) was accelerated by recent protest-related violence, many victims from the 2007/08 Post-Election Violence (PEV) and historical land injustices remain in a "data-gap," with their cases unverified or stuck in stalled processes like the 2013 TJRC report.

#### 5. Verification and Resource Constraints:

The KNCHR has openly admitted to a lack of resources to reach victims in remote or marginalized areas. As of April 2026, they have only verified around 1,800 complaints, which is likely a fraction of the actual victims nationwide.

#### 6. Non-Compliance with Court Awards:

A major gap is the government's history of ignoring court-ordered damages (e.g., for Nyayo House torture survivors). A policy that doesn't solve the "unenforceable judgment" problem remains a paper tiger.

### ***Proposed Inclusions for a Comprehensive Policy:***

The current reparations policy should

To move beyond "handouts" and toward genuine restorative justice, the following should be integrated into the upcoming Reparations Bill and Framework:

#### a) Institutional & Financial Security

**A Dedicated Restorative Justice Fund:** Establish a permanent, ring-fenced fund managed by a multi-stakeholder board (including victims) to ensure payouts aren't tied to the annual political mood.

**Automatic Trigger for Court Awards:** The policy should include a provision where any human rights-related court award against the State is automatically settled by the Treasury within a fixed period (e.g., 90 days).

#### B. Holistic "Non-Monetary" Reparations

**Psychosocial Rehabilitation:** Mandatory funding for trauma centers and long-term mental health support for survivors of torture and SGBV, rather than one-off medical grants.

Symbolic Reparations (Satisfaction): The State should be required to issue formal public apologies and establish "Days of Remembrance" or monuments at sites of gross violations (e.g., Nyayo House or protest hotspots).

#### C. Administrative Reforms

Lower Burden of Proof: Standardize the use of "presumptive evidence" for victims in conflict zones where official records (like P3 forms or OB numbers) may have been withheld by the very authorities who committed the violations.

Decentralized Verification: Partner with grassroots NGOs and County Governments to create mobile verification clinics, ensuring that the "poor and marginalized" mentioned by the KNCHR are not excluded.

#### D. Guarantees of Non-Repetition

Vetting Clauses: The policy should mandate that any official found liable for gross human rights violations is permanently barred from holding public office, serving as a deterrent for future abuses.

Kindly submit your Memoranda, comments or input through the following email address [reparations@knchr.org](mailto:reparations@knchr.org); Postal address P.O Box 74359-00200 Nairobi or by hand delivery to the KNCHR Head Office (CVS Plaza, 1<sup>st</sup> Floor, Lenana Road) and Regional Offices.

#### **KNCHR Regional Offices:**

Central Regional Office, Nyahururu: AFC Building, Next to Nyahururu Law Courts ;  
0710974302 / 0705982617

Coast Regional Office, Mombasa: 10th Floor Imaara Building, Dedan Kimathi Avenue , 0757  
292932

Western Regional Office, Kisumu: 3 rd Floor-Reinsurance Plaza, Oginga Odinga Street ;  
0746415714

North Rift Regional Office, Kitale: AFC Building, Opposite Mega Plaza ; 0708 271216 / 0786  
236683

North Eastern Regional Office, Wajir: I-Mall Building, Airport Road; 0794 376 259 / 0794 375  
288

Isiolo Office: Ground Floor Shune Suites, County Area ; 0101500161

Garissa Office: IPOA House, Off Kismayu Road ; 0111517725

Kajiado Satellite Office: Huduma Center ; 0800 720 627

The memoranda, comments and/or input should be submitted **not later than Monday, 27<sup>th</sup> April, 2026.**