PRACTICE NOTE 13

CLAIMING AND IMPLEMENTING REPARATION FOR SURVIVORS OF TORTURE

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REDRESS
Ending torture, seeking justice for survivors

This guide is part of a series of Practice Notes designed to strengthen a community of practice on reparation on behalf of survivors of torture and other grave human rights violations. It is aimed at practitioners that assist survivors in their journey towards claiming and implementing reparation.

REDRESS has previously developed Practice Notes complementary to this one, including Reparation for Torture Survivors, A Survivor-Centred Approach to Seeking Reparation for Torture, The Law Against Torture, Holistic Strategic Litigation Against Torture and Implementation of Decisions.

This Practice Note aims to provide practical guidance on how to construct a reparation complaint for submission to international and regional human rights mechanisms, along with strategies for implementing their reparation decisions. It includes commentary on each mechanism, outlines legal procedures, and includes examples of measures of reparation awarded.

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ABBREVIATIONS

ACHPR	African Charter on Human and Peoples' Rights
ACommHPR	African Commission on Human and Peoples' Rights
ACtHPR	African Court on Human and Peoples' Rights
ACHR	American Convention on Human Rights
CAT	UN Committee Against Torture
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEDAW Committee	UN Committee on the Elimination of Discrimination against Women
CRSV	Conflict-Related Sexual Violence
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
HRC	UN Human Rights Committee
IACHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights
ICCPR	International Covenant on Civil and Political Rights
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCAT	UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

INTRODUCTION

Reparation for human rights violations is key to victims' and survivors' paths towards recovery. While access to effective remedies and to full and effective reparation is a right of victims, it is often ignored by the States responsible for the violations. Even when victims manage to obtain reparation awards, actual implementation is often a challenge. Consequently, in most cases it is left to victims and their representatives to challenge the State for its failure to provide reparation.

Where remedies are not available or are ineffective at national level, survivors can seize a regional or international human rights treaty body to recognise the State's violation and obligation to provide reparation. Where favourable decisions are obtained, survivors, their representatives, and allies still need to work towards their implementation.

Engaging with survivors is crucial to understand and address their needs and expectations when building a human rights reparation claim. Practitioners need to be familiar with the law and practice of the mechanism used in respect of reparation, and aware of the documentation needed to support the claim. An implementation strategy needs to be centred around the victims and survivors' needs and expectations and incorporate a variety of techniques to address context-specific challenges.

Drawing on comparative experiences and case studies, this Practice Note covers:

- A. Building reparation claims for torture. This section offers practical information for practitioners preparing a reparation claim as part of a complaint before a regional or international mechanism. It includes tips on documentation to support each form of reparation.

- B. Designing a strategy for the implementation of reparation decisions. This section describes challenges to implementation and offers practical tips for a comprehensive survivor-centred implementation strategy.
- C. Reparation before human rights bodies. This section explores procedural and substantive information on key regional and international mechanisms regarding their approach to reparation.

A NOTE ON TERMINOLOGY

Decisions: United Nations (UN) human rights organs and regional human rights systems use different language to refer to their findings. The UN treaty bodies and special procedures issue "views". The Inter-American Commission on Human Rights (IACHR) issues "reports". The African Commission on Human and Peoples' Rights (ACommHPR) issues "decisions". The European Court of Human Rights (ECtHR), the African Court on Human and Peoples' Rights (ACtHPR), and the Inter-American Court of Human Rights (IACtHR) issue "judgments". For simplicity, this Practice Note refers to all of the above as "decisions".

Remedies, reparation, and redress: In this Practice Note, we use the term "remedies" to refer to the legal processes that can provide for the achievement of truth, justice, and reparation, as well as the specific outcomes of judicial processes. We use "reparation" to refer to the substantive measures, as defined in this Practice Note, designed and implemented to repair the harm done as a result of a human rights violation.

Victims and survivors: Throughout this Practice Note, we use both the terms "victim" and "survivor". In discussing international jurisprudence and the legal standards on the right to reparation, we use the term "victim" for consistency with the language used by courts, and regional and international bodies. In providing commentary, we use the term "survivor" to refer to both individuals who have survived human rights violations, as well as their families and communities, and to the families of those who died as a result of violations.

Our use of the word "survivor" rather than "victim" is in no way intended to diminish the legal status of persons as victims of crimes and violations under domestic and international law, either individually or collectively. Where we use the term "survivor", we do so to reinforce the self-determination, dignity, and strength of individual victims and emphasise the possibility of healing and rehabilitation.

A. BUILDING REPARATION CLAIMS FOR TORTURE

When submitting human rights claims before international and regional bodies, practitioners need to include a distinct section on the reparation measures requested by victims and provide supporting evidence (see: Module 11: Writing a Human Rights Claim and Practice Note on Holistic Strategic Litigation against Torture). This section provides some practical tips and comments for preparing detailed and substantiated reparation claims before human rights bodies.

Practitioners should aim to be in close contact with survivors to ensure that the requested reparation meets their wishes and needs, and to manage expectations by reflecting the barriers, prospects, and timing for decisions and implementation of reparation measures. They should also ensure, to the fullest extent possible, survivors' participation in the design and preparation of the claim (see our Practice Note on A Survivor-Centered Approach to Seeking Reparation for Torture).

Identifying direct and indirect victims

It is important that practitioners include in the submission all victims who have suffered harm and are entitled to reparation. This includes those who have suffered torture (direct victims) as well as others connected with the case who have suffered harm as a result of the torture inflicted on the victims (indirect victims). (For more information on how to identify ´victims´—including individual, collective, direct, and indirect, see our Practice Note on Reparation for Torture Survivors.)

Reparation for indirect victims of torture

The practice for awarding reparation for indirect victims is different in each human rights mechanism.

Following its General Comment No. 3, the Committee Against Torture (CAT) has recognised reparation not only for the direct victim of torture but also for their relatives, for example in the case of *Hoyos Henao and others v. Mexico*.

This practice is also common in the Inter-American System. For example, in cases such as *Women Victims of Sexual Torture in Atenco v. Mexico*, the IACtHR has recognised the relatives of the women subjected to torture as injured parties with their own right to reparation.

In the African System, the ACtHPR has explained in its Fact Sheet on Filing Reparation Claims that in cases of serious violation of the right to physical integrity, the Court may presume that the immediate family members of the direct victim suffered emotional harm that must be recognised as non-pecuniary harm.

In practice, according to the ECtHR's Practical Guide on Admissibility Criteria, compensation for indirect victims—such as family members—is typically awarded in cases involving torture only if there is also a deprivation of life or enforced disappearance of the direct victim. In situations of torture not involving deprivation of life or disappearance, compensation for indirect victims is less common.

To the fullest extent possible, practitioners should present evidence of the link between indirect and direct victims (for example, through civil registrations, marriage or partnership certificates, birth certificates, etc.).

Victims should be clearly identified from the initial submission of the complaint. A reparation complaint must include the victims' full names, and it is advisable to include their professions to support the arguments for the reparation claim. If there

are security or safety concerns, a request may be made to maintain anonymity or allow the use of pseudonyms. In the reparation claim, practitioners must clearly specify on behalf of whom each individual reparation claim is made, and whether a request is individual or collective.

Anonymity of victims of conflict related sexual violence (CRSV)

Generally, the anonymity of survivors, when required, is maintained only in public documents. This means that public decisions made by human rights mechanisms will use pseudonyms or other identifiers to protect survivors' identities. However, documents transmitted to the State as part of the procedure (e.g., the transmission of initial communications) do include the survivors' identities.

In June 2024, the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee) made a groundbreaking decision to protect the identities of 35 women survivors of CRSV by using pseudonyms even in documents transmitted to the State. This decision took into account the numerous and serious obstacles that CRSV survivors face in accessing justice, such as social exclusion and the risk of reprisals by the State.

In certain situations, there might be exceptions to the requirement to identify victims individually. For example, when representing indigenous communities or acting on behalf of a group whose members cannot be identified due to the circumstances of the case.

Identification of victims in complex contexts

The IACtHR has accepted complaints in which not all the victims had been fully individualised. This was done in cases of mass human rights violations, where, due to the nature of the facts, individualising the victims posed a burden that was impossible to meet by legal representatives.

For example, in the case *of the Massacres of El Mozote and nearby places v. El Salvador*, related to mass violations by the State Armed Forces, it was not possible to identify the total number of victims when the submission was filed, because of the enforced disappearance of entire families, burning of bodies, forced displacement, and other reasons.

In this case, as part of the reparation measures, the Court ordered the State to continue efforts to identify all victims. (See another example in the case of *Members of the "José Alvear Restrepo" Lawyers Collective v. Colombia.*)

It is crucial to identify collective harm, for instance by determining whether the community to which the tortured individual/s belongs suffered harm as a whole. For example, in the case *Bedoya Lima et al v. Colombia*, related to sexual and gender-based violence (SGBV) torture against a female journalist, the IACtHR noted the impact of SGBV on women during the internal conflict in Colombia, especially female journalists, and ordered reparation measures benefiting that larger group.

If any survivor or victim is facing imminent risk, practitioners should consider requesting precautionary measures or interim measures where possible. Forum-specific procedures and forms exist to request these measures before each treaty body.

Case of *Jineth Bedoya v. Colombia* (IACtHR)

During the public hearings on the merits and reparation, Jineth (a journalist, human rights defender, and survivor of conflict-related sexual violence (CRSV)) reported to the IACtHR ongoing threats against her and her mother. Due to the imminent risk to their lives, the Court ordered the State to adopt provisional measures for both of them, including strengthening their existing protection scheme, among others.

Obtaining victims' consent

When acting on behalf of survivors, most human rights mechanisms require practitioners to obtain the victim's consent to file a complaint. It is considered good practice to secure the victim's informed consent not only for the proceedings but also for the implementation phase. Practitioners should refrain from sharing any information or documentation if the survivor has not explicitly consented to it.

Exceptions to the consent requirement apply when victims are unable to provide consent themselves—for instance, in cases of individuals who have been forcibly disappeared, or those held incommunicado. In such cases, consent should be sought, whenever possible, from the victim's next of kin, closest relative, parent, or guardian.

Demonstrating the connection between reparation, harm, and violation

In the reparation submission, practitioners should explain how the harm caused to the victims is linked to the alleged violations. It is crucial to explain how the measures claimed respond to the harm caused, including to the gravity and scale of the facts, as well as the particular circumstances of the victims, and explain how the requested reparation measures will help to redress the situation.

The measures should, to the extent possible, be supported by strong evidence considering the violations alleged, the harm suffered, and the measures requested. Medical files, medico-legal and psycho-social reports, health care invoices, photographs of injuries, statements from the survivor, their relatives, and witnesses, photographs of damaged or lost property, property and land titles, and other evidence are some examples.

Importance of demonstrating the connection

If practitioners fail to demonstrate the link between the reparation measures claimed and the violations, the human rights body may reject that claim or consider alternative forms of reparation.

In the case of *Feilazoo v. Malta*, the ECtHR addressed the inhuman conditions of detention experienced by the applicant in an immigration centre, holding the State responsible for violating the prohibition of torture under the European Convention on Human Rights (ECHR). The applicant claimed EUR 109,000 for pecuniary damages, including loss of earnings during detention and future loss of earnings due to injuries sustained while in the immigration centre. However, the Court found there was insufficient evidence to establish that the applicant had a regular income before detention. Consequently, it rejected these claims and awarded EUR 25,000 for non-pecuniary damage.

The IACtHR, in the case of *Cruz Sánchez et al. v. Peru*, found the State responsible for three extrajudicial killings committed by Peruvian security forces in acts of excessive use of force. The victims' legal representatives requested the IACtHR to order Peru to adopt protocols to limit the use of force by security officers. However, the Court stated that the facts of the case were exceptional and not representative of the normal behaviour of the security forces. Therefore, the IACtHR declined this reparation request, finding an insufficient causal nexus between this reparation measure and the facts of the case.

Identifying the forms of reparation claimed

Practitioners should include in the claim all forms of reparation required to redress the human rights violations involved in the specific case. (See our Practice Note on Reparation for Torture Survivors for more on the forms of reparation.)

It is important to consult with survivors to gather their perspectives and explore the forms of reparation that they consider relevant for their healing process and to

demonstrate the connection between each reparation measure, the harm caused to the victims, and the violations alleged (see section 1.2).

In defining the reparation measures to be included in the claim, practitioners should be acutely aware of the impact of the violations committed, ensuring that their approach is trauma-informed and sensitive to culture and gender. This means being attuned to the different impacts of violations on individuals from different contexts and circumstances, including different genders, sexual identity, and/or orientation. This also means understanding trauma and recognising its diverse impact on people by, for example, ensuring direct communication with survivors while drafting the reparation claim.

Restitution

As restitution measures are rarely feasible in torture cases, practitioners may need to consider related violations that the victim or survivor suffered that may be reversible, such as a violation of the right to property, restitution of loss jobs, or a short and non-severe arbitrary detention, depending on the circumstances of the case. In such cases, practitioners should clearly lay out the situation into which they wish the survivor to be restored.

Potential restitution measures that may be claimed include:

- Restoration of liberty in cases of arbitrary arrest.
- Reversal or nullification of judicial decisions issued without due process.
- Assurance of proper detention conditions, including adequate food, lighting, space, and hygiene, in line with human rights standards.
- Restoration of citizenship or residency status if impacted by the violations.
- Provision of safe return measures for victims who have been displaced to enable them to return to their places of residence.
- Reinstatement of the victim's previous job or placement in a comparable position.

Rehabilitation

Given the consequences of torture, rehabilitation is one of the most important reparation measures in supporting victims' path to recovery and reintegration into society or a community. For this type of reparation, it is relevant to establish the physical, psychological, social, cultural, economic, and other impacts of the violations on the victim. Evidence should be provided about the situation of the victim before the violations took place, and the worsening of that situation once the violations were committed.

It is also important to highlight the various dimensions of the harm, such as gendered, intersectional, transgenerational, to ensure that the measures requested address its specificity. For instance, harm caused by sexual violence and inflicted due to a person belonging to an ethnic minority will need to be addressed with these specificities in mind. Rehabilitation measures must reflect the specific needs of each victim.

Clément Abaïfouta and 6,999 Others v. the Republic of Chad **(Hissène Habré case)**

In 2015, the Court of N'Djamena in Chad issued a judgment convicting several members of the security and armed forces responsible for international crimes, including torture, during the Hissène Habré regime. The judgment included the award of reparation to approximately 7,000 victims of the regime, including compensation and satisfaction measures. However, Chad has failed to adequately implement these measures.

Due to Chad's failure to provide reparation, victims groups and their representatives filed a human rights complaint before the ACommHPR against Chad. The case is still pending.

As part of the merits submission and reparation claim, the complainants submitted an expert report on the consequences of the lack of implementation of the judgment on the victims. The report identified that the lack of implementation had caused the exacerbation of harms linked to the original violations, frustration, victim fatigue, and other physical, psychosocial, economic, transgenerational, and social harm on the victims.

The report demonstrated the urgent necessity of rehabilitation measures in a prospective ACommHPR decision.

If the victim has had medical or psycho-social assistance after the initial violation, it is important to include reports on the diagnosis and treatment required by the victim, as well as the length and costs of such treatment through time.

The table below proposes a non-exhaustive list of the types of harm often caused by torture and related violations, the rehabilitation measures that might be requested, and supporting documentation that might be needed.

Type of harm	Rehabilitation measures to be claimed (examples)	Supporting documentation
Physical injury, physical disability	Priority access to free, specialised and medical care taking into account the victim's particular circumstances and needs, including cultural, gender and linguistic considerations, as well as accessibility. Medical treatment must include the free provision of medicines, and cover any costs related to transportation of the victim to the medical centre. This treatment must be available in centres nearest to the survivor's place of residence, or further in cases where proximity might jeopardise the victim's anonymity or reputation, or cause stigmatisation. These measures must be agreed upon with the survivor and based on an individual medical evaluation. Survivors must receive exhaustive information about medical treatments before they can consent to them. Professionals must administer treatment with sensitivity and apply a gender and culturally informed lens. For example, in cases of sexual violence against women, particular care should be afforded to ensure confidentiality, and they must be given the choice to select the gender of the practitioner who will examine and treat them.	Medical or medico-legal report. Medical records, including diagnosis and treatment quotes on treatment price and duration. Medical treatment invoices for treatment already incurred. Victims' and others' statements showing that the situation of the victim changed as a result of the violations.

Psychological harm, psychological or psychiatric disability	Priority access to free and specialised psychological and psychiatric care should be provided, taking into account the victim's particular circumstances and needs including cultural, linguistic, accessibility and other. As above.	Psychological reports, psychiatric reports, and quotes on treatment price and duration. Invoices of treatment already incurred. Victims' and others' statements showing that the situation of the victim changed as a result of the violations.
Impaired access to education or vocational training for direct and indirect victims (due to relocation to a third country or other community, loss of income, need to change school because of price, trauma, ostracization, etc.)	Scholarships and funding to access education or vocational training. Particular care should be given to persons with special needs and disabilities, and whether these needs and disabilities are linked to the violations.	Victims' and others' statements showing that the situation of the victim changed as a result of the violations. School fee receipts.

Satisfaction

Satisfaction measures are very personal and dependent on the preferences of victims, family members, or collectivities. They should always be identified by and with the affected victims, so they are truly reparative.

When requesting public apologies, practitioners should ensure that survivors identify how this measure should be ordered and implemented, and by whom, to ensure effectiveness and avoid revictimization. Practitioners should also identify the specific authorities that should issue the satisfaction measures and ask the survivors if they wish this to happen privately or publicly.

Public apology in case of *Azul Rojas Marín v. Peru*

In compliance with the decision of the IACtHR, which held Peru responsible for the torture inflicted upon an individual due to her sexual orientation by police authorities, in November 2022, the Peruvian State conducted a public act of apology and acknowledgment of responsibility. The ceremony involved the participation of the Ministry of Justice, senior officials of the Judiciary and the National Prosecutor's Office, and Azul Rojas. Azul was consulted about the event and was able to invite relatives and members of her community. During the ceremony, Azul Rojas stated that this act was "fulfilling" for her.

If one of the requested satisfaction measures is the publication of the decision, practitioners should check whether survivors agree to the disclosure of their names, other identifying elements, the facts, and other information on the case. Otherwise, alternatives to anonymise the decision, such as pseudonyms or initials must be considered. If appropriate, the publication of the decision must be available in the language of the survivors and other official languages of the State.

Where memorials or monuments, artistic demonstrations, or similar measures are requested, and if victims and survivors agree, practitioners should ensure that these memorials include information on the cause and circumstances of the violations, including dates, places, and possibly the victims' names. In such cases, it is crucial to ensure the names are accurately spelt, that pseudonyms are used where requested, and that the violations included are exhaustive. This measure should be implemented in a way that responds to the victims' views and expectations.

Potential satisfaction measures that may be claimed include:

- Issuance of public or private apologies.
- Publication of the decision acknowledging violations of torture.
- Creation of memorials, documentaries, and events to honour the victims.
- In cases of death or disappearance, exhumation, identification of victims' bodies, and provision of dignified burials.
- Provision of scholarships for direct and indirect victims.

Compensation

Under this form of reparation, victims are awarded monetary compensation for the financial (pecuniary) and non-financial (non-pecuniary) harm suffered as a result of human rights violations. Pecuniary damages relate to economic losses that are easily quantifiable (e.g., money lost, loss of future earnings, legal, medical or other care costs, etc.). Non-pecuniary damages relate to losses that have no clear monetary value (e.g., mental anguish, pain and suffering, change in the project of life, etc.) (see our Practice Note on Reparation for Torture Survivors at p. 21; and our Practice Note on Compensation).

The approach of human rights bodies is inconsistent regarding compensation. The IACtHR orders specific amounts, mostly based on 'equity' for pecuniary damages, and sets amounts for moral damages. The ECtHR also fixes specific amounts. The IACHR, the ACommHPR, and the UN Treaty bodies usually leave it to the discretion of States to determine the appropriate amount. It is advisable to argue for specific amounts to be ordered by human rights bodies, even if this is done in general terms (by including the main heads of damages), as this facilitates implementation of the decision at the national level.

Practitioners can influence the compensation amounts issued by making precise and well-supported claims in their submissions. A submission should list each

different compensation header clearly, providing a detailed cost estimate and with as strong supporting evidence as possible. The table below sets a non-exhaustive list of possible compensation headers, and how to support the claim.

Type of damage	Compensation header	Claim	Supporting evidence
Pecuniary damage/material harm	Cost of medical and/ or psychological treatment	Medical expenses (visits and treatment)	Medical certificates Medical bills Other receipts
	Loss of earnings, loss of earning potential	Salary lost during and/or after the violation Costs that can no longer be supported because of the loss of earning/ earning potential (For instance, in case of death of the primary breadwinner, children can no longer afford schooling fees) Interest	Salary slips prior and after the violation Medical certificates showing affectations such as disabilities, etc. Bills of costs supported before the violation that can no longer be supported Testimonies

	Loss of opportunities including employment, education and social benefits	Payment of tuition fees Compensation of the unbalance of earnings	Evidence showing career progression before the violation Testimonies Bills of costs (similar to loss of earnings)
	Lost or damaged property	Value of the property Interest	Land or property titles Photographs of property Value estimation/ expert reports
	Other expenses	Funerary costs Consultancy fees Costs related to burial and transportation Food and water costs during detention Accommodation	Bills Testimonies Photographs
Non-pecuniary damage/non-material harm	Pain and suffering Distress and trauma Loss of enjoyment of life	Amount of money based on jurisprudence of the body considering all of the circumstances of the case.	Victim testimony Witness testimonies Psychological report Expert report

Calculating compensation is a complex process. As such, practitioners can compare the jurisprudence of the body before which they make the claim and suggest amounts for awards on an 'equitable basis', when appropriate and needed. (See also: Practice Note on Compensation.)

Guarantees of non-repetition

To adequately word claims for guarantees of non-repetition, it is important to have a good understanding of the social, cultural, legal, and institutional context and frameworks of the State against which the claim is made. This is key to understand the causes of torture and to prevent their repetition in the future. For practitioners not originally from that State or community, it is especially important to work with national or local partners.

Practitioners should consider assessing the need to request reparation measures to modify structural issues, such as the elimination of stereotypes and stigma against certain groups. Non-repetition measures can include legal reforms, adoption of protocols to ensure the effective, gender-sensitive and trauma-informed investigation, ratification of international treaties, training on human rights, mapping and documentation of cases, creation of monitoring mechanisms, etc.

Practitioners could also look into existing decisions of regional courts, treaty bodies, and other institutions related to similar violations as those alleged in the case in the same State. Practitioners can use prior findings by human rights bodies to back up their claim with legal and jurisprudential support. It is also useful to look for reliable and up-to-date NGO reports on such violations in that country. The recommendations should be supported by such documentation.

In the process of implementing guarantees of non-repetition, practitioners can engage with social movements, other survivors, and organisations to promote the collective features of these measures.

Cases involving CRSV in Nepal

The HRC has rendered decisions in four cases (Purna Maya, Devi Maya Nepal, R.R., and Fulmati Nyaya) concerning conflict-related sexual violence (CRSV) in Nepal. In each case, Nepal was found internationally responsible for the direct infliction of sexual violence by its officers, and comprehensive reparation was ordered for the victims.

The HRC acknowledged various general aspects related to the human rights violations in Nepal, including the systematic practice of sexual violence during the conflict and the barriers women face in accessing justice. To address these structural issues and prevent the recurrence of such acts, the Committee ordered the following guarantees of non-repetition:

- Eliminating the statute of limitations for reporting cases of CRSV.
- Criminalising torture.
- Facilitating national dialogue on sexual violence against women.
- Training and implementing awareness-raising campaigns on violence against women, along with the provision of adequate protection to victims.
- Adopting the definition of rape and other forms of sexual violence in domestic law in accordance with international standards.

Potential non-repetition measures that may be claimed include:

- The adequate criminalisation of torture in the national criminal laws.
- Legal reforms to safeguard against torture.
- Effective and prompt investigation.
- Legal reforms to allow for accountability.
- Protocols for the effective investigation of torture.
- Compilation of official data on the occurrence of the violation.
- Effective mechanisms to protect against violence or threats.
- Training of public officials in human rights standards.
- Public policies to eradicate torture against women, LGBTIQ individuals, ethnic minorities and other groups.

B. DESIGNING A STRATEGY FOR THE IMPLEMENTATION OF REPARATION

Survivors' struggle to obtain reparation usually does not end once a reparation order is obtained from a domestic, regional or international body. This is why it is important, once a decision on reparation is adopted and in close consultation with the victim, that practitioners design and apply an implementation plan that incorporates legal and non-legal actions. This section focuses on the practical aspects that practitioners should consider once a human rights body awards reparation, bearing in mind that there is no one-size-fits-all approach to implementation (for more information, see REDRESS' Practice Note on the Implementation of Decisions).

Good practice example (Case of Sepur Zarco in Guatemala)

In November 2018, Guatemala's National Tribunal convicted military officials of crimes against humanity, including sexual violence against Mayan women in Sepur Zarco.

Reparation included compensation, investigations and prosecutions, search for missing persons, construction of a health centre, improvement of education centres, bilingual institution for the education of women and girls, cultural activities for women, and ancestral land titling. This was one of the first times that a national tribunal awarded survivors comprehensive forms of reparation beyond compensation.

The decision was adopted by a national court, but the strategy could be adapted to other contexts. During the implementation phase, the victims' representatives adopted a pragmatic approach and engaged the State agencies responsible for implementing the measures in dialogue.

This included:

1. Sensitising relevant institutions to the decision.
2. Hosting workshops involving government agencies, survivors, and civil society organisations to identify next steps for implementation.
3. Establishing an inter-institutional mechanism to monitor and evaluate compliance with all measures.
4. Establishing "technical working tables" based on the thematic aspects covered by the reparation measures.
5. Creating thematic community working tables to act as social auditors, led by survivors and civil society organisations.

While the implementation process is ongoing, several reparation measures have already been executed in this case.

States' compliance with reparation orders by international mechanisms

There are three main obstacles to domestic compliance with reparation decisions issued by regional and international mechanisms: lack of political will to comply, weak domestic institutional enforcement mechanisms, and limited enforcement mechanisms within regional and international human rights bodies. Awareness of these obstacles, and of the context of the country and region in which the violation occurred are crucial to develop an implementation plan.

Practitioners and civil society can play an important role in advocating for political actors to commit to implementing reparation, and in educating the public and building popular support for implementation. This requires long-term engagement, funding, resources, and technical expertise. Developing a comprehensive advocacy strategy that engages key stakeholders with sustained and targeted messaging can help overcome implementation obstacles. These strategies should integrate communication campaigns to raise awareness of the issues, cases and the importance of reparation for survivors and society.

Engagement with stakeholders for implementation of decisions

In the cases of *Azul Rojas v. Peru*, *Jineth Bedoya v. Colombia*, and *Sepur Zarco v. Guatemala*, two key strategies were used to promote implementation: direct engagement with national stakeholders, and the direct participation of survivors in the implementation of the decisions.

In all three cases, strategic meetings in and outside the official follow-up procedures took place between the parties and contributed to the implementation of key reparation measures. The lead role played by the survivors during the implementation process was crucial in the design and delivery of reparation.

While reparations in these cases are still to be fully complied with, the strategies mentioned have allowed the implementation of certain measures, including public apologies, compensation, and some guarantees of non-repetition.

For more information on the implementation of decisions for CRSV survivors, see our report Realising Reparation for Survivors of CRSV.

Practitioners and civil society need to work within the existing domestic context for implementing human rights decisions, with State actors and regional and international actors where possible, to develop solutions to strengthen domestic institutional frameworks for implementation. This may not always be possible in contexts where there is a complete lack of political will, ongoing armed conflict, or generally where such engagement could represent a risk for practitioners and victims.

The IACHR recently published a report on National Mechanisms to Implement Human Rights Recommendations in the Americas. The report highlights domestic initiatives adopted by certain States to implement international human rights decisions.

For instance, Paraguay has established a dedicated Interinstitutional Commission responsible for enforcing international human rights decisions. In Colombia, there is clear regulation for implementation, including the creation of legislation, policies, and institutions that facilitate dialogue with international bodies. The Inter-Ministerial body established by Law 288/1996 in Colombia addresses decisions adopted by non-judicial mechanisms, such as the UN treaty bodies. Furthermore, Uruguay has established a National Mechanism for the Follow-Up and Reporting of International Decisions, which facilitates dialogue among civil society, victims, and State institutions to ensure the implementation of human rights decisions.

These initiatives aim to enhance coordination and compliance with international human rights standards at the national level.

Practitioners and civil society actors can influence the enforcement priorities of human rights mechanisms (regional and international). They can for instance write follow-up letters and submissions to the body that issued the decision or its follow-up mechanism; report on the lack of implementation or its shortcomings before such bodies; participate in public or private hearings; and engage in international advocacy with other human rights organisations. Civil society statements and communication campaigns can also support legal and advocacy strategies. These actions can raise awareness, mobilise support, and exert pressure to ensure the enforcement of human rights decisions and the realisation of reparation.

Building an implementation strategy

Implementation plans depend on the circumstances of each case (type of violation, number of survivors), the national context (socio-political, legal, institutional, and cultural), the type of reparation awarded, the political will of the State, and the victims'

wishes and situation, among other factors. This section suggests general steps that can be adapted by practitioners for the design of the implementation strategy.

	Questions to consider	Comments
Consultation with survivors	What is the current situation of the survivors? Are there any safety concerns for the survivors? What are the priorities and expectations of the survivors in the reparations phase? How can the needs of the survivor be covered during this phase? What steps need to be taken to respond to those needs?	Survivor consultation needs to be guided by the do-no-harm principle and the notion of informed consent. It should be trauma-informed, gender-sensitive, culturally sensitive, and ideally transformative. Managing expectations is necessary to avoid revictimizing or disappointing survivors. Survivors may need interim relief for their most urgent needs, which may be (temporarily) provided by civil society organisations, where no other solutions are available. Consider the participation and consultation not only of the survivors recognised by the decision but also of the affected communities (this decision should be carefully balanced against capacity, safety, and survivors' wishes).

Strategy review	What was the case strategy at the start of litigation? Has that been achieved fully/ partially? Has the decision covered the initial expectations/needs? Have the victims' needs evolved and if so, how? Should the strategy change, and if so, how? What have been the main obstacles during the litigation process that could impact the implementation phase? What is needed now? What are the priorities? What are the goals, short, mid-and long term?	It is important to periodically review the case strategy throughout the implementation phase to (re)set goals and priorities, assign responsibilities, review timelines, and identify resources needed.
Reparation measures	**Individual:** Which measures attempt to redress the individual harm done? What are the steps needed to ensure the victim receives the reparation? Which measures should be prioritised?	It is important to discuss the strategy with the survivor from the start of the implementation phase, and to keep survivors informed of every step taken.

	General/collective: Did the decision recognise reparation measures beyond the individual victims, including non-repetition or satisfaction? What are the opportunities to engage with broader reparation schemes in the implementation process?	Advocating for the implementation of non-repetition measures may involve research, drafting of model laws and policies, etc. Consider the participation of other organisations and survivor groups for the advocacy of general reparation measures as they could be interested in supporting implementation efforts.
Identification of legal framework for implementation	Does the State have a specific and clear framework for enforcement? Could other cases be used as example for implementation?	If there are clear legal steps for implementation, these should be prioritised in the strategy. If there are no such rules, national/international advocacy and legal alternatives may be needed.
Decision-makers	Which institutions should be involved in the implementation process? Which institutions or stakeholders could be allies? What key messages and tools could be used to sensitise decision-makers?	Map out institutions (judiciary, legislative, and executive) responsible for implementing each reparation measure, and define strategies to communicate with those directly. Depending on the country, national human rights institutions and national prevention mechanisms can be important allies in the implementation phase. Also map out donors, other States, politicians, international mechanisms, and human rights stakeholders that could support the implementation process.

National, regional, and international advocacy	What key messages and tools could be used to sensitise decision-makers? How can authorities be convinced on the importance of implementation? What are the opportunities and legal avenues to approach these international mechanisms?	Identify actors and opportunities at the national, regional, and international levels to advocate for implementation. It includes reporting procedures, special procedures, statements, among others. Define an advocacy and communication strategy.
Cross-fertilisation opportunities	How can the decision be implemented beyond the national location, country, or continent?	Capacity allowing, identify similar cases in other jurisdictions, intervene as third parties, or develop specific projects to push for those standards in other regions. Consider exchanging experiences with practitioners in other jurisdictions to build or join a community of practice on the implementation of reparation.
Implementation plan	What are the required activities for implementing the decision? Who will be responsible for each activity? What are the resources needed for each activity? What are the risks entailed? What will be the role of other actors? What are the timelines for the activities? When is the deadline for each activity?	Include objectives, activities, assign responsibilities, define timelines, and set other aspects of implementation such as resources needs, and communication plans. The strategy could change with time depending on internal and external factors (e.g. change of governments, creation of domestic mechanisms, etc.). It is important to integrate a risk mitigation plan.

Workshops for the implementation of reparation decisions

Context allowing, a starting point for designing an implementation strategy might be to conduct a workshop. It could gather the relevant actors (survivors and survivor leaders, legal representatives, civil society actors, NGOs, friendly government actors) to discuss the questions mentioned above. The outcome could be a comprehensive strategic plan with clear activities, responsibilities, and set timelines.

With their prior consultation and consent, this provides an opportunity to engage survivors in strategic discussions from the outset. They can put forward their ideas, priorities, and take the lead on some of the activities.

Where possible, practitioners can engage relevant State authorities in such a workshop, or in parts of it. This enables a space to reflect the importance of implementation, identify institutional or other obstacles and find avenues for mutual collaboration in a transparent manner.

See also our practice note on Facilitating Litigation Workshops.

Implementation Strategy Template

IMPLEMENTATION STRATEGY FOR THE CASE (NAME OF THE CASE AND AUTHORITY – unless confidential)								
Objectives (Examples)	**Activities**	**Nature of the activity**	**Person/ organisation / institution responsible**	**Deadline**	**What is needed?**	**Progress update**	**Challenges/ delays in implementation/ unexpected results**	**Review**
Objective 1 Identify and address the needs and priorities of survivors								
Output 1. Consult with survivors of the case to identify and address their needs (interim relief)	1.A.1. Consulting survivors and informing them about the decision.	Survivor Centred Approach						
	1.A.2. Identifying needs	SCA						
	1.A.3. Identifying priorities	SCA						
Objective 2. Deliver reparation through the implementation of the decision								
Output 2.A. Activate and follow any national legal avenues for the enforcement of judgments	2.A.1. Filling formal request to the court to activate follow-up procedure.	Legal						
	2.A.2							
	2.A.3							

Output 2.B. Advocate with key national and local actors for the implementation of the decision	2.B.1. Meeting with Ministry to promote the implementation of the case.	Advocacy						
	2.B.2. Policy submissions	Advocacy						
	2.B.2.1.							
Objective 3: Raise general and international awareness around the case								
Output 3.A. Develop and deliver a communication campaign to raise awareness around the case	3.A.1 Identification of key messages for social media campaign.	Comms.						
	3.A.2. Develop comms products							
Output 3.B. Engage with international actors to promote the implementation of the case (advocacy)	3.B.1. Events	Advocacy						
	3.B.2. Advocacy submissions							
	3.B.3.							

C. REPARATION BEFORE HUMAN RIGHTS TREATY BODIES

This section suggests practical information on how reparation is conceived by different human rights mechanisms. It also outlines the procedures to follow when engaging with each mechanism and highlights some aspects to consider during the implementation phase.

States have an international obligation to provide effective remedies to ensure that survivors of torture receive comprehensive reparation measures. This duty is embodied in several international instruments, including the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (UN Basic Principles), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples' Rights (ACHPR), the European Convention on Human Rights (ECHR), and the American Convention on Human Rights (ACHR), among other documents. (For information about effective remedies, see Practice Note on Reparation for Torture Survivors.)

If a State fails to provide victims of human rights violations with an effective remedy, victims and survivors can turn to international and regional bodies to seek a decision on the international responsibility of the State and request reparation. For such claims to be admissible, victims are usually required to have 'exhausted domestic remedies'. This rule is also known as the 'subsidiarity principle', which suggests that States are better positioned to ensure the respect of, protect, and promote human rights. (For more practical information on the admissibility in each human rights body, see Practice Note 2. Holistic Strategic Litigation against Torture.)

International and regional human rights mechanisms are a solution of last resort for victims and survivors to obtain justice. The choice of forum for seeking reparation depends on factors such as the type of violation, the location where it took place, treaty ratification status, acceptance of individual complaints procedure, admissibility criteria, effectiveness and speed of proceedings, impact of decisions, and survivor preferences. (For more information, see our Training Module on Forum Choice.)

<table>
<tr><th colspan="4">Treaties and legal documents that recognise the right to reparation</th></tr>
<tr><th>African</th><th>European</th><th>Inter-American</th><th>UN</th></tr>
<tr><td rowspan="4">African Charter on Human and Peoples' Rights,

Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights (African Court's Protocol)

Protocol to the ACHPR on the Rights of Women in Africa (Maputo Protocol)

African Charter on the Rights and Welfare of the Child.

General Comment No. 4 The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment (Article 5)</td><td rowspan="4">Convention for the Protection of Human Rights and Fundamental Freedom and some of its protocols</td><td rowspan="4">American Convention on Human Rights

Inter-American Convention to Prevent and Punish Torture

Protocol of San Salvador": Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights

Convention of Belem do Pará": Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women</td><td>International Covenant on Civil and Political Rights

Optional Protocol to the ICCPR

General Comment No. 31</td></tr>
<tr><td>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

Optional Protocol to the CAT

General Comment No. 3</td></tr>
<tr><td>Convention on the Elimination of All Forms of Discrimination against Women

Optional Protocol to the CEDAW

General Recommendation 28</td></tr>
</table>

African system

Procedure for applying for and implementing reparation

Individuals and NGOs can bring a complaint before the ACommHPR against one of the 54 Member States of the ACHPR arguing that a violation of the Charter, attributable to the State, has occurred, and present a claim for reparation. The Commission examines communications filed before it in a two-stage process: (i) seizure, (ii) admissibility and merits. Reparation measures are typically included in the Commission's decision on the merits. This means that practitioners should specify clearly in their submission what forms of reparation are required to remedy the alleged violation(s), and present evidence in support of these requests. While less common, Rule 121 of the Commission's Rules of Procedure provides that decisions on reparation could be deferred by the Commission after the merits decision has been issued, in which case it may request additional written submissions from the parties or hold a separate oral hearing.

According to Article 53 of the ACHPR and Rule 114 of the Rules of Procedure, the African Commission can adopt recommendations when it identifies any breaches of the Charter attributable to the State. Rule 125 outlines the procedure for monitoring compliance with the decisions issued by the Commission. This rule specifies the timeline within which the parties are required to provide information on the progress in implementing the Commission's recommendations (180 days). It also delineates the role of the Rapporteur for the Communication in this process, including by recommending further action to the Commission (such as holding specific hearings or country visits). In case of lack of compliance, the Commission can refer the matter to the competent policy organs of the African Union (Rule 137).

According to the Rule of Procedure 130, the Commission can refer a case to the ACtHPR. Additionally, as per Rule 39 of the Rules of the Court, NGOs with observer status before the Commission and individuals can file applications before the ACtHPR if the State against which the application is brought has recognised the jurisdiction of the Court to accept cases from NGOs and individuals (currently, 34

States have ratified the Additional Protocol but only eight have deposited their declaration recognising the competence of the Court to receive cases directly from NGOs and individuals). In cases before the ACtHPR in which the applicant seeks reparation, the applicant must submit a request for reparation in the initial application to the Court according to the Rules of the ACtHPR (Rule 40(4)). Legal representatives should include the type and amount of reparation sought as well as any supporting evidence. The Court generally rules on requests for reparation in its merits decision establishing one or more violations of a protected right. In some cases, however, the Court will issue a separate judgment on reparation.

Resource: ACtHPR Fact Sheet on Filing Reparation Claims

The African Court has taken measures to encourage applicants to make specific submissions on reparation measures in line with international standards as outlined in the Court's jurisprudence, the Basic Principles and Guidelines, and in other relevant instruments adopted by the ACtHPR. To that end, the Court has developed a Fact Sheet on Filing Reparations Claims to guide applicants in filing a complete brief on reparation.

Reparation measures awarded by the African System

General Comment No. 4 of the ACommHPR on the Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment is the most specialised document on the right to redress for victims of torture in Africa. It contains many of the same provisions as the Basic Principles and Guidelines and other international documents that discuss the principles and forms of reparation in cases of torture.

Over time, the Commission has integrated various forms of reparation into its recommendations, including guarantees of non-repetition and investigations. For instance, in cases involving torture, like *George Iyanyori Kajikabi v. The Arab Republic of Egypt*, which concerned the arbitrary detention and torture by the Egyptian Police of Sudanese protesters during a sit-in demonstration near the offices of the UN High

Commissioner for Refugees, the Commission determined that Egypt had violated several human rights enshrined in the ACHPR. Consequently, the Commission recommended Egypt to conduct investigations, ensure the accountability of those responsible for torture, provide full compensation, and reform domestic laws in line with international standards of proportionality and necessity in the use of force.

In the case of *Amin Mekki Medani & Farouq Abu Eissa v. Sudan*, the Commission found Sudan responsible for the ill-treatment and arbitrary detention of two human rights denfeders at the hands of the Sudanese National Intelligence and Security Services (NISS). In its ruling, the Commission advised the State to provide compensation for both material and moral damages, conduct an investigation, reform laws, and implement institutional and procedural changes to prevent the recurrence of similar violations.

Reparation in Practice

An example of a successful advocacy campaign is the implementation of the ACommHPR decision in the case of *People v. Ivory Coast*, on discriminatory legislation denying citizenship to minorities in the country. Among others, the Commission ordered the reform of the Constitution to comply with the non-discrimination principle. The implementation offers a good example of effective advocacy that could be replicated in cases of torture. In particular, the organisations and applicants led advocacy on measures of non-repetition, including constitutional amendments, improvements in registration systems, ensuring access to justice, and introducing sanctions against the authorities that promote discrimination against victim groups.

The ACommHPR, CSOs, victims, leaders, and other actors worked together on strategies for implementing the decision. Those efforts were accompanied by sensitisation campaigns and the direct participation of CSOs in discussions on a national action plan.

Thanks to those efforts, Ivory Coast conducted a referendum amending the Constitution to eliminate discriminatory provisions on citizenship. It also ratified human rights treaties and adopted laws to avoid statelessness. (Read more about the case here).

Cases regarding reparation at the African Court

- In ***Konaté v. Burkina Faso***, the Court set out principles on the right to a remedy and reparation, including the State obligation to make full reparation where an international wrongful act has occurred. The Court also stated that reparation should cover all harms to the victim, established the requirement to show a causal link between the wrongful act and the alleged prejudice, and established that the applicant bears the burden of proof to justify any amounts claimed. Applying these principles, the Court awarded measures of restitution; compensation for loss of income, expenses and moral damages, and satisfaction. The Court also ordered the State to amend the legislation to ensure its compatibility with the African Charter.
- In ***Zongo v. Burkina Faso***, the Court recognised a broad definition of 'victim'. The Court held that moral damages could be awarded not only to heirs but also to close relatives (including parents, and children of the immediate victims). On this basis, the Court awarded monetary compensation for moral harm to family members of the immediate victims, as well as measures of satisfaction (publication of the Court's judgment) and guarantees of non-repetition (reopening of the investigation to bring the perpetrators to justice).

Inter-American System

Procedure for applying for and implementing reparation

Individuals, groups of individuals, and NGOs can submit a petition against any member State of the Organisation of American States (OAS) to the IACHR detailing the violation they have suffered and asking for reparation. In general, the analysis of a case before the IACHR has three stages: (i) initial examination, (ii) admissibility, and (iii) merits. At the merits stage, the Commission decides if the State concerned has breached human rights and, if so, it orders the State to provide reparation to the victims.

Despite the quasi-judicial nature of the IACHR, States should implement in good faith the decisions issued by the Commission to ensure compliance with the Inter-American treaties they have ratified.

In its decisions, the Commission establishes a deadline for the implementation of the reparations included in the decision. Once this period has lapsed, according to Article 51 of the ACHR, the Commission decides whether the case will be submitted to the IACtHR. This can only happen if the State has ratified the ACHR and accepted the jurisdiction of the Court. (Currently, 20 OAS States have recognised the jurisdiction of the IACtHR.)

The legal procedure before the IACtHR consists of the presentation of written submissions on the admissibility and merits of the case and public hearings for the presentation of evidence and final arguments. Victims can participate in the proceedings, by submitting arguments and presenting and contradicting evidence. The Court decides on the admissibility and merits in the same judgment and if it finds that the State has violated the ACHR and other inter-American treaties, it orders comprehensive reparation in favour of the victims.

The monitoring of compliance of the Court's judgments is done through written submissions by the parties on the status of implementation of reparation orders. The Court can also convey public and private hearings with the participation of the parties, including the victims. The IACtHR issues orders on monitoring compliance with judgments, where it assesses the stage of implementation of the reparation measures and requests further action and information.

Reparation in practice

Following the announcement of a humanitarian pardon for former Peruvian President Alberto Fujimori—convicted in Peru for serious human rights violations during the Peruvian armed conflict, which had been examined by the Inter-American Court in the Barrios Altos and La Cantuta cases, where the Court had ordered adequate investigation and sanctions—civil society organisations brought the issue before the Court under its compliance monitoring procedure. The applicants argued that Fujimori's release by the Peruvian authorities was contrary to the reparation ordered in both judgments. The Court upheld the victims' claims, and its order played a decisive role in prompting domestic authorities to reject the pardon eventually.

Resource: Informational booklet on Petition and Case System

The IACHR has issued a booklet to guide victims of human rights violations on how to file a petition before the Commission. The booklet contains information about basic concepts to be aware of before filing a case, how and when to file a petition, the requirements to do so, and the procedure that must be followed.

Reparation measures awarded

The Inter-American jurisprudence has often taken a progressive approach towards granting reparation, particularly in relation to gender perspectives, indigenous peoples, and transitional justice.

The IACtHR has determined that reparation for human rights violations must take the form, if possible, of full restitution ('*restitutio in integrum*'), and victims should be provided with reparation for the consequences of the violations, including monetary compensation for material and non-material harm. In its jurisprudence, the Court has followed the guiding principle that reparation must seek to remove

the effects of the violations, and the nature and amount of compensation will depend on the harm inflicted as a result of specific violations found by the Court.

The Court attaches great importance to non-repetition measures and has often ordered measures with a public scope or impact in order to promote structural changes. The IACtHR has led the adoption of a holistic approach to reparation, noting that international law recognises victims as rights holders with regard to reparation, and usually applies differential approaches in its decisions. The IACtHR has also frequently referred to the jurisprudence of the CAT in ordering reparation for victims of torture.

In the context of sexual violence, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belém do Pará) specifically recognises States' responsibility to provide reparation to women who have been subjected to violence. For example, in the case Cotton Field v. Mexico, the Court developed the concept of 'transformative reparation' ordering general measures to address the widespread context of violence against women in the country (see more about Transformative Reparation in our Practice Note on Reparation Torture Survivors). In relation to torture, in the case *Gutierrez Soler v. Colombia*, the Court ordered the implementation of the Istanbul Protocol, which provides guidance for medical doctors and lawyers on the documentation of torture and ill-treatment.

European System

Article 5(5) of the ECHR provides for the right to compensation for victims of arbitrary arrest or detention. Additionally, the ECtHR has ruled that the right of individuals to an effective remedy is set out in Article 13 of the ECHR and is generally interpreted in conjunction with Article 41, which establishes that where the Court finds a violation, it can also afford 'just satisfaction' to the injured party.

Procedure for applying for and implementing reparation

Individuals who have suffered a human rights violation can apply directly to the ECtHR against any Member State of the Council of Europe. In submitting a case

to the ECtHR, applicants should specify the remedy and/or measures of just satisfaction that they are seeking. The Court decides on the reparation measures in its merits judgment.

Once the decision is adopted by the Court, the Committee of Ministers of the Council of Europe oversees the compliance of the judgment. The Committee of Ministers is composed of representatives from the Member States of the Council of Europe. According to the Rules of the Committee of Ministers, this institution will prioritise situations where there is a systemic problem that could be addressed by the implementation of the judgment. The general procedure is that States must present to the Committee, six months after the decision is issued, an action plan for implementing the judgment indicating the steps already taken for the compliance with the decision, including the payment of compensation.

In the follow-up procedure, the Committee of Ministers receives information from civil society, parties, and the State to assess compliance with the judgment (See more information in the Handbook on Implementation of Judgments of the European Court of Human Rights).

National Human Rights Institutions and CSOs, including legal representatives, can participate in this process by submitting implementation reports to the Committee of Ministers under Rule 9 of their procedural rules (practice note on Implementation of Decisions). CSO can also participate in informal briefings, organised by the European Implementation Network, with the Committee of Ministers on implementation of specific cases.

Reparation measures awarded

Once the ECtHR finds that a State has violated the European Convention, it usually orders reparation measures in favour of the applicants. The Court can order individual measures that encompass compensation, effective investigations, or restitution, and general measures that include legal reforms.

The ECtHR has implemented a 'pilot judgment procedure' to address a significant number of similar cases stemming from systemic issues. Under this procedure,

the Court selects one or more cases among numerous applications with similar circumstances and issues reparation measures aimed at addressing the root causes of human rights violations. The objective is to address the structural issues that have led to the violations and ensure effective remedies for the affected individuals.

The ECtHR orders compensation payments in the majority of its decisions, as set in the Practice Direction of the ECtHR "Just Satisfaction Claims". Typically, the ECtHR does not explicitly specify the measures or actions that the State should take to rectify or prevent the situation that led to the human rights violation. The Court has consistently highlighted its subsidiary role, meaning that the primary obligation to provide reparation lies with the State under the 'margin of appreciation principle'. However, in some cases the Court has ordered non-repetition measures. For that reason, practitioners have an opportunity to promote the development of the reparation jurisprudence of the Court in more progressive forms where possible.

Case study: Cestaro v. Italy (ECtHR, 2015)

The ECtHR found that Italian criminal legislation was both inadequate for punishing acts of torture and lacked any deterrent effect capable of preventing similar future violations. The Court considered this a structural problem. In ordering a remedy, the Court reiterated that the State's obligations might include a requirement to establish an appropriate legal framework, in particular by introducing effective criminal law provisions. The Court considered it necessary for the Italian legal system to introduce legal mechanisms capable of imposing appropriate penalties on those responsible for torture and ill-treatment and preventing them from benefiting from measures incompatible with the Court's case law.

UN Treaty bodies

At the international level, the UN treaty bodies established under the ten core human rights treaties each have a mechanism that monitors the implementation of the international obligations enshrined in those instruments. Victims can

submit individual complaints before the Committees, depending on the specific jurisdictional rules of the mechanism and recognition by the affected State of this option (either through adoption of an optional protocol or through a declaration of recognition of individual complaints). When a treaty body determines that there has been a violation of the complainant's rights under the treaty, it will issue a decision on the measures the State Party needs to take to provide reparation.

Besides individual complaints, each treaty body examines States' compliance with their international obligations periodically. In the State review process, CSOs can provide information, for instance on the implementation of reparation. The treaty bodies then adopt concluding observations on the State reviewed and provide specific recommendations that could contribute to the implementation of reparation through the establishment of human rights policies or legal reforms within the State.

UN treaty bodies have specific follow-up procedures for the implementation of their decisions. Usually, these procedures are based on and limited to the written submission of information by the applicants and the State on the status of compliance of reparation. The relevant treaty body will then assess the measures adopted by the State and will request further action if needed.

The HRC has its own Guidelines on the procedure for follow-up to Views. In this document, the Committee provides practical information for States and victims on how to report on the implementation of its decisions. The information on the implementation must be included in a follow-up report prepared by the Committee. These guidelines also establish some actions that the HRC can adopt in the implementation stage, including:

> "(a) To remind the State party to provide its observations or to request the State
>
> party and the author(s) to provide further information;
>
> (b) To designate a case as a focused case and to make public the details of the case
>
> in the subsequent follow-up report;
>
> (c) To request a meeting in Geneva with a representative of the State party;
>
> (d) To transmit the relevant information to the Human Rights Council in order for the Council to deal with the issue of effective reparation for victims in the next universal periodic review of the State party in question;"

The sections below highlight the reparation practice of three key UN treaty bodies, the HRC, the CAT, and the CEDAW Committee.

Human Rights Committee

The HRC has interpreted Article 2(3) of the ICCPR expansively as the basis of the right to an effective remedy. Other provisions of the ICCPR establish compensation as a form of reparation for persons unlawfully deprived of liberty (Articles 9(5) and 14(6)). Also, in General Comment No. 31, the HRC highlighted the different forms of reparation.

The HRC may consider individual communications alleging violations of the rights set forth in the ICCPR by State Parties that have also ratified the First Optional

Protocol to the ICCPR. If the HRC finds that the State is responsible for a human rights violation in contravention of the Covenant, it may order reparations. The HRC usually includes measures of non-repetition and satisfaction in its decisions.

Resource: Model Complaint Form for Communications to the HRC and CAT

The OHCHR has published a model complaint form for individual communications to the HRC and CAT. Applicants can use the model complaint as a guide to ensure that they include all key information required by the Committees to consider communications.

Committee Against Torture

Article 14 of the UNCAT mandates compensation and rehabilitation measures for torture victims. The CAT's General Comment No. 3 outlines the core principles of reparation under the UNCAT and emphasises that, while economic compensation certainly plays a role in alleviating violations, comprehensive reparation measures, including satisfaction and guarantees or non-repetition, are required. According to General Comment No. 3, States must ensure prompt, effective and impartial investigation, prosecution, and proportionate punishment. The General Comment states that satisfaction and guarantees of non-repetition are also mandated by Article 14. Further, it recognises the importance of victims' participation and leadership, and the role of civil society in obtaining redress.

Any person or group of persons claiming to be victims of a violation of the UNCAT by a State Party can submit an individual communication to the CAT. For the CAT to be able to receive individual complaints, the State Party concerned must have recognised the Committee's jurisdiction by accepting the individual complaints procedure under Article 22 of the Convention.

Case study: Mrs. A v. Bosnia and Herzegovina (CAT, 2019)

This decision, which concerns a case of rape of a Bosnian woman in the early 1990s during the war in the former Yugoslavia, is the first CAT decision to examine State responsibility with respect to sexual violence during internal armed conflict. The Committee found that rape and other acts of sexual violence constitute torture under the Convention and ordered the State to pay fair and adequate compensation and provide free medical and psychological care to the victim. In deciding Mrs. A's complaint, the CAT applied the standards set out in earlier general comments and concluding observations and clarified that States must ensure redress—including compensation—for victims of torture, regardless of an individual perpetrator's ability to pay or statutes of limitation on such claims.

The CAT has also recognised the role that training on Convention obligations plays in providing reparation to victims of torture or ill-treatment. General Comment No. 3 specifically notes the importance for domestic procedures to incorporate the Istanbul Protocol. The CAT has emphasised that the Protocol has a preventive role in educating service providers on how to mitigate the risks of re-traumatisation and creating relationships of confidence and trust between service providers and victims. (See more on the Istanbul protocol in our Practice Note on Istanbul Protocol Medico-Legal Reports.)

CEDAW Committee

Article 2 of the CEDAW outlines the core responsibilities of State Parties. In General Recommendation 28, the Committee stated that State Parties are required to provide reparation to women whose rights under the Convention have been violated. The Committee emphasised that without reparation, the obligation to provide an appropriate remedy is not met.

Individuals or groups of individuals who have suffered violations of the CEDAW can bring complaints to the Committee against a State if they have made the necessary declaration under Article 14 of the Convention.

Resource: CEDAW Fact Sheet and Model Complaint Form

OHCHR has published a fact sheet and a model complaint form for individual communications to the CEDAW Committee. Applicants can use the model complaint as a guide to ensure that they include all the key information required by the Committee to consider communications.

In General Recommendation 30, which focuses on women in conflict prevention, conflict, and post-conflict situations, the Committee noted that States Parties must ensure that women are provided with adequate, effective and prompt reparation, and that an assessment of the gender dimension of the harm suffered is essential, regardless of whether remedies are ordered by national or international courts or by administrative schemes. The Committee has recommended that States ensure reparation measures are gender-sensitive, promote women's rights, and that women are involved in the design of all reparation programmes aimed at redressing the harms that they have suffered.

In discussing women's access to justice in General Recommendation 33, the Committee provided more practical details as to how States can deliver gender-sensitive reparation to fully comply with their obligations. For example, in cases of sexual violence in conflict or post-conflict situations, the Committee calls States to conduct institutional reforms, repeal discriminatory legislation and enact legislation providing for adequate sanctions, in accordance with international human rights standards. States should further determine reparation in close cooperation with women's organisations and civil society to overcome the discrimination that preceded the conflict.

Case study: Magdulein Abaida v. Libya

Magdulein Abaida, a women's rights activist in Libya, was abducted and subjected to torture for her human rights work. The CEDAW Committee determined that Libya had violated Magdulein's rights by failing to investigate her detention and torture. As a result, the Committee issued comprehensive reparation measures, which included conducting effective investigations, prosecuting the perpetrators, and providing full compensation to Magdulein.

In addition, the Committee ordered non-repetition measures, including enacting anti-discrimination laws with a gender perspective, taking steps to prevent arbitrary detentions, recognising the legitimacy of women human rights defenders in public discourse, and ensuring unhindered access to justice for women who are victims of violence. These measures aim to address the underlying issues that led to the violations and prevent similar violations from occurring in the future.

DOCUMENTS AND FURTHER READING

UN Documents

- General Assembly resolution 60/147. Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.
- Committee Against Torture. General Comment No. 3 on the implementation of article 14 by States parties.
- Human Rights Council Resolution 22/21. Torture and other cruel, inhuman or degrading treatment or punishment: rehabilitation of torture victims.
- UN Special Rapporteur on the Right to Restitution, Compensation and Rehabilitation for Victims of Gross Violations of Human Rights and Fundamental Freedoms. Study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms,
- HRC General Comment No. 31. The nature of the general legal obligation imposed on States Parties to the Covenant.
- CEDAW Committee General Recommendation No. 28. The core obligations of States parties under article 2 of the Convention.
- CEDAW Committee General Recommendation No. 30. Women in conflict prevention, conflict and post-conflict situations.
- CEDAW Committee General Recommendation No. 33. Women's access to justice.
- Office of United Nations high Commissioner for Human Rights. Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

- Office of United Nations high Commissioner for Human Rights. Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy.

African Human Rights System

- African Union. African Charter on Human and Peoples' Rights.
- AComHPR. General Comment No. 4 on the African Charter on Human and Peoples' Rights. The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment (Article 5)
- ACtHPR. Fact Sheet on Filing Reparations Claims.

Inter-American Human Rights System

- OAS. American Convention on Human Rights.
- OAS. Inter-American Convention to Prevent and Punish Torture.
- IAComHR's. Mecanismos Nacionales de Implementación de Recomendaciones y Decisiones Internacionales en materia de Derechos Humanos (Only in Spanish).
- IACOmHR's. Guía de Buenas Prácticas y Orientaciones Básicas para lImplementación de Decisiones de la Comisión Interamericana de Derechos Humanos (Only in Spanish).
- IAComHR. Petition and Case System Informational Booklet.
- European Human Rights System
- Council of Europe. European Convention on Human Rights.
- ECtHR. Guide on Article 13 of the European Convention on Human Rights (Guide to an Effective Remedy).
- Council of Europe. Article 41 of the European Convention on Human Rights.

Reports and Articles

- International Committee of the Red Cross, Why the ICRC Talks to Armed Groups.
- UN Women and American University Washington College of Law, Documenting Good Practice on Accountability for Conflict Related Sexual Violence: The Sepur Zarco Case.
- International Commission of Jurists, The Right to a Remedy and Reparation for Gross Human Rights Violations.
- *Special Focus: Implementation of decisions of the African Commission on Human and Peoples' Rights*, African Human Rights Law Journal, Volume 24 No 2 2024, Pretoria University Law Press.
- Murray, R. H. (2023), Reflections on Implementation. In *Exploring interdisciplinary approaches to the implementation and impact of human rights decisions*, Pretoria Centre for Human Rights, South Africa.
- Murray, R. H. & Long D. K. (Ed.) (2022), Research Handbook on Implementation of Human Rights Law. Edward Elgar Publishing.
- REDRESS Practice Notes and Training Modules
- Practice Note 1: The Law Against Torture.
- Practice Note 2: Holistic Strategic Litigation Against Torture.
- Practice Note 3: Istanbul Protocol Medico-Legal Report.
- Practice Note 4: Implementation of Decisions.
- Practice Note 5: Strategic Litigation of Enforced Disappearances in Africa.
- Holistic Strategic Litigation Module 5: Investigating Prosecutions for Torture.
- Holistic Strategic Litigation Module 7: Advocacy.
- Holistic Strategic Litigation Module 8: Forum Choice.

- Holistic Strategic Litigation Module 11: Writing a Human Rights Claim
- Case law databases
- UN Treaty bodies jurisprudence database: https://juris.ohchr.org/AdvancedSearch
- AComHPR decisions database: https://achpr.au.int/en/category/decisions-communications
- ACtHPR judgments database: https://www.african-court.org/cpmt/latest-decisions/judgments
- IACtHR's judgments database: https://corteidh.or.cr/casos_sentencias.cfm?lang=en
- ECtHR's judgments database: https://www.echr.coe.int/Pages/home.aspx?p=caselaw&c

Other

- GSF. Kinshasa Declaration on the Rights to Reparation and Co-creation of Survivors and Victims of Conflict-Related Sexual and Gender-Based Violence,
- Queen's University Belfast, REDRESS. Belfast Guidelines on Reparations in Post-Conflict Societies
- International Rehabilitation Council for Torture Victims. Implementing the Right to Rehabilitation for Torture Survivors: A Guide.
- Open Society Justice Initiative, From Judgment to Justice: Implementing International and Regional Human Rights Decisions (2010)
- Open Society Justice Initiative, From Rights to Remedies: Structures and Strategies for Implementing International Human Rights Decisions (2013)

REDRESS is an international human rights organisation that delivers justice and reparation for survivors of torture, challenges impunity for perpetrators, and advocates for legal and policy reforms to combat torture. Our cases respond to torture as an individual crime in domestic and international law, as a civil wrong with individual responsibility, and as a human rights violation with state responsibility.

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