

# GENERAL COMMENT 3

## IMPLEMENTATION OF ARTICLE 14 BY STATES PARTIES

### DESCRIPTIONS FOR STATE PROCEDURAL AND SUBSTANTIVE OBLIGATIONS

#### State Procedural Obligations

##### Enact legislation

- Access to reparation
- Avoid re-traumatization in the course of legal and administrative procedures designed to provide justice and reparation
- Application of article 14 is not limited to victims who were harmed in the territory of the State party or by or against nationals of the State party

##### Establish complaints mechanisms, investigation bodies, and institutions

- Complaints mechanisms shall be made known and accessible to the public, including to persons deprived of their liberty
- Effective and impartial investigations
- The victim's claim for reparation should not be dependent on the conclusion of a criminal proceeding

##### Ensure such mechanisms are effective and accessible to all victims

- Judicial remedies must always be available to victims, irrespective of what other remedies may be available, and should enable victim participation
- Principle of Non-discrimination
- Apply gender sensitive proceedings
- Remove any obstacles to obtaining redress

#### Substantive:

- **Ensure victims of torture or ill treatment obtain full and effective redress and reparations**

- **Five forms of reparation:**

- **Restitution**

- For restitution to be effective, efforts should be made to address any structural causes of the violation, including any kind of discrimination related to, for example, gender, sexual orientation, disability, political or other opinion, ethnicity, age and religion, and all other grounds of discrimination.

- **Compensation**

- Material and Moral
    - Compensate for any economically assessable damage resulting from torture or ill-treatment, whether pecuniary or non-pecuniary.
    - Reimbursement of medical expenses
    - Provision of funds to cover future medical or rehabilitative services
    - Compensation for lost earnings and earning potential due to disabilities caused by the torture or ill-treatment

- Compensation for lost opportunities such as employment and education
    - Compensation for legal assistance and bringing a claim

- **Rehabilitation**

- Restoration of function or the acquisition of new skills required as a result of the changed circumstances of a victim in the aftermath of torture or ill-treatment
    - The obligation does not relate to the available resources of States parties and may not be postponed.
    - Each State party should adopt a long-term, integrated approach to provide therapeutic needs, social services, community assistance, vocational training, education, or other confidential services
    - Access to rehabilitation programmes should not depend on the victim pursuing judicial remedies

- **Satisfaction and the right to truth**

- Effective measures aimed at the cessation of continuing violations
    - Verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm
    - Search and identification of those who disappeared
    - Judicial and administrative sanctions against persons liable for the violations
    - Public apologies
    - Commemorations and tributes to the victims
    - Failure to investigate, prosecute, or allow proceedings constitute as de facto denial of redress

#### Substantive (cont.)

- **Guarantees of non-repetition**

- Combat impunity
  - Civilian oversight of military and security forces
  - Due process, fairness and impartiality
  - Strengthening the independence of the judiciary
  - Protecting human rights defenders and legal, health and other professionals who assist torture victims
  - Establishing systems for regular and independent monitoring of all places of detention
  - Providing training for law enforcement, military, security forces
  - Reforming laws allowing torture and ill-treatment
  - Ensuring the availability of temporary services for individuals or groups of individuals, such as shelters for victims of gender-related or other torture or ill-treatment





# CASE STUDIES AND REHABILITATION



## Jurisprudence

- **Kepa Urra Guridi v Spain (2005, UN CAT):** Tortured by Spanish Civil Guard (1992), officers convicted but later pardoned. UN ruled Spain failed to provide adequate redress, reinforcing impunity.
- **Azul Rojas Marín et al v Peru (2020, IACtHR):** Arbitrarily detained, sexually tortured by police in 2008 due to anti-LGBTQ+ violence. Court mandated compensation, psychological care, and reforms, but impunity remains.
- **Afro-Descendant Communities v Colombia (2013, IACtHR):** 1997 military operation forcibly displaced Afro-Colombians. Court ordered land restitution and reparations, but implementation is slow.

## Case Study: Iraq's Yazidi Survivors' Law (YSL, 2021)

### Legal framework:

- **Yazidi Survivors' Law (1 March 2021)** – Iraq's reparation framework for survivors of ISIS atrocity crimes, offering financial support, housing, employment, and psychological rehabilitation: <https://c4jr.org/ysl>.
- **Article 14, UN Convention Against Torture (UNCAT)** – Establishes the right to redress, but Iraq's implementation of the YSL remains slow and underfunded. Read the UN Committee Against Torture's observations on the second periodic report of Iraq, 15 June 2022, here: <https://docs.un.org/en/CAT/C/IRQ/CO/2>.
- **Iraq ratified UNCAT in June 2011, but has not ratified the Optional Protocol.**

### Critiques of reparations in law - shown through this case study:

- **The risk of hierarchies of victimhood** – some groups can be excluded (e.g in this specific context, male survivors, Iraqi children born of ISIS rape now in Syria);
- **Transactional justice** – reparations framed as payouts rather than structural reform. Focus on monetary compensation (even if sought by survivors) can lead to states seemingly “buying way” out of deeper responsibility/ systemic change.
- **State control** – survivors forced into bureaucratic systems rather than playing an active role in shaping accountability.

### Global trends:

- **Special Rapporteur on Torture (2024)** – Wartime sexual violence should be framed as torture, strengthening obligations under CAT. See recent speech! <https://news.un.org/en/interview/2024/10/1156141>.
- **Dr Alice Jill Edwards (SRT)**, ‘It's time to treat sexual violence in war as torture, writes a UN rapporteur’ (*The Economist*, 3 March 2025): <https://www.economist.com/by-invitation/2025/03/03/its-time-to-treat-sexual-violence-in-war-as-torture-writes-a-un-rapporteur>.
- **Reparation laws as a substitute for justice?** States continue to praise parts of the YSL in international reviews (e.g., Iraq's most recent UPR 2025) but the absence of formal Genocide recognition in Iraqi law affects criminal prosecutions.

### To think about:

- **Should reparations be tied to criminal accountability?**
- **Does financial redress risk legitimising impunity?**
- **How can legal frameworks ensure a victim-centred approach beyond compensation?**

**More than “Ink on Paper”:** Third Yazidi Survivors' Law Monitoring Report, C4JR (2025): <https://c4jr.org/2802202530143>.

## REHABILITATION AS A DEVELOPING PART OF THE ‘PROHIBITION OF TORTURE’:

### Critiques:

- Lack of clarity in legal frameworks with no clear definition on the term ‘rehabilitation’
- Term ‘rehabilitation’ not mentioned at all or in relation to reparations in many international human rights treaties e.g UDHR, ICCPR, ICESCR, CERD. Awareness increased in 1980s and CAT Art 14 addresses rehabilitation
- Gap b/w human rights in theory and practice. IRCT Conference Report found a key issue in establishing the role/obligations of the state. Another example - UK Government has contracted out parts of the health service to private companies which then negatively impacts state accountability to maintaining an appropriate service standard and also makes it hard for NGOs who cannot function as competitively as large corporations. Funding and state accountability underscores the main challenges in the implementation of the right to rehab.

### Work of NGOs:

- **REDRESS** - supports rehabilitation of torture survivors through litigation against governments and individuals responsible for torture. Refers survivors to medical and psychological professionals. Actively campaigns for policy changes on national and international level to better frameworks.
- **IRCT** - connect survivors to treatment centres and combine different areas of rehabilitation to meet victims' needs
- **C4JR** - launched a guide in June 2024 on the monitoring of rehabilitation services for survivors of grave human rights violations.

**READ MORE!** C4JR's 2024 report on the Right to Rehabilitation as Reparation for Survivors of Grave Human Rights Violations: <https://c4jr.org/wp-content/uploads/2024/06/Rehabilitation-Guideline-English-final.pdf>.