



# Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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## Committee against Torture

### Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

#### General Comment No. 3 of the Committee against Torture

##### Implementation of article 14 by States parties

1. This general comment explains and clarifies to States parties the content and scope of the obligations under article 14 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. All States parties are required to “ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.” The Committee considers that article 14 is applicable to all victims of torture and acts of cruel, inhuman or degrading treatment or punishment (hereafter “ill-treatment”) without discrimination of any kind, in line with the Committee’s General Comment No. 2.

2. The Committee considers that the term “redress” in article 14 encompasses the concepts of “effective remedy” and “reparation”. The comprehensive reparative concept therefore entails restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition and refers to the full scope of measures required to redress violations under the Convention.

3. Victims are persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute violations of the Convention. A person should be considered a victim regardless of whether the perpetrator of the violation is identified, apprehended, prosecuted or convicted, and regardless of any familial or other relationship between the perpetrator and the victim. The term ‘victim’ also includes affected immediate family or dependants of the victim as well as persons who have suffered harm in intervening to assist victims or to prevent victimization. The term “survivors” may, in some cases, be preferred by persons who have suffered harm. The Committee uses the legal term “victims” without prejudice to other terms which may be preferable in specific contexts.

4. The Committee emphasises the importance of victim participation in the redress process, and that the restoration of the dignity of the victim is the ultimate objective in the provision of redress.

5. The obligations of States parties to provide redress under article 14 are two-fold: procedural and substantive. To satisfy their procedural obligations, States parties shall enact legislation and establish complaints mechanisms, investigation bodies and institutions, including independent judicial bodies, capable of determining the right to and awarding redress for a victim of torture and ill-treatment, and ensure that such mechanisms and bodies are effective and accessible to all victims. At the substantive level, States parties shall ensure that victims of torture or ill-treatment obtain full and effective redress and reparation, including compensation and the means for as full rehabilitation as possible.

### **Substantive Obligations: The Scope of the Right to Redress**

6. As stated in paragraph 2 above, redress includes the following five forms of reparation: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. The Committee recognises the elements of full redress under international law and practice as outlined in 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.<sup>1</sup> Reparation must be adequate, effective and comprehensive. States parties are reminded that in the determination of redress and reparative measures provided or awarded to a victim of torture or ill-treatment, the specificities and circumstances of each case must be taken into consideration and redress should be tailored to the particular needs of the victim and be proportionate in relation to gravity of the violations committed against them. The Committee emphasises that the provision of reparation has an inherent preventive and deterrent effect in relation to future violations.

7. Where State authorities or others acting in their official capacity committed, knew or have reasonable grounds to believe that acts of torture or ill-treatment had been committed by non-state officials or private actors and failed to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors in accordance with the Convention, the State bears responsibility to provide redress for the victims (General Comment No. 2).

### **Restitution**

8. Restitution is a form of redress to re-establish the victim in his or her situation before the violation of the Convention was committed, taking into consideration the specificities of each case. The preventive obligations under the Convention require States parties to ensure that the victim receiving such restitution is not placed in a position where he or she is at risk of repetition of torture or ill-treatment. In certain cases, the victim may consider that restitution is not possible due to the nature of the violation; however the State shall provide the victim with full access to redress. For restitution to be effective, efforts should be made to address structural causes to 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**

9. The Committee emphasises that monetary compensation alone may not be sufficient redress for a victim of torture and ill-treatment. The Committee affirms that the provision of

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<sup>1</sup> United Nations 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, General Assembly resolution 60/147, 16 December 2005

only monetary compensation is inadequate for a State party to comply with its obligations under article 14.

10. The right to prompt, fair and adequate compensation for torture or ill-treatment under article 14 is multi-layered and compensation awarded to a victim should be sufficient to compensate for any economically assessable damage resulting from torture or ill-treatment, whether pecuniary or non-pecuniary. This may include: reimbursement of medical expenses paid and provision of funds to cover future medical or rehabilitative services needed by the victim to ensure as full rehabilitation as possible; pecuniary and non-pecuniary damage resulting from the physical and mental harm caused; loss of earnings and earning potential due to disabilities caused by the torture or ill-treatment; and lost opportunities such as employment and education. In addition, adequate compensation awarded by States parties to the victim of torture or ill-treatment should provide for legal or specialised assistance, and other costs associated with bringing a claim for redress.

### **Rehabilitation**

11. The Committee affirms that the provision of means for as full rehabilitation as possible for anyone who has suffered harm as a result of a violation of the Convention should be holistic and include medical and psychological care as well as legal and social services. Rehabilitation, for the purposes of this general comment, refers to the restoration of function or the acquisition of new skills required by the changed circumstances of a victim in the aftermath of torture or ill-treatment. It seeks to enable the maximum possible self-sufficiency and function for the individual concerned, and may involve adjustments to the person's physical and social environment. Rehabilitation for victims should aim to restore, as far as possible, their independence, physical, mental, social and vocational ability; and full inclusion and participation in society.

12. The Committee emphasises that the obligation of States parties to provide the means for "as full rehabilitation as possible" refers to the need to restore and repair the harm suffered by the victim whose life situation, including dignity, health and self-sufficiency may never be fully recovered as a result of the pervasive effect of torture. The obligation does not refer to the available resources of States parties and may not be postponed.

13. In order to fulfil its obligations to provide a victim of torture or ill-treatment with the means for as full rehabilitation as possible, each State party should adopt a long-term and integrated approach and ensure that specialised services for the victim of torture or ill-treatment are available, appropriate and promptly accessible. These should include: a procedure for the assessment and evaluation of an individual's therapeutic and other needs, based on, among others, the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (The Istanbul Protocol); and may include a wide range of inter-disciplinary measures, such as medical, physical and psychological rehabilitative services; re-integrative and social services; community and family-oriented assistance and services; vocational training, education etc. A holistic approach to rehabilitation which also takes into consideration the strength and resilience of the victim is of utmost importance. Furthermore, victims may be at risk of re-traumatisation and have a valid fear of acts which remind them of the torture or ill-treatment they endured. Consequently, a high priority should be placed on the need to create a context of confidence and trust in which assistance can be provided. Confidential services should be provided as required.

14. The Convention's requirement to provide these forms of rehabilitative services does not extinguish the need to provide medical and psychosocial services for victims in the direct aftermath of torture, nor does such initial care represent the fulfilment of the obligation to provide means for as full a rehabilitation as possible.

15. States parties shall ensure that effective rehabilitation services and programmes are established in the State, taking into account victims culture, personality, history and background and are accessible to all victims without discrimination and regardless of the victim's identity or status within a marginalized or vulnerable group as illustrated in paragraph 32 including asylum seekers and refugees. States parties' legislation should establish concrete mechanisms and programmes for providing rehabilitation to victims of torture or ill-treatment. Torture victims should be provided access to rehabilitation programmes as soon as possible following an assessment by qualified independent medical professionals. Access to rehabilitation programmes should not depend on the victim pursuing judicial remedies. The obligation in article 14 to provide for the means for as full rehabilitation as possible can be fulfilled through the direct provision of rehabilitative services by the State, or through the funding of private medical, legal and other facilities, including those administered by NGOs in which case the State shall ensure that no reprisals or intimidation are directed to them. The victim participation in the selection of the service provider is essential. Services should be available in relevant languages. States parties are encouraged to establish systems for assessing the effective implementation of rehabilitation programs and services, including by using appropriate indicators and benchmarks.

#### **Satisfaction and the right to truth**

16. Satisfaction should include, by way of and in addition to the obligations of investigation and criminal prosecution under articles 12 and 13 of the Convention, any or all of the following remedies: 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 or threaten the safety and interests of the victim, the victim's relatives, witnesses, or persons who have intervened to assist the victim or prevent the occurrence of further violations; the search for the whereabouts of the disappeared, for the identities of the children abducted, and for the bodies of those killed, and assistance in the recovery, identification, and reburial of victims' bodies in accordance with the expressed or presumed wish of the victims or affected families; an official declaration or judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim; judicial and administrative sanctions against persons liable for the violations; public apologies, including acknowledgement of the facts and acceptance of responsibility; commemorations and tributes to the victims.

17. A State's failure to investigate, criminally prosecute, or to allow civil proceedings related to allegations of acts of torture in a prompt manner, may constitute a *de facto* denial of redress and thus constitute a violation of the State's obligations under article 14.

#### **Guarantees of non-repetition**

18. Articles 1 to 16 of the Convention constitute specific preventive measures that the States parties deemed essential to prevent torture and ill-treatment. To guarantee non-repetition of torture or ill-treatment, States parties should undertake measures to combat impunity for violations of the Convention. Such measures include establishing effective clear instructions to public officials on the provisions of the Convention, especially the absolute prohibition of torture. Other measures should include any or all of the following: civilian oversight of military and security forces; ensuring that all judicial proceedings abide by international standards of 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, on a priority and continued basis, training for law enforcement officials as well as military and security forces on human rights law that includes the specific needs of marginalized and vulnerable

populations and specific training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (The Istanbul Protocol) for health and legal professionals and law enforcement officials; promoting the observance of international standards and codes of conduct by public servants, including law enforcement, correctional, medical, psychological, social service and military personnel; reviewing and reforming laws contributing to or allowing torture and ill-treatment; ensuring compliance with Article 3 of the Convention prohibiting *refoulement*; 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. The Committee notes that by taking measures such as those listed herein, States parties may also be fulfilling their obligations to prevent acts of torture under article 2 of the Convention. Additionally, guarantees of non-repetition offer an important potential for the transformation of social relations that may be the underlying causes of violence and may include, but are not limited to, amending relevant laws, fighting impunity, and taking effective preventative and deterrent measures.

### **Procedural Obligations: Implementation of the Right to Redress**

#### **Legislation**

19. Under article 2 of the Convention, States parties shall enact “effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.” As clarified by the Committee in General Comment 2, “States parties must make the offence of torture punishable as an offence under its criminal law, in accordance, at a minimum, with the elements of torture as defined in article 1 of the Convention, and the requirements of article 4.” The failure of States parties to enact legislation that clearly incorporates their obligations under the Convention and criminalizes torture and ill-treatment, and the resulting absences of torture and ill-treatment as criminal offences, obstructs the victim’s capacity to access and enjoy his or her rights guaranteed under article 14.

20. To give effect to article 14, States parties shall enact legislation specifically providing a victim of torture and ill-treatment with an effective remedy and the right to obtain adequate and appropriate redress, including compensation and as full rehabilitation as possible. Such legislation must allow for individuals to exercise this right and ensure their access to a judicial remedy. While collective reparation and administrative reparation programmes may be acceptable as a form of redress, such programmes may not render ineffective the individual right to a remedy and to obtain redress.

21. States parties should ensure that their domestic laws provide that a victim who has suffered violence or trauma should benefit from adequate care and protection to avoid his or her re-traumatization in the course of legal and administrative procedures designed to provide justice and reparation.

22. Under the Convention, States parties are required to prosecute or extradite alleged perpetrators of torture when they are found in any territory under its jurisdiction, and to adopt the necessary legislation to make this possible. The Committee considers that the 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. The Committee has commended the efforts of States parties for providing civil remedies for victims who were subjected to torture or ill-treatment outside their territory. This is particularly important when a victim is unable to exercise the rights guaranteed under article 14 in the territory where the violation took place. Indeed, article 14 requires States parties to ensure that all victims of torture and ill-treatment are able to access remedy and obtain redress.

**Effective Mechanisms for Complaints and Investigations**

23. The Committee has, in its concluding observations, identified other State obligations that shall be met in order to ensure that the article 14 rights of a victim are fully respected. In this regard, the Committee underscores the important relationship between States parties' fulfilment of their obligations under article 12 and 13, and their obligation under article 14. According to article 12, States parties shall undertake prompt, effective and impartial investigations, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction as the result of its actions or omissions and, as set out in article 13 and affirmed by the Committee in General Comment 2, ensure that impartial and effective complaints mechanisms are established. Full redress cannot be obtained if the obligations under articles 12 and 13 are not guaranteed. Complaints mechanisms shall be made known and accessible to the public, including to persons deprived of their liberty, whether in detention, psychiatric facilities, or elsewhere, via for example, telephone hotlines or confidential complaints boxes in detention facilities, and to persons belonging to vulnerable or marginalized groups, including those who may have limited communication abilities.

24. At the procedural level, States parties shall ensure the existence of institutions competent to render enforceable final decisions through a procedure established by law to enable victims of torture or ill-treatment to secure redress, including adequate compensation and rehabilitation.

25. Securing the victim's right to redress requires that a State party's competent authorities promptly, effectively and impartially investigate and examine the case of any individual who alleges she or he has been subjected to torture or ill-treatment. Such an investigation should include as a standard measure an independent physical and psychological forensic examination as provided for in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol). Undue delays in initiating or concluding legal investigations into complaints of torture or ill-treatment compromise victims' rights under article 14 to obtain redress, including fair and adequate compensation and the means for as full rehabilitation as possible.

26. Notwithstanding the evidentiary benefits to victims afforded by a criminal investigation, a civil proceeding and the victim's claim for reparation should not be dependent on the conclusion of a criminal proceeding. The Committee considers that compensation should not be unduly delayed until criminal liability has been established. Civil liability should be available independently of the criminal proceeding and necessary legislation and institutions for such purpose should be in place. If criminal proceedings are required by domestic legislation to take place before civil compensation can be sought, then the absence or undue delay of those criminal proceedings constitute a failure on behalf of the State party to fulfil its obligations under the Convention. Disciplinary action alone shall not be regarded as an effective remedy within the meaning of article 14.

27. Under article 14, a State party shall ensure that victims of any act of torture or ill-treatment under its jurisdiction obtain redress. States parties have an obligation to take all necessary and effective measures to ensure that all victims of these acts obtain redress. This obligation includes that State parties promptly initiate a process to ensure that victims obtain redress, even in the absence of a complaint, when there are reasonable grounds to believe that torture or ill-treatment has taken place.

28. The Committee strongly encourages States parties to recognise the Committee's competence to consider individual complaints under article 22 to allow victims to submit communications and seek the views of the Committee. The Committee furthermore

encourages States parties to ratify or accede to the Optional Protocol to the Convention against Torture in order to strengthen preventive measures against torture and ill-treatment.

#### **Access to Mechanisms for Obtaining Redress**

29. The Committee highlights the importance of the State party affirmatively ensuring that victims and their families are adequately informed of their right to pursue redress. In this regard, the procedures for seeking reparation should be transparent. The State party should moreover provide assistance and support to minimise the hardship to complainants and their representatives. Civil proceedings, or other proceedings, should not impose a financial burden upon victims that would prevent or discourage them from seeking redress. Where existing civil proceedings are unable to provide adequate redress to victims, the Committee recommends implementing mechanisms that are readily accessible to victims of torture and ill-treatment, including the establishment of a national fund to provide redress for victims of torture. Special measures should be adopted to ensure access by persons belonging to groups who have been marginalised or made vulnerable.

30. Judicial remedies must always be available to victims, irrespective of what other remedies may be available, and should enable victim participation. States parties should provide adequate legal aid to those victims of torture or ill-treatment lacking the necessary resources to bring complaints and to make claims for redress. States parties shall also make readily available to the victims all evidence concerning acts of torture or ill-treatment upon the request of victims, their legal counsel, or a judge. A State party's failure to provide evidence and information, such as records of medical evaluations or treatment, can unduly impair victims' ability to lodge complaints and to seek redress, compensation, and rehabilitation.

31. The State party should also take measures to prevent interference with victims' privacy and to protect victims, their families and witnesses and others who have intervened on their behalf against intimidation and retaliation at all times before, during and after judicial, administrative or other proceedings that affect the interests of victims. Failure to provide protection stands in the way of victims filing complaints and thereby violates the right to seek and obtain redress and remedy.

32. The principle of non-discrimination is a basic and general principle in the protection of human rights and fundamental to the interpretation and application of the Convention. States parties shall ensure that, access to justice and to mechanisms for seeking and obtaining redress are readily available and that positive measures ensure that redress is equally accessible to all persons regardless of race, colour, ethnicity, age, religious belief or affiliation, political or other opinion, national or social origin, gender, sexual orientation, gender identity, mental or other disability, health status, economic or indigenous status, reason for which the person is detained, including persons accused of political offences or terrorist acts, asylum-seekers, refugees or others under international protection, or any other status or adverse distinction, and including those marginalized or made vulnerable on bases such as those above. Culturally sensitive collective reparation measures shall be available for groups with shared identity, such as those belonging to minority groups, indigenous groups, and others. The Committee notes that collective measures do not exclude the individual right to redress.

33. Judicial and non-judicial proceedings shall apply gender sensitive procedures which avoid re-victimisation and stigmatisation of victims of torture or ill-treatment. With respect to sexual or gender-based violence and access to due process and an impartial judiciary, the Committee emphasizes that in any proceedings, civil or criminal, to determine the victim's right to redress, including compensation, rules of evidence and procedure in relation to gender-based violence must afford equal weight to the testimony of women and girls, as it should be for all other victims, and prevent the introduction of discriminatory evidence and

harassment of victims and witnesses. The Committee considers that complaints mechanisms and investigations require specific positive measures which take into account gender aspects in order to ensure that victims of abuses such as sexual violence and abuse, rape, marital rape, domestic violence, female genital mutilation, and trafficking are able to come forward and seek and obtain redress.

34. To avoid re-victimisation and stigmatisation of victims of torture or ill-treatment, the protections outlined in the preceding paragraph equally apply to any person marginalized or made vulnerable on the basis of identities and groups such as those examples listed under the principle of non-discrimination in paragraph 32. Judicial and non-judicial proceedings must exercise sensitivity toward any such person. Accordingly, the Committee notes that judicial personnel must receive specific training on the various impacts of torture and ill-treatment, including the impacts on victims from marginalized and vulnerable groups, and on how to exercise sensitivity towards victims of torture and ill-treatment, including in the form of sexual- or gender-based discrimination, in order to prevent re-victimization and stigmatization.

35. The Committee considers the training of relevant police, prison staff, medical personnel, judicial personnel and immigration personnel, including training on the Istanbul Protocol, to be fundamental to ensuring effective investigations. Furthermore, officials and personnel involved in efforts to obtain redress should receive methodological training in order to prevent re-traumatisation of victims of torture or ill-treatment. This training should include, for health and medical personnel, the need to inform victims of gender-based and sexual violence and all other forms of discrimination of the availability of emergency medical procedures, physical as well as psychological. The Committee also urges States parties to establish human rights offices within police forces and units of officers specifically trained to handle cases of gender-based and sexual violence, including sexual violence perpetrated against men and boys, and violence against children and ethnic, religious, national or other minorities and other marginalized or vulnerable groups.

36. The Committee furthermore underlines the importance that appropriate procedures are made available to address the needs of children, taking into account the best interests of the child and the child's right to express his or her views freely in all matters affecting him or her, including judicial and administrative proceedings, and that the views of the child are given due weight in accordance with the age and maturity of the child. States parties should ensure the availability of child sensitive measures for reparation which foster the health and dignity of the child.

### **Obstacles to the Right to Redress**

37. A crucial component of the right to redress is the clear acknowledgement by the responsible State party that the reparative measures provided or awarded to a victim are for violations of the Convention, by action or omission. The Committee is therefore of the view that a State party may not implement development measures or provide humanitarian assistance as a substitute for redress for victims of torture or ill-treatment. The failure of a State party to provide the individual victim of torture with redress may not be justified by invoking a State's level of development. The Committee reminds that change of government as well as successor states still have the obligations to guarantee access to the right of redress.

38. States parties to the Convention have an obligation to ensure that the right to redress is effective. Specific obstacles that impede the enjoyment of the right to redress and prevent effective implementation of article 14 include, but are not limited to: inadequate national legislation, discrimination in accessing complaints and investigation mechanisms and procedures for remedy and redress; inadequate measures to secure the custody of alleged perpetrators, state secrecy laws, evidential burdens and procedural requirements that

interfere with the determination of the right to redress; statutes of limitations, amnesties and immunities; the failure to provide sufficient legal aid and protection measures for victims and witnesses; as well associated stigma, and the physical, psychological and other related effects of torture and ill-treatment. In addition, the failure of a State party to execute judgments providing reparative measures for a victim of torture, handed down by either national, international or regional courts, constitute a significant impediment to the right to redress. States parties should develop coordinated mechanisms to enable victims to execute judgments across State lines, including recognizing the validity of court orders from other States parties and assisting in locating the assets of perpetrators.

39. With regard to the obligations in article 14, States parties shall ensure both *de jure* and *de facto* access to timely and effective redress mechanisms for members of groups marginalized and/or made vulnerable, avoid measures that impede the ability of members of such groups to seek and obtain redress, and address formal or informal obstacles that they may face in obtaining redress. These may include, for example, inadequate judicial or other procedures for quantifying damages which may have a negative disparate impact on such individuals in accessing or keeping money. As the Committee has emphasized in its General Comment No. 2, “gender is a key factor. Being female intersects with other identifying characteristics or status of the person...to determine the ways that women and girls are subject to or at risk of torture or ill-treatment”. States parties shall ensure due attention to gender in providing all the elements cited above in the process of ensuring that everybody, in particular members of groups made vulnerable, including LGBT must be treated fairly and equally and obtain fair and adequate compensation, rehabilitation and other reparative measures which respond to their specific needs

40. On account of the continuous nature of the effects of torture, statutes of limitations should not be applicable as these deprive victims of the redress, compensation, and rehabilitation due to them. For many victims, passage of time does not attenuate the harm and in some cases the harm may increase as a result of post-traumatic stress that requires medical, psychological and social support, which is often inaccessible to those whom have not received redress. States parties shall ensure that all victims of torture or ill-treatment, regardless of when the violation occurred or whether it was carried out by or with the acquiescence of a former regime, are able to access their rights to remedy and to obtain redress.

41. The Committee has consistently held that amnesties for the crime of torture are incompatible with the obligations of States parties under the Convention, including under article 14. As was pointed out in General Comment 2, “amnesties preclude or indicate unwillingness to provide prompt and fair prosecution and punishment of perpetrators of torture or ill-treatment violate the principle of non-derogability.” The Committee considers that amnesties for torture and ill-treatment pose impermissible obstacles to a victim in his or her efforts to obtain redress and contributes to a climate of impunity. The Committee therefore calls on States parties to remove any amnesties for torture or ill-treatment.

42. Similarly, granting immunity in violation of international law, to any State or its agents or to non-state actors for torture or ill-treatment, is in direct conflict with the obligation of providing redress to victims. When impunity is allowed by law or exists *de facto*, it bars victims from seeking full redress as it allows the violators to go unpunished and denies victims the full insurance of their rights under article 14. The Committee affirms that under no circumstances may arguments of national security be used to deny redress for victims.

43. The Committee considers reservations which seek to limit the application of article 14 to be incompatible with the object and purpose of the Convention. States parties are therefore encouraged to consider withdrawing any reservations to article 14 that limit its

application so as to ensure that all victims of torture or ill-treatment have access to redress and remedy.

#### **United Nations Voluntary Fund for Victims of Torture**

44. Voluntary contributions to international funds for victims of torture play an important role in providing assistance to them. The Committee highlights the important work done by the United Nations Voluntary Fund for Victims of Torture, which provides humanitarian assistance to victims of torture. The Committee highlights also the possibility for States parties to make voluntary contributions to this fund, irrespective of the national measures taken or contributions made.

#### **Monitoring and Reporting**

45. States parties shall establish a system to oversee, monitor, evaluate, and report on their provision of redress measures and necessary rehabilitation services to victims of torture or ill-treatment. Accordingly, States parties should include in their reports to the Committee data disaggregated by age, gender, nationality, and other key factors regarding redress measures afforded to victims of torture or ill-treatment, in order to meet their obligation as recalled in General Comment 2 to provide continual evaluation of their efforts to provide redress to victims.

46. On the implementation of article 14, the Committee has observed the need to provide adequate information on the implementation of article 14 in States parties' reports. Therefore, the Committee wishes to underscore that specific information should be provided on the following;

- (a) The number of victims of torture or ill-treatment who have sought compensation through legal, administrative and other means and the nature of the violations alleged; the number of victims that have been awarded compensation; and in what amounts;
- (b) The measures taken to assist victims in the direct aftermath of torture;
- (c) The rehabilitation facilities available to victims of torture or ill-treatment and their accessibility, as well as the budget allocation for rehabilitation programmes and the number of victims that have received rehabilitative services appropriate to their needs;
- (d) The methods available for assessing the effectiveness of rehabilitation programs and services, including the application of appropriate indicators and benchmarks, and the result of such assessment;
- (e) The measures taken to ensure satisfaction and guarantees of non-repetition;
- (f) The domestic legislation which provides victims of torture or ill-treatment with the right to remedy and redress and relevant implementation measures taken by the State party. Where such legislation is lacking, reports should include information on the measures taken by the State party to adopt and implement such legislation.
- (g) The measures taken to ensure that all victims of torture or ill-treatment are able to exercise and enjoy their rights under article 14.
- (h) The complaints mechanisms available for victims of torture or ill-treatment, including how such mechanisms are made known and accessible to all victims. States parties should also include data disaggregated by age, gender, nationality, location, and alleged violation, on the number of complaints received through such mechanisms.
- (i) The measures taken by States parties to ensure that all allegations of torture and ill-treatment are effectively investigated.

(j) The legislation and policy measures designed to positively identify victims of torture in order to provide them with redress.

(k) The available avenues for a victim of torture or ill-treatment to obtain redress, including all criminal, civil, administrative, and non-judicial procedures such as administrative reparation programmes, as well as information on the number of victims who have accessed such mechanisms, how many obtained redress and reparative measures, and in what forms and/or amounts.

(l) The legal aid and witness protection available to victims of torture or ill-treatment as well as witnesses and others who have intervened on behalf of victims, including how such protection is made known and how it is made available in practice; the number of victims who have been granted legal aid; the number of persons who have been protected by State witness protection; and the State party's evaluation of the effectiveness of such protection.

(m) The steps taken to implement judgments by national, regional or international courts, including the amount of time lapsed from the date of the judgment and the actual provision of compensation or other forms of redress. States parties should also include disaggregated data on the number of victims designated to receive reparative measures in court judgments and the number that actually received redress, and for what violations.

(n) The safeguards available for the special protection of members of marginalized or vulnerable groups including women and children seeking to exercise the rights guaranteed under article 14 of the Convention.

(o) Any such other matters that the Committee may require.

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