



International Covenant on Civil and Political Rights

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Human Rights Committee

Guidelines on measures of reparation under the Optional Protocol to the International Covenant on Civil and Political Rights*

1. The present guidelines provide an overview of the jurisprudence of the Committee, as set forth in its Views on individual communications under the Optional Protocol, when requiring States parties to make full reparation to individuals whose Covenant rights have been violated. The guidelines seek to harmonize criteria and ensure consistency in order to render the Committee's jurisprudence more effective, while allowing for flexibility regarding future developments in that area.

2. When the Committee finds that an individual communication reveals violations of Covenant rights, it sets out measures designed to make full reparation to the victims (restitution, compensation, rehabilitation and measures of satisfaction), as well as measures aimed at preventing the reoccurrence of similar violations in the future (guarantees of non-repetition).¹ When identifying such measures, the Committee seeks to be consistent and takes a similar approach in similar types of situations.

3. The legal basis for setting out measures of reparation in the Committee's Views is States parties' obligations under article 2 of the Covenant.² The Committee therefore requests States parties to submit information on the steps taken to give effect to the Committee's Views within 180 days. The Committee also requests States parties to publish the Committee's Views in each case and, when appropriate, specifies the language or languages in which the Views should be published.

4. When deciding on measures of reparation, one of the elements the Committee takes into account is the position of the parties in the communication in question, while avoiding subjecting itself to any rigid codification. When processing communications, the Committee therefore advises authors to include in their submissions an indication of the

* Adopted by the Committee at its 118th session (17 October-4 November 2016) following the Committee's discussion on the report submitted by Committee member Fabián Omar Salvioli on the specification of measures of redress within the scope of individual communications considered by the Committee. See also A/69/40 (Vol. I), para. 70.

¹ See 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, adopted by the General Assembly in its resolution 60/147.

² See the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 16.



types of reparation that they are seeking. States parties are then requested to comment specifically on that aspect of the authors' submissions. The information provided by the authors and the States parties in that regard is used by the Committee for reference only; the Committee is not obligated or limited by it.

5. When deciding on which measures of reparation are appropriate, the Committee should take into account the specific circumstances of the communication. For instance, in some cases the Committee has reached decisions that take into account the existence of a gender dimension or the world view of an indigenous group.

Restitution

6. The Committee requests that States parties provide for measures of restitution with a view to restoring rights that have been violated. Such measures may include, for example, the victim's reinstatement in employment that was lost as a result of the violation committed.

7. In cases of deprivation of liberty the Committee may, as appropriate, request the person's release, the review by national authorities of the reasons for the deprivation of liberty, or give the State party the option of retrying the case or releasing the person in question. In such cases, the Committee takes a flexible approach and decides on a case-by-case basis.

Rehabilitation

8. The Committee considers whether the reparation should include the means for as full a rehabilitation as possible. If so, the Committee indicates that the State party is to provide the victim or his or her family, as appropriate, with medical or psychological treatment, or the funds to pay for such treatment.

Compensation

9. As a general rule, the Committee does not specify sums of money.

10. When appropriate, the Committee should expressly state that compensation should cover both material and moral (or non-material) harm.

Measures of satisfaction

11. When specifying measures of satisfaction, the Committee takes into consideration, inter alia, the following elements:

(a) When appropriate, the Committee may indicate that the fact that its Views declare that a violation of the Covenant has occurred constitutes in and of itself a form of reparation. That will not prevent the Committee from indicating additional measures of reparation;

(b) In many cases, the Committee requests that the State party conduct investigations into acts that have been found to constitute violations of rights under the Covenant, such as cases involving enforced disappearances, extrajudicial killings and torture. The Committee stipulates that such investigations must be prompt, thorough and impartial and that the perpetrators must be brought to justice. Particularly in cases of

enforced disappearance, the Committee indicates that the State party must undertake the necessary investigations in order to determine the whereabouts of the disappeared persons;

(c) When appropriate, the Committee requests that States parties take measures to commute, reduce or not enforce a sentence;

(d) The Committee may request that States parties provide information on the burial site of persons who were sentenced to death and executed;

(e) The Committee may request that States parties issue a public apology, particularly in cases of grave or systematic violations where the injury cannot be fully redressed by restitution or compensation only. The Committee should take that measure into special consideration when specifying the reparation to be provided in a given case;

(f) The Committee may request that States parties provide, as appropriate, for other measures of satisfaction, for example, the possibility of having a monument built, putting up a commemorative plaque or changing the name of a street or other public place in cases involving grave or systematic violations.

Guarantees of non-repetition

12. Guarantees of non-repetition are general in scope and are essential in order to prevent subsequent human rights violations of the type that gave rise to the communication considered by the Committee. The Committee should be specific in identifying and recommending such measures in its Views in order to optimize the reparation afforded in each case.

13. The following are examples of guarantees of non-repetition:

(a) When laws or regulations in the State party are found to be at variance with Covenant obligations, the Committee should request their repeal or amendment to bring them into accordance with the Covenant. The Committee should specify which laws or regulations or which provisions of a law or regulation should be amended, while identifying the proper international legal standards applicable. If the violation stems from the absence of certain legal provisions, the measures of reparation should include the adoption of the necessary laws or regulations;

(b) Improvements in conditions in places of detention, in accordance with international standards;

(c) Changes in official procedures and practices. When identifying such measures, the Committee should be as specific as possible;

(d) Where applicable, the Committee should consider recommending measures for training and raising the awareness of the authorities responsible for the violations, including law enforcement officers, members of the judiciary and medical and administrative personnel, as appropriate, in order to avoid repetition of violations such as those that gave rise to the communication in question.
