

EXECUTIVE OVERVIEW STUDY "THE PRACTICE OF REPARATIONS FOR MALE VIOLENCE. ANALYSIS AND PROPOSALS"

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The victims or survivors of male violence have the **right to reparations**, as male violence in its different forms or manifestations is a violation of human rights. Reparations are a State obligation and a right of victims and survivors of male violence, and sometimes of their relatives who can also be considered victims, that goes beyond the economic. It must be comprehensive, individual or collective, material or symbolic, and it must have a gender and intersectional perspective, both in its formulation and implementation, that places the victims/survivors, their wishes and needs at the centre, as well as including, where possible and desirable, their participation.

Along with prevention, protection, investigation and punishment, reparations form part of the due diligence that States must carry out in cases of male violence. **The forms of reparations are restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.** As part of **restitution**, wherever possible, the victim should be returned to the situation prior to the violation of their human rights. Restitution would include returning to the place of residence, reinstatement in employment or the return of property. When it is not possible to return the victim or survivor to the prior situation, as is often the case with male violence, there must be a vocation to transform

the structural causes of this violence and break the continuum of the violence.

Compensation should be proportionate to the severity and circumstances of each case, taking into account physical and mental harm, loss of opportunities (such as employment, education or social benefits), material damage and loss of income (including loss of earnings), moral damages and the costs of legal or expert assistance, medication, medical services, as well as psychological and social services. **Rehabilitation** includes medical and psychological care, as well as legal and social services. Rehabilitation measures should be tailored to meet the specific needs of individual women. **Satisfaction** would include full and public disclosure of the truth, as long as it does not put victims or survivors at risk, public apologies that include acknowledgement of the facts and acceptance of responsibility, commemorations and tributes to victims, as well as the construction of monuments, museums or memorials, among other things. Satisfaction measures are conceived as symbolic reparation measures that, by duly acknowledging the victims or survivors, can facilitate a process of rehabilitation at the individual and collective level.

And with respect to **guarantees of non-repetition**, there are measures that also contribute to the prevention of male violence, such as education, training of civil servants in, for example, the gender perspective, different forms of gender-based violence, gender stereotypes and intersectionality, as well as the review and reform of laws that may contribute to the violation of the rights of victims or survivors of male violence. These measures have great transformative potential and can be a suitable platform for broader structural reforms for all women and not only for victims or survivors of a specific case. The **symbolic** part of reparations is crucial and must be present in all forms of reparations, in the whole process, and not only within satisfaction measures.

Among the key instruments and documents on reparations addressed in the study, within the **United Nations** framework, attention is drawn to the "**Basic Principles and Guidelines on the right to remedy and reparations for victims of gross violations of international human rights law and serious violations of international humanitarian law**" (2005), which apply to victims or survivors of male violence. The basic principles and guidelines are the fundamental guide on reparations, setting out their characteristics and forms, as well as the link between

reparations and the treatment of victims, their right to effective remedies, access to justice and relevant information on reparations for gender-based violence.

Also included is the **report of the UN Special Rapporteur on violence against women, its causes and consequences on reparations for female victims or survivors of violence in peace or post-conflict situations** (2010), which establishes, among other relevant issues, the importance of women's participation in reparations' debates and processes, the transformative potential that adequate reparations can have on the structural causes of violence, highlighting the fact that reparations' measures can be individual, collective and symbolic, and that these measures should include the worst forms of crimes and violations directed at women and girls. It also considers, among other things, that which is highlighted by the Committee for the Elimination of Discrimination against Women (CEDAW Committee), which monitors compliance with the "Convention on the Elimination of all forms of Discrimination against Women" (CEDAW), ratified by Spain. The CEDAW Committee has made it clear that gender-based violence is a form of discrimination (General Recommendations Nos. 12, 19 and 35)

and repeatedly addresses reparations in its general recommendations, indicating, among other important issues, that they should be effective, be implemented in a gender-sensitive manner, include a variety of measures, and that specific funds should be established for reparations or that allocations should be included in the budgets of existing funds.

Within the framework of the **Council of Europe**, the study emphasises the **Istanbul Convention**, which includes reparations for victims of male violence, among other things, and the reparations usually awarded by the European Court of Human Rights. Regarding the European Union, special attention is given to some directives that are more focused on victims of crime and specific crimes, such as human trafficking, or the EU Strategy on Victims' Rights (2020-2025), which mentions victims of gender-based violence and compensation, and is the first of its kind in the EU. It also addresses the Inter-American System for the Protection of Human Rights (of which the Inter-American Court of Human Rights is a member) and establishes the state, regional (autonomous) and local framework.

At **State level**, the first point of analysis is "Organic Law 1/2004, of 28 December,

on comprehensive protection measures against gender-based violence” (2004), among others, and some legislative initiatives are also mentioned, as well as a reference at the **regional level** to what the law indicates regarding the eradication of male violence in terms of reparations. It also indicates what is established by some strategic plans at the **local level**. To point out that the State regulatory framework is still insufficient in terms of comprehensive reparations, in all its forms (restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition), for victims or survivors of male violence, it indicates, in relation to state legislative initiatives, that the “Draft Organic Law on the Comprehensive Guarantee of Sexual Freedom” (2021), with different measures and a specific title on the right to reparations, could become, if approved, the only law at the State level on male violence to include reparations in this form.

The following establishes **the way in which the right to reparations for male violence has been implemented in practice** and how its development varies depending on the context, from country, forum and setting. Some rulings of the European Court of Human Rights in cases of male violence are presented, analysing reparations and

determining that said court usually limits the reparations of victims to financial reparations, and how this also happens in the case of Spain, where financial reparations are usually the most common form of reparations for victims, when it occurs. In this part of the study, **good practices** on redressing male violence are identified, which include minimum standards, while at the same time going beyond such standards, complying to a greater extent with international and regional standards and incorporating a gender and, in some cases, an intersectional perspective. They go beyond the economic aspect by taking into consideration not only compensation, but also restitution, rehabilitation, satisfaction and guarantees of non-repetition. **Good practices** are identified in the **jurisprudence of the United Nations Committees and the Inter-American Court of Human Rights**, but also presented are good practices that go beyond jurisprudence, related to **recognition murals, the naming of streets and the drafting of guides and protocols**.

The **opinions of the UN Committees** detailed below include individual and general reparations in paradigmatic cases of different forms of male violence, ranging from financial compensation; training; reviewing, amending,

strengthening or monitoring laws; strengthening training and education programmes; adopting guidelines and protocols; formulating public policies and programmes; intensifying awareness-raising campaigns; guaranteeing legal support, and carrying out studies or research, among other things. With regard to the jurisprudence of the Inter-American Court of **Human Rights**, it is established that the Court has an important development on reparations in cases of male violence that covers all associated elements, and for which it considers a gender perspective and also, on many occasions, an intersectional approach.

The reparations ordered by the Inter-American Court in these cases include: considering the judgements themselves as a form of reparation; conducting research on the cases from a gender perspective; publishing the rulings, their official summaries and/or parts of such rulings in the Official Gazette, newspapers of wide national circulation and State websites, sometimes in different languages; carrying out public acts of acknowledgement of responsibility with the participation of high-ranking authorities and victims; erecting memorials to victims; creating databases documenting forms of gender-based violence; implementing gender-sensitive training or education

with a special focus on gender stereotypes; carrying out education programmes on specific issues; providing psychological or psychiatric medical care to victims; paying compensation; amending legislation; adopting permanent education and training programmes; determining the possible responsibilities of public officials who contributed by their actions to the perpetration of acts of re-victimisation and institutional violence; providing scholarships for studies; adopting protocols; incorporating permanent education programmes with the name of the victims into educational curricula; establishing independent observatories; declaring official days; designing a publication or booklet that develops women's rights regarding their sexual and reproductive health; creating educational scholarship programmes; making audio-visual documentaries; and designing and implementing data collection systems.

Other good practices include the identification of **murals in recognition of victims and survivors of male violence in Madrid and Bilbao**. In Madrid, in 2019, the City Council commissioned the artist Raquel Riba Rossy (Lola Vendetta) to create a mural of memory and reparation dedicated to women who have faced male violence, which is entitled **“Mujeres árbol”** (Women’s tree)

and is located in the centre of Madrid. Its elaboration is the result of a participatory process with women who have been survivors of male violence at some point in their lives and who joined the municipal Network of Equality Spaces, the municipal Network of comprehensive care for women, in contexts of prostitution, and victims of trafficking for sexual exploitation, as well as the municipal Network of resources for comprehensive care for women victims of partner or ex-partner violence. In turn, in 2021, **Bilbao** became the first municipality in the Basque Country to have a mural of memory and reparation dedicated to women and their sons and daughters who are victims and survivors of male violence. The mural is located in a visible place in the town, on the quay of La Merced in Bilbao La Vieja, and was created by the artist Ruth Juan (junitamakina), who used the testimonies of a group of women from the Bizitu Elkarte Association to help produce the work. The mural is entitled “**Survivors of male violence**”.

In relation to the naming of streets as good practices, in 2019, the Seville City Council approved the changing of the name of a street to “**Calle Ana Orantes**”, a woman who, after telling her story of abuse during 40 years of marriage in an interview on Canal Sur Television, was

murdered by her ex-husband in 1997 (victim of feminicide). Regarding the **guides**, the one entitled “**Local actions for the reparation of victims of male violence. Educational guide for the implementation of the principle of reparations in municipalities**” (2021) produced by EUDEL - Association of Basque Municipalities, with the institutional support of EMAKUNDE - Basque Women's Institute. And with regard to protocols, although not exclusively on reparations, the **Protocol for making Rulings with a Gender Perspective of the Mexican Supreme Court of Justice** was identified as a good practice.

Based on the review and analysis carried out on the international, European, Inter-American, State, autonomous and local framework for the reparation of male violence, as well as the way in which this framework is translated into practice at the international and Spanish level, and the identification of good practices, the study makes **proposals** for the Spanish context.

Some refer to **legislative changes**, for example, that the reform of “Organic Law 1/2004, of 28 December, on comprehensive protection measures against gender-based violence”: (a) covers different forms, manifestations

and areas of male violence, beyond that perpetrated by intimate partners or ex-partners; (b) establishes that the Spanish State must act with due diligence to prevent, protect, investigate, punish and provide reparation to victims or survivors of gender-based violence, regardless of their legal status, and (c) incorporates reparations for victims or survivors of male violence in a transverse manner and includes a specific chapter on reparations, establishing as a minimum that: (i) reparations will be comprehensive; (ii) all interventions with victims or survivors of male violence will be restorative, placing them at the centre of the whole process; (iii) include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, with a gender and intersectional perspective, both in its formulation and implementation; (iv) in the case of restitution, it must have a transformative vocation so as not to return to the situation of discrimination that caused or facilitated the male violence in the first place and break with the continuum of this violence; (v) regarding rehabilitation, it should be understood that the victim or survivor is accompanied during her process, which is centred on her, her decisions and her needs; (vi) the symbolic will be present in all forms of reparations, not only in

the satisfaction measures, and the whole process should be symbolic; (vii) access to various reparation measures should not be conditional on reporting male violence or cooperating with the authorities, in the case of victims of trafficking; and (viii) victims or survivors of international gender-based crimes will have access to comprehensive reparations in accordance with international standards.

As with other proposals for legislative changes, it is suggested that **all laws related to any of the forms of male violence** that are to be approved should include comprehensive reparations in a transverse manner and there should be a dedicated chapter and/or articles establishing all its forms, and the necessary legislative reforms should be carried out so that when the aggressor of male violence declares himself insolvent, the State complies with the payment of compensation; create a Committee of experts to establish in the legislation a minimum amount of compensation for victims or survivors of male violence, or modify the Penal Code so that extenuating circumstance vis-à-vis economic reparations for the damage caused cannot be applied in cases of male violence.

It is also suggested to make changes corresponding legislative measures so

that there are effective resources for victims and survivors to access reparations in these cases. In this sense, it is proposed that a mechanism be created so that, once a UN Committee has issued an opinion, the Spanish State takes the necessary measures to comply with all reparations, with the participation of the victim or survivor, if they wish to do so, and measures are taken to avoid their being re-victimised and/or having to resort to legal action again in order to guarantee their right to comprehensive and transformative reparations, with special attention to guarantees of non-repetition.

As for who is considered to be a victim or survivor of male violence, it is proposed that (as already indicated in the legislation) the sons and daughters of the victims of male violence, their dependents and, where appropriate, some of their relatives and/or loved ones, should also be considered victims or survivors of male violence, and they shall be informed of their right to reparations and be included in everything related to such right. In the case of children and adolescents, it is recommended that special attention be paid throughout the reparations' process to their participation, without re-victimisation, and that the approach should be from a gender, child and intersectional perspective, taking into account their

rights as children and adolescents.

Given that the **specialised care services for victims or survivors of male violence play an important role in comprehensive reparations,** it is suggested that these services be strengthened with financial and human resources, providing training on reparations based on international standards, their different forms and the ability to develop a guide for putting reparations into practice, with a gender and intersectional perspective. It is also proposed that the relevant legal changes be made so that the reports produced by these specialised services (which will be done, for example, by the Crisis Centres 24 hours a day/7 days a week/365 days a year) are the basis of all processes, and can be taken into account by the courts, avoiding new evaluations or statements by the victims or survivors, in order to avoid their re-victimisation. The reports from these services should include a section on the measures that could be restorative for each victim or survivor, taking into account their needs and wishes in each case.

Likewise, the following proposals are made: (a) a **protocol for making judgements from a gender and intersectional perspective that** includes a section on reparations for victims or survivors of male violence,

ensuring that it has a gender and intersectional perspective and incorporates international standards in this area, as well as providing mandatory and continuous training on reparations for victims or survivors of male violence from a gender and intersectional perspective; (b) **training** is provided to public administration staff who intervene in cases of reparations' rights for victims of male violence, incorporating the international and regional frameworks, from a gender and intersectional perspective; (c) the Bar Associations provide training on reparations for victims; (d) campaigns are formulated and implemented to disseminate the right of victims or survivors to comprehensive reparations, with a transformative vocation, pointing out the different forms that it takes; and (e) a **Jurisprudence observatory** on male violence is formulated and developed, which includes a section on reparations.

Furthermore, (f) a **State Strategy for the comprehensive reparation of victims and survivors of male violence** is promoted and coordinated; (g) the 2023 **Macro-survey** on violence against women introduces a **module on reparations** and suggests the possibility of conducting a **survey** to analyse this aspect before 2023 in order to have an initial diagnosis for the implementation of public policies; (h) a **protocol of**

action and coordination for comprehensive reparations is promoted, and (i) **public acts of acknowledgement of responsibility against Spain for its rulings** are carried out, provided that the victims or survivors agree.

Finally, the question arises: (j) the promotion and creation of a **State Fund for the reparations of victims and survivors of male violence**, with a special focus on the sons and daughters of victims of feminicide, on the one hand, and on women whose sons and daughters have been murdered and killed by the aggressors on the other; (k) **studies and research** to be carried out in order to: (i) identify the **specific obstacles** faced by some women victims or survivors of male violence in Spain in exercising their right to reparations, taking into account the intersection of machismo with racism, ableism, classism, heterosexism, among other systems of oppression, and (ii) analyse **how the waiver of compensation by victims or survivors of male violence is being applied**, and (l) the Spanish State complies with the full range of reparation measures made in the rulings of the UN Committees, as well as with disseminating them widely to reach all relevant sectors of society, together with their recommendations or general observations.