Justice for Victims of Atrocity Crimes
Prosecution and Reparations under International Law

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Akademisk avhandling

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Abstract
This thesis takes its starting point from the need for a comprehensive approach towards justice following atrocities, and where not only the states in which the crimes were committed have a role to play. The thesis discusses atrocity crime (genocide, crimes against humanity and war crimes) prosecution and reparations procedures concerning individuals as two appropriate courses of action, through which non-territorial states may contribute to atrocity prevention and justice for the victims of atrocities. The analysis addresses whether, under international law, non-territorial states are allowed to, required to, or prohibited from facilitating prosecution and reparations procedures and includes an assessment of the extent to which international law relating to reparations fails to correspond to that applicable to prosecution. The implications of the lack of correspondence are analysed in light of the historical connection and separation of the two courses of action, the procedural and substantive legal overlaps between prosecution and reparations, and the underlying aims and functions of prosecution and reparations. The study covers a wide spectrum of international legal sources, most of them to be found in human rights law, humanitarian law and international criminal law.

The study shows that while non-territorial states are included in both conventional and customary law as regards prosecution of atrocity crimes, the same cannot be said in relation to reparations procedures. This serious deficit and inconsistency in international law, is explained by the framing of reparations, but not prosecution, as a matter concerning victims and human rights, thereby leaving the enforcement of the rules to the discretion of each state. Reparation is also considered a private matter and as such falls outside the scope of the far-reaching obligations regarding prosecution. The study suggests taking further the responsibilities of non-territorial states in relation to atrocity crimes. Most urgently, measures should be considered that bring the legal space for reparations procedures into line with that for prosecution in, for instance, future discussions by human rights treaty-monitoring bodies and in the drafting of new international victims’ rights, atrocity crimes or civil procedure instruments.

Keywords
Crime victims, atrocity crimes, genocide, war crimes, crimes against humanity, prosecution, reparations, human rights, jurisdiction, transitional justice

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