

Fin-Jasper Langmack

Reparation in Transitional Justice

A Normative Framework



Nomos

INSTITUTE FOR
INTERNATIONAL PEACE
AND SECURITY LAW



Kölner Schriften zum Friedenssicherungsrecht
Cologne Studies on International Peace und Security Law
Études colognaises sur le droit de la paix et de la sécurité
internationales

Herausgegeben von/Edited by/Éditées par

Prof. Dr. Dr. h.c. Dr. h.c. Claus Kreß LL.M. (Cambridge)

Band/Volume 20

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The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data are available on the Internet at <http://dnb.d-nb.de>

Zugl.: Köln, Univ., Diss., 2022

ISBN 978-3-7560-0526-0 (Print)
978-3-7489-3882-8 (ePDF)

British Library Cataloguing-in-Publication Data

A catalogue record for this book is available from the British Library.

ISBN 978-3-7560-0526-0 (Print)
978-3-7489-3882-8 (ePDF)

Library of Congress Cataloging-in-Publication Data

Langmack, Fin-Jasper
Reparation in Transitional Justice
A Normative Framework
Fin-Jasper Langmack
443 pp.
Includes bibliographic references.

ISBN 978-3-7560-0526-0 (Print)
978-3-7489-3882-8 (ePDF)

1st Edition 2023

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Published by
Nomos Verlagsgesellschaft mbH & Co. KG
Waldseestraße 3 – 5 | 76530 Baden-Baden
www.nomos.de

Production of the printed version:
Nomos Verlagsgesellschaft mbH & Co. KG
Waldseestraße 3 – 5 | 76530 Baden-Baden

ISBN 978-3-7560-0526-0 (Print)
978-3-7489-3882-8 (ePDF)

DOI <https://doi.org/10.5771/9783748938828>



Onlineversion
Nomos eLibrary



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*To my family for their support and inspiration,
especially my parents*

Preface

The number of persons that I want to thank for their contribution to this thesis far exceeds the number of words appropriate for a preface. I hope that those not named personally are nonetheless assured of my gratitude.

I am deeply indebted to my supervisor Claus Krefß. He gave me the support I needed while leaving me remarkable academic freedom. Critical parts of this study and other work reflect his insightful input and critique. To be able to rely on his guidance also beyond this project is something I greatly treasure and that I do not take for granted. His gentle and kind spirit is reflected in the “academic family” at his institute. His ability to assemble incredibly talented and kind people gave me the privilege to work in a remarkable team, many of whose members have become close friends, valued discussion partners, as well as perfect companions for many, many coffee breaks. To them and Claus Krefß: Thank you!

I also thank Angelika Nussberger for her swift secondary opinion, for giving me the opportunity to publish a German summary of this thesis in the 2021 *Jahrbuch des öffentlichen Rechts*, and for all the other support she extended to me over the years.

Legal knowledge and capabilities do not suffice to write a thesis; it also requires resources. Readers shall judge whether the thesis reflects the first two. The full scholarship I received from the Hamburger Stiftung zur Förderung von Wissenschaft und Kultur ensured that I at least had the last. It also ensured that this thesis would be published open access through a generous contribution to the publication costs. The Mercator Fellowship for International Affairs, which took over my financing in 2019/2020, also requires special mention for allowing me to spend a year at the International Criminal Court, the International Center for Transitional Justice, and the European Center for Constitutional and Human Rights. These stays as well as valued discussions with staff members from these institutions strongly influenced my thinking. The additional privilege to spend a year with 24 incredibly interesting and loveable Fellows adds to the gratitude I feel for this very special institution.

Many friends provided important input and support, not all of which I can thank personally here. Gabriel, Leander, Paula, and Tim: Thank you for providing critical input. Susann and Elisa were brave enough to agree to read

the entire thing before knowing its scope. An especially heartfelt thank you (and sorry) goes out to them!

Of course, the case studies would not have been possible without all the interviewees that were willing to share their story and insights with me and the persons that helped me during my research stays. That group encompasses more individuals than I imagined before embarking on the research trips. The thesis would have been a very different (and worse) one had it not been for them. I cannot name all of them and not all of them would want to be named. Nevertheless, it is them whom I am most thankful for. For enabling these essential stays through their generous offer to host me at their institutions I thank Ambassador Kanu of the Sierra Leone Institute for International Law and Yesid Reyes and Nathalia Bautista of the Universidad Externado in Bogotá.

Not only per good custom but truly heartfelt do I extend my gratitude to my entire family. Their collective support, love, and reassurance contributed to this thesis probably more than anything. Each of them has been an invaluable source of resilience and inspiration. Luckily, I can say the same of the family that received me so warm-heartedly shortly before starting this project. I could lose many words on each of you but, unfortunately, the length of the foreword should not exceed that of the actual study. I cannot, however, skip two persons that stand out even among this exceptional group of kind and loving people: Heidrun and Wolfgang, your unwavering, unconditional, simply incredible support laid the foundation for everything. There are no words to thank you for that; I simply hope that you know of my deep, deep gratitude. Of course, the special mention of my parents shall not deflect from the important role all other family members played. To you too: A heartfelt thank you!

Lastly, it is a special privilege to share this process with a partner who, in addition to being ever supportive, is such a knowledgeable and talented academic that she inevitably became my most important discussion partner. It is far from ordinary that you tagged along to all the places this PhD took me. It is even more amazing that you let me accompany you on all your adventures. Thank you, and here's too many more of them!

Fin-Jasper Langmack

Berlin, 26 October 2022

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Abbreviations

AC	Appeals Chamber
ACHR	American Convention on Human Rights
ACHPR	African Convention on Human and Peoples' Rights
AComHPR	African Commission on Human and Peoples' Rights
ACtHPR	African Court on Human and Peoples' Rights
AFRC	Armed Forces Revolutionary Council
AP	Additional Protocol
APC	All People's Congress
Art	Article
ASP	Assembly of States Parties
ASR	Articles on State Responsibility
AU	African Union
AUC	Autodefensas Unidas de Colombia
AVRE	Apoyo a Víctimas de Violencia Socio-Politico Recuperación Emocional
AWWA	Amputees and War Wounded Association
Basic Principles	Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of Human Rights Law and Serious Violations of International Humanitarian Law
Ca	Circa
CAJAR	Colectivo de Abogados "José Alvear Restrepo"
CARICOM	Caribbean Community and Common Market
CAT	Committee Against Torture
CCJ	Comisión Colombiana de Juristas
CDF	Civil Defence Forces
CED	Convention / Commission on Enforced Disappearances
CEDAW	Convention / Committee on the Elimination of All Forms of Discrimination Against Women
CERAC	Centro de Recursos Para el Análisis de Conflictos

Abbreviations

CERD	Convention / Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CEU	Council of the European Union
Cf	Confer (compare)
Ch	Chapter
CHCV	Comisión Histórica del Conflicto y sus Víctimas
CINEP	Centro de Investigación y Educación Popular
CNMH	Centro Nacional de Memoria Histórica
CODHES	Consultoria Para los Derechos Humanos y el Desplazamiento
CoE	Council of Europe
COHRE	Centre on Housing Rights and Evictions
CONPES	Consejo Nacional de Política Económica y Social
CRAV	Centros Regionales de Atención y Reparación a Víctimas
CRC	Convention / Committee on the Rights of the Child
CSMLV	Comisión de Seguimiento y Monitoreo a la Implementación de la Ley 1448 de 2011
DDR	Disarmament, Demobilization and Reintegration
DRC	Democratic Republic of the Congo
ECHR	Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)
ECJ	European Court of Justice
EComHR	European Commission of Human Rights
ECOSOC	Economic and Social Council
ECOWAS	Economic Community of West African States
ECSR	European Committee of Social Rights
ECtHR	European Court of Human Rights
Ed / Eds	Editor / Editors
EECC	Ethiopia-Eritrea Claims Commission
e.g.	Exempli gratia (for example)
ELN	Ejército de Liberación Nacional
EPL	Ejército Popular de Liberación

ERE	Estrategía de Recuperación Emocional al Nivel Grupal
Esp	Especially
Et al.	Et alia (and others)
ETS	European Treaty Series
EU	European Union
f. / ff.	Folio (and the following)
FARC-EP	Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo
Final Agreement	Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace
Fn	Footnote
FPLC	Forces Patriotiques Pour la Liberation du Congo
FRA	Fundamental Rights Agency (European Union Agency for Fundamental Rights)
FRPI	Force de Résistance Patriotique d’Ituri
GC	General Comment
GDP	Gross Domestic Product
HIV	Human Immunodeficiency Virus
HRC	Human Rights Council
HRCOM	Human Rights Committee
HRW	Human Rights Watch
IACtHR	Inter-American Court of Human Rights
IACOMHR	Inter-American Commission on Human Rights
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
ICMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ICOMJ	International Commission of Jurists
ICRC	International Committee of the Red Cross
ICTJ	International Center for Transitional Justice
ICSID	International Center for the Settlement of Investment Disputes

Abbreviations

ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
IDMC	Internal Displacement Monitoring Centre
i.e.	Id est (that is)
ILA	International Law Association
ILC	International Law Commission
IOM	International Organization for Migration
IRIN	Integrated Regional Information Network
ITLOS	International Tribunal for the Law of the Sea
IUSCT	Iran-United States Claims Tribunal
LRV	Legal Representative for Victims
M-19	Movimiento de 19 de Abril
MAS	Muerte a Secuestradores
MPTF	Multi-Partner Trust Fund
MSEN	Multi-Sourced Equivalent Norms
NAARC	National African American Reparations Commission
NaCSA	National Commission for Social Action
NASSIT	National Social Security and Assurance Trust
NGO	Non-Governmental Organization
No	Number
NPFL	National Patriotic Front of Liberia
OHCHR	Office of the United Nations High Commissioner for Human Rights
OPCV	Office of Public Counsel for Victims
P	Page
Para	Paragraph
PAPSIVI	Programa de Atención Psicosocial y Salud Integral a Víctimas
PBF	Peacebuilding Fund
PCIJ	Permanent Court of International Justice
PHR	Physicians for Human Rights
PIRC	Plan Integral de Reparación Colectiva
PPP	Programa por la Paz

PrepCom	Preparatory Committee
PTC	Pre-Trial Chamber
PTSD	Post-Traumatic Stress Disorder
RIAA	Reports of International Arbitral Awards
RPE	Rules of Procedure and Evidence
RTDAF	Registro de Tierras Despojadas o Abandonadas Forzosamente
RUF	Revolutionary United Front
RUPTA	Registro Único de Predios y Territorios Abandonados
RUV	Registro Único de Víctimas
SCSL	Special Court for Sierra Leone
Sec	Section
Ser	Series
SIJVRNR	Sistema Integral de Justicia, Verdad, Reparación y No-Repeticón
SLA	Sierra Leone Army
SLPP	Sierra Leone People's Party
SLTRC	Sierra Leone Truth and Reconciliation Commission
STD	Sexually Transmitted Disease
STI	Sexually Transmitted Infection
TC	Trial Chamber
TFV	Trust Fund for Victims
TRC	Truth and Reconciliation Commission
TWAIL	Third World Approaches to International Law
UN	United Nations
UNCC	United Nations Compensation Commission
UNDP	United Nations Development Program
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNGA	United Nations General Assembly
UNHCR	United Nations High Commissioner for Refugees
UNSC	United Nations Security Council
UNTS	United Nations Treaty Series
UP	Unión Patriótica

Abbreviations

UPC(/RP)	Union de Patriotes Congolais(/Reconciliation et Paix)
URT	Unidad de Restitución de Tierras
USAid	United States Agency for International Development
USD	United States Dollars
VCLT	Vienna Convention on the Law of Treaties
Vol	Volume
VPRS	Victims Participation and Reparations Section
WGEID	Working Group on Enforced or Involuntary Disappearances
WOLA	Washington Office on Latin America
WTO	World Trade Organization
ZDF	Zweites Deutsches Fernsehen