Contents

Acknowledgements			page ix	
Table of cases			xi	
Ta	xvii			
Lis	List of abbreviations			
1	Intr	oduction	1	
	1.1	Introduction and context	1	
	1.2	Aim and objectives of the study	7	
	1.3	Structure and outline	10	
	1.4	Definition of key concepts	13	
	Part	I Responsibility and legal standards	15	
2	State responsibility, the legal order and the			
	deve	elopment of legal norms for victims	17	
	2.1	Introduction	17	
	2.2	Recognition of human rights in customary law	18	
	2.3	Recognition in general international law		
		of individuals as beneficiaries of reparations	28	
	2.4	Reparation in international humanitarian law	31	
	2.5	Reparation in international human rights law	33	
	2.6	Reparation provisions in regional human rights		
		instruments	35	
	2.7	Basic principles on the right to reparation for		
		victims	36	
	2.8	A customary right to reparation?	39	
	2.9	Conclusions	42	

vi	CONTENTS
	0011101110

3	Human rights jurisprudence on reparations,			
	international and regional			
	3.1	Introduction	44	
	3.2	The international human rights treaty body system	45	
	3.3	The European system for human rights protection	57	
	3.4	The Inter-American system for human rights		
		protection	66	
	3.5	The African system for human rights protection	76	
	3.6	Conclusions	82	
4	Reparations in international criminal law			
	4.1	Introduction	86	
	4.2	Origins of reparation provisions in international criminal law	87	
	4.3	Reparations and the ad hoc international tribunals	89	
	4.4	Reparations in the Rome Statute of the International		
		Criminal Court	99	
	4.5	International Criminal Court Trust Fund for Victims	105	
	4.6	Steps backwards? The Special Panels for Serious		
		Crimes in East Timor, the Special Court for Sierra		
		Leone and the Extraordinary Chambers in the		
		Courts of Cambodia	110	
	4.7	Contributing factors to the shift in the focus on		
		victims' rights within international criminal law	117	
	4.8	Conclusions	122	
5	Con	clusions Part I – legal state of play: convergence of		
	international law and reparation as an individual legal			
	righ	t with customary recognition	125	
	Part	II Transferring standards into reality	129	
6	The	role of the UN and the promotion of victims'		
U	rights and reparations in practice			
	6.1	Introduction to transitional justice mechanisms	131	
	0.1	and truth commissions	131	
	6.2	The United Nations Compensation Commission	131	
	6.3	Compensation in Darfur?	135	
	0.0			

7	Case	study: reparations in Guatemala	146
	7.1	Introduction	146
	7.2	Brief historical background	147
	7.3	Peace negotiations	148
	7.4	Establishment and mandate of the Truth Commission	149
	7.5	Operational aspects of the Historical Clarification	
		Commission	151
	7.6	The Final Report of the Historical Clarification	
		Commission	152
	7.7	Follow-up and implementation of the	
		recommendations regarding reparations	155
	7.8	Conclusions	161
8	Case	study: reparations in Sierra Leone	164
	8.1	Introduction	164
	8.2	Brief historical background	165
	8.3	Lomé Peace Agreement	166
	8.4	The Truth and Reconciliation Commission Act of 2000	169
	8.5	Operational aspects of the Truth and Reconciliation	
		Commission	172
	8.6	The relationship between the Truth Commission and	
		the Special Court	174
	8.7	The Final Report of the Truth Commission and its	
		Recommendations	176
	8.8	Follow-up and implementation of the	
		recommendations regarding reparations	180
	8.9	Conclusions	183
9	Case study: reparations in East Timor		
	9.1	Introduction	185
	9.2	Brief historical background	186
	9.3	Prosecutions and the Truth Commission	188
	9.4	Establishment of the Commission for Reception,	
		Truth and Reconciliation	189
	9.5	Operational aspects of the Commission for Reception,	
		Truth and Reconciliation	191
	9.6	The Final Report of the Truth Commission and its	
		Recommendations	195

	9.7	Follow-up and implementation of the	100	
	0.0	recommendations regarding reparations	198	
	9.8	Conclusions	201	
10	Case study: reparations in Colombia			
	10.1	Introduction	203 203	
	10.2	Brief historical background	204	
	10.3	Negotiations with the paramilitaries	207	
	10.4	The 'Alternative Justice' bill	210	
	10.5	Law 975 of 2005: La Ley de Justicia y Paz	211	
	10.6	Reparations in Law 975 of 2005	213	
	10.7	National Commission on Reparations and		
		Reconciliation	215	
	10.8	Administrative reparations programme	217	
	10.9	The Law on Victims' Right to Comprehensive		
		Reparation and Land Restitution: Law 1448	219	
	10.10	Conclusions	220	
11	Comole	ning Dart II and sting in an stick and stick		
11	Conclusions Part II – reparations in practice: comparative			
	analys	is of practice, lessons learnt and future challenges	223	
12	Final remarks: the right to reparation and			
	implementation of the legal norm: emerging convergence			
	of law and practice?		231	
Bibl	iography	/	239	
Inde	· · ·		265	