In this chapter the purpose of reparations ordered by the ICC shall be examined. The ICC Statute does not set forth the purpose of reparation awards to victims. Being aware of the purpose of reparations is essential both for the interpretation of the ICC reparations provisions and for their effective implementation. Furthermore, it provides guidance as to what can potentially be expected from the ICC reparation system. A brief look at the general purposes and protected interests of international criminal law is necessary in order to elaborate on the purpose of reparations in the ICC context and their relation to the general purposes of international criminal justice.

A. Victims and the Purposes of International Criminal Justice

The ICC Statute does not expressly define the purposes which the Court and the trials before it shall serve. The only reference is made in the preamble where it is said that putting an end to impunity of serious international crimes will “contribute to the prevention of such crimes” (para. 5).


115 W. A. Schabas: An Introduction to the International Criminal Court. 2nd ed. Cambridge, 2004, p. 164 points out that to recognize that the Court has a deterrent effect is not exactly the same as suggesting that sentencing as such has a deterrent effect. In contrast, O. Triffterer: “The Preventive and the Repressive Function of the International Criminal Court”. In: The Rome Statute of the International Criminal Court – A Challenge to Impunity. Eds. M. Politi; G. Nesi. Aldershot, 2001, pp. 137 et seq. states that both the function to prevent and to repress crimes are expressly mentioned in the ICC Statute in Art. 28 in the context of military commanders or other superiors, next to a reference in the preamble.
Recently, the purpose of international criminal law in general and the ICC in particular has been moving toward an inclusion of the rights and interests of the crimes’ victims. Previously, international criminal justice did not adapt current trends in contemporary domestic criminal law and in the international human rights context, where there has been increasing consensus that the aim to restore social harmony cannot be achieved merely by convicting and sentencing the guilty. The ICC’s mandate goes beyond the determination of the criminal responsibility of perpetrators of crimes under international law. It is expected to ‘contribute to efforts to restore and maintain peace and security and guarantee lasting respect for and enforcement of international justice’. Also, that victims have been granted attention and potential rights in the ICC Statute may have broadened the perspective on the purposes of international criminal law so as to include the victims’ perspective.

Donat-Cattin states that the punitive and preventive role of the Court vis-à-vis the most serious crimes of concern to the international community as a whole “must not be confined to the prosecution and punishment of the perpetrators [...]. The content of article 75, combined with article 68 and several other Statutory provisions, makes justice of this approach and renders the ICC an institution in which victims will be a central element of the penal proceedings.” Bassiouni takes a similarly broad perspective by assessing that international criminal justice has “three essential value-oriented goals”, reflecting certain values embodied in the historical experiences of national criminal justice systems: 1. prevention through deterrence and the strengthening of social values; 2. enhancement of peace by providing retribution and corrective justice which makes violators accountable and punishable, which in turn reduces victims’ needs for revenge, 3. provide victims with redress, which in some ways compensates them for the harm they have suffered and the losses incurred.

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