PART 5

The Reparations Issue
Introduction to Part 5

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Reparations in various forms have been a feature of the international system since ancient times, but the contexts in which they are expected have varied, as have the persons or entities that have received them. Since 1948, contemporary conceptions of human rights and international justice have contemplated reparations for victims of mass atrocities and the Rome Statute provides for them, but considerable gaps and ambiguities in the Statute have resulted in uncertainty about who, exactly, should be a beneficiary of reparations and what form reparations should take. For example, some have argued for individual reparations in the form of a cash award only to those who can establish they were victims of a crime committed by an accused tried by the ICC and found guilty of that particular crime. Others have argued that reparations should take the form of a collective good (for example, a medical clinic) provided to each village or locality that was victimized by a convicted perpetrator. Hence, there are several reparations questions at issue.

The following question was featured on www.ICCForum.com from February 2012 through June 2012:

What International Criminal Court reparations regime would be most appropriate for addressing mass atrocities and war crimes?

The Rome Statute provides for a scheme of reparations for victims of crimes under the jurisdiction of the Court, a key innovation for an international criminal court.

Under article 75 of the Statute, the Court may make an order directly against the convicted persons specifying appropriate reparations to, or in respect of, victims, such as restitution, compensation or rehabilitation. The Court may also order reparations to be paid through the Trust Fund for Victims (TFV), established by the Assembly of States Parties. The Court has the option of granting reparation awards to individual victims or collective awards through the TFV to an intergovernmental, international or national organization. According to the regulations of the TFV, it may use voluntary contributions from governments, international organizations, individuals, corporations and other entities to provide physical, psychological or material support to victims of crimes within the jurisdiction of the Court.