Abbreviated Criminal Procedures for Core International Crimes

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Key Elements of Possible Abbreviated Criminal Procedures for Core International Crimes

Gilbert Bitti*

Abbreviated criminal procedures tend to develop in all legal systems: the constant development of criminality makes it more and more difficult for judges and prosecutors to deal with all cases. What applies for 'common criminality' applies equally for core international crimes where possible cases raise to the thousands. In response to the development of criminality, prosecutors in many countries have created some informal mechanisms by which they have tried to tackle a (big) part of the criminality they are confronted with (and which could be qualified as mid- or low-level criminality). Informal mechanisms mean that prosecutors will not follow a formal judicial process, prosecutors being more and more selective in the cases they choose to follow such a long and arduous process.

This has resulted in a phenomenon which sociologists have qualified as 'dejudiciarisation of criminality', a lot of crimes simply escaping the judicial arena. This has, in turn, created a sense of impunity in society and a high level of frustration for victims of crimes. The use of abbreviated criminal procedures is an interesting solution to 'rejudiciarise' criminality, that is, to make criminality re-enter the arena of judicial proceedings. It is therefore interesting to see how abbreviated criminal procedures could satisfy the victims' rights (section 8.1.) and which could be the elements of such a process (section 8.2.).

8.1. Victims' Rights and Abbreviated Criminal Procedures

The idea of trying to avoid criminality going out of the judicial system is of course linked to the rights of victims, which are:

1) the right to know the truth: one of the main reasons victims resort to judicial mechanisms which are available to them against those who

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victimised them is to have a declaration of the truth by the competent body;[1]

2) the right to justice: victims have the right to have those who victimised them prosecuted, tried and convicted, and subjected to a certain punishment;[2]
3) the right to reparation: victims are entitled to reparations for the harm they have suffered including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.[3]

According to paragraph 19 of the Basic Principles and Guidelines for Reparations to Victims, *restitution* should, whenever possible, restore the victim to the original situation before the gross violations of international human rights law or serious violations of international humanitarian law occurred. Restitution includes, as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one's place of residence, restoration of employment and return of property.

According to paragraph 20 of the Basic Principles and Guidelines for Reparations to Victims, *compensation* should be provided for any economically assessable damage, as appropriate and proportional to the gravity of

[1] International Criminal Court ('ICC'), Situation in the Democratic Republic of Congo, *Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, Pre-Trial Chamber I, Decision on the Set of Procedural Rights Attached to Procedural Status of Victim at the Pre-Trial Stage of the Case, ICC-01/04-01/07-474, 13 May 2008, paras. 31–36 (http://www.legal-tools.org/doc/285b52/); see also, *inter alia*, Inter-American Court of Human Rights ('IACtHR'), *Bámaca Velásquez v. Guatemala*, Judgment, Series C no. 70, 25 November 2000, para. 201 (http://www.legal-tools.org/doc/e1f6bb/); IACtHR, *Barrios Altos v. Peru*, Judgment, Series C no. 75, 14 March 2001, para. 48 (http://www.legal-tools.org/doc/f1439e/).

[2] ICC, Situation in the Democratic Republic of the Congo, Pre-Trial Chamber I, Decision on the Applications for Participation in the Proceedings of VPRS 1, VPRS 2, VPRS 3, VPRS 4, VPRS 5 and VPRS 6, ICC-01/04-101-Corr, 17 January 2006, para. 53 (http://www.legal-tools.org/doc/2fe2fc/); IACtHR, *Villagrán-Morales et al. v. Guatemala*, Judgment, Series C no. 63, 19 November 1999, para. 227 (http://www.legal-tools.org/doc/32ef2e/); see also, Raquel Aldana-Pindell, "An Emerging Universality of Justiciable Victims' Rights in the Criminal Process to Curtail Impunity for State-sponsored Crimes", in *Human Rights Quarterly*, 2004, vol. 26, no. 3, p. 605.

[3] See United Nations General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, resolution 60/147, adopted 16 December 2005, UN doc. A/RES/60/147 ('Basic Principles and Guidelines for Reparations to Victims'); see also Rome Statute of the International Criminal Court ('ICC Statute'), Article 75 (http://www.legal-tools.org/doc/7b9af9/).

the violation and the circumstances of each case, resulting from gross violations of international human rights law and serious violations of international humanitarian law, such as: a) physical or mental harm; b) lost opportunities, including employment, education and social benefits; c) material damages and loss of earnings, including loss of earning potential; d) moral damage; and e) costs required for legal or expert assistance, medicine and medical services, and psychological and social services.

According to paragraph 21 of the Basic Principles and Guidelines for Reparations to Victims, *rehabilitation* should include medical and psychological care as well as legal and social services.

According to paragraph 22 of the Basic Principles and Guidelines for Reparations to Victims, *satisfaction* should include, where applicable, any or all of the following: a) effective measures aimed at the cessation of continuing violations; b) verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety and interests of the victim, the victim's relatives, witnesses or persons who have intervened to assist the victim or prevent the occurrence of further violations; c) the search for the whereabouts of the disappeared, for the identities of the children abducted, and for the bodies of those killed, and assistance in the recovery, identification and reburial of the bodies in accordance with the expressed or presumed wish of the victims, or the cultural practices of the families and communities; d) an official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim; e) public apology, including acknowledgement of the facts and acceptance of responsibility; f) judicial and administrative sanctions against persons liable for the violations; g) commemorations and tributes to the victims; and h) inclusion of an accurate account of the violations that occurred in international human rights law and international humanitarian law training and in educational material at all levels.

According to paragraph 23 of the Basic Principles and Guidelines for Reparations to Victims, *guarantees of non-repetition* should include, where applicable, any or all of the following measures, which will also contribute to prevention: a) ensuring effective civilian control of military and security forces; b) ensuring that all civilian and military proceedings abide by international standards of due process, fairness and impartiality; c) strengthening the independence of the judiciary; d) protecting persons in the legal, medical and healthcare professions, the media and other related professions, and

human rights defenders; e) providing, on a priority and continued basis, human rights and international humanitarian law education to all sectors of society and training for law enforcement officials as well as military and security forces; f) promoting the observance of codes of conduct and ethical norms, in particular international standards, by public servants, including law enforcement, correctional, media, medical, psychological, social service and military personnel, as well as by economic enterprises; g) promoting mechanisms for preventing and monitoring social conflicts and their resolution; and h) reviewing and reforming laws contributing to or allowing gross violations of international human rights law and serious violations of international humanitarian law.

The victims' rights, especially the victims' right to justice, makes it doubtful that alternatives to justice such as truth and reconciliation commissions, which are not meant to establish the criminal responsibility of the offenders and to punish them for the crimes committed, could be seen as being in conformity with international law.

Abbreviated criminal procedures involve different actors and need to find a balance between those different actors in order to be successful. This may include delicate compromises between the rights of the accused, the necessity to avoid impunity especially for heinous crimes but also the perception of justice by victims.

Such procedures do not necessarily need to follow the US model of plea bargaining, which may be difficult to accept in legal cultures different from the American one. Indeed, plea bargaining entails an agreement between the prosecutor and the defendant whereby the latter renounces to the guarantees of a fair trial and confesses guilt and the former agrees to dismiss charges or make favourable sentence recommendations to the court. Most often, however, prosecutors, in order to avoid the burden of a trial, will renounce the pursuit of the most serious charges,[4] which is in direct violation of the victims' right to know the truth. Plea bargaining has been so criticised that different models have been proposed in Canada[5] and the

[4] Robert E. Scott and William J. Stuntz, "Plea Bargaining as a Contract", in *Yale Law Journal*, 1992, vol. 101, p. 1909.

[5] Simon N. Verdun-Jones and Adamira A. Tijerino, "Four Models of Victim Involvement during Plea Negotiations: Bridging the Gap between Legal Reforms and Current Legal Practice", in *Canadian Journal of Criminology and Criminal Justice*, 2004, vol. 46, no. 4, p. 471.

United States[6] in order to associate victims to the process of plea bargaining. However, the process of plea bargaining is still being heavily criticised by victims because it entails three different categories of promises that may be made by the prosecutor:

1) promises relating to the nature of the charges to be laid (charge bargaining);
2) promises relating to the ultimate sentence that may be meted out by the court (sentence bargaining);
3) promises relating to the facts that the prosecutor may bring to the attention of the trial judge (fact bargaining).

This has very serious consequences for the victims of crimes who could be seriously affected by any plea bargaining. Indeed, it may be of extraordinary significance to the victim of a crime whether the charge laid accurately reflects what has really happened rather than a watered-down version of the events that effectively denies the reality of the victims' suffering.

This is even more so with core international crimes which affect entire communities and where the establishment of an accurate historical record and the search for the truth are of crucial importance for the victims.[7] Bargaining on charges and facts may precisely prevent the victims from reaching such goals and should therefore be avoided.

8.2. Key Elements for Abbreviated Criminal Procedures

Taking into consideration that abbreviated criminal procedures presuppose the agreement of the person prosecuted, the incentives (section 8.2.1.) the law is going to offer to the accused to give his or her consent to this kind of

[6] In Indiana, for example, a prosecutor must notify the victim of a felony of negotiations with the defendant or the defendant's attorney concerning a recommendation that the prosecutor may make to the court. If an agreement is reached, the prosecutor must show the agreement to the victim, and the victim may give a statement to the court at the sentencing hearing (Indiana Code, 1996, para. 35-35-3-2).

[7] This is a crucial aspect in relation to prosecution of core international crimes whether at the national or international levels; in this respect it is important to underline this comment made during the negotiations of the ICC Statute: "Delegations should bear in mind the additional historical dimension and truth-finding mission of the Court". See Preparatory Committee on the Establishment of an International Criminal Court, Report of the Working Group on Procedural Matters, Addendum, Revised Abbreviated Compilation, 11 December 1997, A/AC.249/1997/WG.4/CRP.11/Add.2 (http://www.legal-tools.org/doc/9c6e14/).

procedure are essential, but so too is the scope of those abbreviated criminal procedures (section 8.2.2.) and their procedural aspects (section 8.2.3.), especially in relation to the specific role of the different actors involved in such process.

8.2.1. Incentives for the Accused

Although it may be difficult in certain legal cultures for prosecutors to accept the very idea of negotiating with the persons prosecuted, the basis for abbreviated criminal procedures is the agreement of the person prosecuted to recognise the facts for which he or she is prosecuted; and it is difficult to imagine people recognising facts if they do not have an incentive to do that.

In order to avoid discrepancies on the different agreements reached depending on the prosecutor and the person involved, it could be suggested that the incentives be determined by law instead of being the result of a negotiation between the accused and the prosecutor. For example, it could be established by law in a uniform way that the maximum penalty for a certain offence be half of what it is in the criminal code for the crime in question in a case of the accused recognising the facts. Concerning the kind of sanction, in cases of offences against property or even in cases of offences against individual liberty of limited duration and not accompanied with offences against personal integrity, it may be an important incentive for the accused to accept abbreviated criminal procedures if alternatives to imprisonment are proposed to the accused, especially if measures to compensate victims are available and agreed to by the accused.[8]

Other incentives may certainly be proposed to the accused. For somebody convicted, his or her criminal record may be a serious problem for his or her future, especially if such a record is accessible to the public. The accused may be willing to confess guilt in order to avoid such problems.

It is, for example, possible to establish two parts in the criminal record: one confidential and one public. If the accused recognises the facts, the penalty would go to the confidential part of the record which would only be accessible to judges in case he or she commits another crime within a certain period of time, but that confidential part of the record would not be

[8] Consideration should be given in this respect to the agreed contribution of the accused to the forms of reparation provided for in the Basic Principles and Guidelines for Reparations to Victims, paras. 19 to 23, see *supra* note 3.

accessible to the public. This would make it difficult for the public to trace those who have been convicted for core international crimes. It may be an important advantage for those prosecuted. If, however, the accused does not recognise the facts, the eventual conviction pronounced would go to the public part of the record, accessible to the public, thus making it more difficult for the person convicted to, for example, find a job. Another interesting option would be simply not to have at all the conviction in the criminal record in case the accused recognises the facts.

8.2.2. The Scope of Abbreviated Criminal Procedures for Core International Crimes

The incentives in order for the person prosecuted to accept abbreviated criminal procedures for core international crimes are not the only problem to tackle. One of the essential problems is certainly the scope of those abbreviated criminal procedures. It may not be possible or advisable to have abbreviated criminal procedures for all types of crimes, especially with regard to core international crimes.

Victims may find it absolutely unacceptable to offer any kind of incentive to people prosecuted for crimes against life or personal integrity. It may be easier for victims to accept abbreviated criminal procedures for crimes against property and eventually for those in relation to personal liberty, in cases where the restriction to personal liberty was of limited duration and was not accompanied by other offences against personal integrity. It may, however, be possible to leave some flexibility to judges in relation to the scope of abbreviated criminal procedures for core international crimes, especially if all participants to the proceedings, including victims, accept such proceedings. Such acceptance may in turn depend on the incentives given to the accused but also on procedural aspects of those proceedings.

The determination of the scope of application of abbreviated criminal procedures presupposes a clear overview of the pending cases concerning core international crimes in a particular situation. It should be determined as much as possible in advance to how many cases those procedures could apply, depending on the scope adopted. It is important to emphasise that in the conduct of such abbreviated criminal procedures, it may be more efficient to try to group all similar cases for crimes committed in the same area.

8.2.3. The Procedural Aspects of Abbreviated Criminal Procedures for Core International Crimes

The role and guarantees accorded to the different actors in the proceedings – victims, prosecutors, judges, accused – should be carefully thought through in order to reach the best possible implementation of those procedures with the full agreement of all actors involved.

8.2.3.1. The Victims

Taking into consideration that core international crimes produce mass victimisation, the first issue is to make sure that all victims are properly involved, as the exclusion of some of them may lead to further trauma. Mechanisms should be established to eventually ensure the collective participation of victims[9] and to take into consideration possible disagreements among them.

The first crucial issue is the necessity to inform victims before any kind of decision is made on the process to follow: it will not be acceptable to victims to be presented with an agreement already reached between the prosecutor and the accused. As described above, even in the process of plea bargaining victims are more and more often informed before an agreement is reached between the prosecutor and the accused. Proper information for the victims presupposes, of course, their identification and thus a thorough investigation.

Concerning the involvement of victims, after the proper disclosure of information it could be the case that a veto power is given to the victims who have the procedural standing to block any proposal made by the prosecutor to the accused by bringing the case to an investigating judge through the normal criminal procedure. This is the case in France.[10]

At least victims should be associated with the initiation of those abbreviated criminal procedures. Where they disagree they should be able to present their views to the trial chamber, which will decide whether or not to accept the agreement reached between the prosecutor and the accused and

[9] It should be possible to have one common legal representative for an entire community; see in this regard ICC, Rules of Procedure and Evidence, adopted by the Assembly of States Parties, 3–10 September 2002, ICC-ASP/1/3, Rule 90 (http://www.legal-tools.org/doc/8bcf6f/).

[10] See, France, Code of Criminal Procedural, inserted by Law no. 2000-516 of 15 June 2000, Article 85 (http://www.legal-tools.org/doc/32fb10/).

therefore to follow such abbreviated criminal procedures. The law should state that the trial chamber may order that the criminal proceedings will follow their normal course if the victims disagree with abbreviated criminal procedures. The trial chamber should also be in a position to order at least a partial presentation of the evidence if it considers that necessary for the interests of victims or at least an oral presentation of victims' views in relation to the case at stake.

What is important for victims in a criminal trial is the establishment of the truth: there should be no bargain on the facts, which must all be recognised by the accused.

Of course, one crucial aspect for the victims will be the reparations that they may receive. In this respect, what should be proposed to the accused is an agreement which consists of three parts which he or she has to accept in order to benefit from a reduced sentence and other benefits resulting from an abbreviated criminal procedure:

1) the first part of the document to be presented to the accused is actually a description of the facts;
2) the second part is the applicable law (legal qualification of crimes and mode of liability), the corresponding penalty provided by law for those crimes and the penalty proposed;
3) the third part is the measures of reparations for the victims, which should be previously discussed with the identified victims; in case the prosecutor who is to present the agreement to the accused is of the view that the amount of reparations requested by the victims is not reasonable, he or she may leave that third part to be solved by the trial chamber, while informing the accused that he or she will have to respect that part of the decision by the trial chamber otherwise the entire agreement would be null and void.

A problem may arise when the accused accepts the first and the second parts but not the third. This may be solved according to two options: a) informing the accused that he or she has to accept in totality the agreement proposed; or b) give an opportunity to the accused to refuse that part only of the agreement but with the proviso that reparations will be decided by the trial chamber, after having listened to the accused and the victims. If the accused would fail to execute the part of the judgment relating to reparations to the victims, the agreement on the penalty would be declared null and void, something the accused should know in advance.

One has to think also of incentives for victims to accept or at least adhere to this kind of abbreviated criminal procedure: the incentive could be that that the accused accepts the reparations part of the agreement and that reparations have to be enforced immediately. This may allow victims to get reparations more rapidly than after a full regular trial.

8.2.3.2. Judges and Prosecutors

One important point in relation to abbreviated criminal procedures for core international crimes is certainly the division of powers between judges and prosecutors in this kind of proceedings. Prosecutors alone cannot conduct such abbreviated proceedings, as they end with a criminal sanction which could represent years of imprisonment, a sanction which can only be pronounced by a judge, not by a prosecutor.

Prosecutors may only initiate those abbreviated proceedings and present a proposal to the accused. The agreement of the accused shall be given before the prosecutor first, and then reiterated before the judge. The agreement of the accused may only be final after it is reiterated before the judge. The decision to accept or decline the agreement should be in the hands of the judges as there should be a separation between the authorities in charge of prosecution and the authorities in charge of conviction and sentencing.[11]

In instances in which the law only sets the maximum penalty when the accused accepts the proposal made by the prosecutor (for example, half of what can be imposed normally for the crimes committed), but still leaves some discretion to the prosecutor for the actual proposal, in order to avoid discrepancies and inequalities between accused and also to avoid judges refusing the agreements presented to them, it may be interesting to have a precise scale of penalties for each particular type of facts that could be prosecuted, as is the practice in France.[12] This scale would be agreed in advance between the prosecutors and the judges in charge of those proceedings. This also could reduce the length of those abbreviated criminal procedures.

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[11] See in this regard, the decision issued by the Constitutional Court in France, 2 February 1995 (95–360 DC).

[12] See Philip Milburn, Christian Mouhanna and Vanessa Perrocheau, "Controverses et compromis dans la mise en place de la composition pénale", in *Archives de politique criminelle*, 2005, no. 27, p. 151.

There could be, at the initiative of the judge or at the request of the victims, an intervention by the victims or a limited presentation of some crucial evidence, during a 'short' trial. This may be of importance to the victims and the option should not be either a full trial with all evidence presented or no evidence presented at all; some leeway should be left to the judge in order to organise those proceedings and to allow for some interventions or some presentation of evidence.[13]

The role of the judge should not simply be to witness the consent of the accused and then to pronounce a sanction. In addition to verifying the informed character of the consent given by the accused, the judge has a role in the sanction to be pronounced for which he or she could have some discretion within the limits of the maximum provided by law in case of abbreviated criminal procedures or within the limits of the maximum agreed by the prosecutor and the judges for this type of case. Another important role for the judge would be to decide on the reparations for victims, taking into consideration paragraphs 19 to 23 of the Basic Principles and Guidelines for Reparations to Victims, especially in cases where the accused has not accepted the proposal presented to him or her in this respect or if the victims or some of them disagree with the proposal made to the accused. This part of the proceedings, which should be an integral part of the abbreviated criminal procedure, could also be the occasion to allow the victims to present some observations or to call some evidence on the particular issue of reparations.

8.2.3.3. The Accused

Another crucial aspect in abbreviated criminal procedures for core international crimes are the rights of the accused. The accused should be presented with a proposal which he can accept or refused but which is not open to discussions. As explained above, it is of the utmost importance to avoid any

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[13] See, in this regard, ICC Statute, Article 65, para. 4, *supra* note 3, which states:

> Where the Trial Chamber is of the opinion that a more complete presentation of the facts of the case is required in the interests of justice, in particular the interests of victims, the Trial Chamber may: (a) Request the Prosecutor to present additional evidence, including the testimony of witnesses; or (b) Order that the trial be continued under the ordinary trial procedures provided in this Statute, in which case it shall consider the admission of guilt as not having been made and may remit the case to another Trial Chamber.

kind of bargain on the facts or on the charges, as these are crucial aspects for victims which could otherwise result in victims objecting the entire proceedings.

The proposal, which is to be presented by the prosecutor, should be accepted by the accused after consultation with his or her defence counsel. The defence counsel must have access to the case file established by the prosecutor. The entire proceedings presuppose a comprehensive investigation on the facts. Abbreviated criminal proceedings could be very effective in reducing the time of the judicial process in general as they avoid most if not all presentations of evidence during trial, and are in addition generally not followed by an appeal. However, they are not meant to reduce the time necessary for a comprehensive investigation which must be done in order to establish the facts and the criminal responsibility for those facts.

This aspect of the process is of utmost importance as any renunciation to the rights of the accused must be explicit. Indeed the European Court of Human Rights ('ECtHR') has made clear that if neither the spirit nor the letter of Article 6, paragraph 1 of the European Convention on Human Rights on the right to a fair trial would prevent an accused from waiving such right, this presupposes that the accused is acting on his own free will and in an unequivocal manner.[14] According to the ECtHR, in order to be effective for the purposes of the Convention, a waiver in relation to the entitlement to the guarantees of a fair trial must also be attended by a minimum of safeguards commensurate with its importance.[15] The person must reasonably foresee the consequences of his waiver.[16] This means that the consent of the accused can only be given after consultation with a defence counsel and after having declared in writing by signing the agreement presented by the prosecutor and orally before the judge that he or she fully understands the consequences of his or her consent to follow an abbreviated criminal procedure.

If the accused agrees to follow an abbreviated criminal procedure, there must be a public hearing before a judge, with the presence of the

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[14] European Court of Human Rights ('ECtHR'), *Case of Albert and Le Compte v. Belgium,* Plenary of the Court, Judgment, Applications nos. 7299/75 and 7496/76, 10 February 1983, para. 35 (http://www.legal-tools.org/doc/1e16ee/).

[15] ECtHR, *Case of Hermi v. Italy*, Grand Chamber, Judgment, Application no. 18114/02, 18 October 2006, para. 73.

[16] ECtHR, *Case of Anthony Jones v. United Kingdom*, Decision as to the admissibility of Application no. 30900/02, 9 September 2003, p. 8.

prosecutor and the victims. The publicity of the proceedings may be of utmost importance for the victims. This hearing also ensures the solemnity of the judicial process which could otherwise be seen as a simple bargain between the prosecutor and the accused that may not have much to do with a judicial process. It would also be important to have the facts exposed during this public hearing, together with the charges, so that it is clear to the victims and the public that no bargain on the charges or on the facts has been made.

The accused, in the presence of counsel, should reiterate his or her consent in relation to the facts as exposed before the judge, so that the judges may verify if he or she understands the consequences of his or her acceptance to be tried through abbreviated proceedings and that the consent covers all facts.

The last issue in relation to the rights of the accused which has to be considered is the right to appeal the decision of the first instance judge after the consent given by the accused. Such an appeal should not be prohibited but should mainly be limited to procedural issues, especially to make sure that the consent given by the accused was informed, genuine and offered freely. The accused of course shall be informed of this fundamental aspect of his or her agreement: as long as it was informed, genuine and given freely, it is irreversible.

8.3. Conclusion

In conclusion, an abbreviated criminal procedure requires serious follow up in order to have meaning for victims, especially if obligations are imposed on the person convicted in relation to reparations to victims. There must be supervision of the implementation of the agreement and in case of non-compliance there must be a mechanism to go back to the 'original track' for the prosecution of those crimes through normal criminal proceedings. The use of abbreviated procedures for core international crimes may assist in ensuring credibility for the judicial system in the country, especially in the eyes of the victims, as it will demonstrate its ability to provide a judicial answer to the serious crimes committed. This will contribute to strengthening the judicial system and its independence, which could be seen as a guarantee of non-repetition for the victims, in the sense of paragraph 23 of the Basic Principles and Guidelines for Reparations to Victims.

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Abbreviated Criminal Procedures for Core International Crimes

Morten Bergsmo (editor)

This book is about jurisdictions that open more war crimes case files than they can process by trial. Such situations are characterised by a backlog of opened case files. The book discusses the legal policy question whether new forms of abbreviated criminal procedures should be created for such situations, to process high numbers of less serious core international crimes on the basis of criminal law and procedure. The volume is not about countries that have suffered many war crimes but without opening more case files than they can handle. Nor is it about the mapping of backlogs of cases, prioritisation of cases, non-criminal justice responses to core international crimes, or reducing the length of standard proceedings.

In his Chapter 1, the editor Morten Bergsmo suggests that, upon reflection, this would seem to be one of the main areas of international criminal procedure that remains under-researched. He argues that ideas should be found in national abbreviated criminal procedures, in particular in Italian law – as analysed in Chapter 3 by Kai Ambos and Alexander Heinze – rather than primarily in the limited transitional justice practice on the question. The book presupposes that abbreviated criminal procedures for core international crimes are in accordance with international human rights standards and consensual in nature.

The volume has further contributions by Jan Braathu, Meddžida Kreso, Milorad Novković, Mark Drumbl, Ilia Utmelidze, Gorana Žagovec Kustura, Maria Paula Saffon, Phil Clark, Gilbert Bitti, Marieke Wierda and Hanne Sophie Greve.

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