

**Restoring those who have been  
injured:  
The challenges of making good**

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# Remedies for Victims of Human Rights Violations

Ideally, we would prevent all human rights violations.

In our imperfect world, this will not happen soon.

So, we need effective remedies which provide adequate reparations for victims.

# Corporations

Most of this conference is about whether and when corporations should be criminally liable for human rights violations.

So I will skip that issue and discuss . . .

# Reparations

What legal means can be used under international and national law to make sure that reparations and remedies is provided to those injured by human rights violations of corporations?

# Ruggie Principles on Remedy I

1. Based in voluntary measures to remedy corporate human rights violations.
2. National law must provide a remedy if voluntary cooperation fails.

Ruggie Principles (2011) parts II (principles 11 & 22) & III.

## Ruggie on Remedies II

States should have the option of creating administrative, civil, or criminal causes of action and remedies for corporate violations of human rights.

# Jurisdiction and Remedies I

1. A national court may authorize any remedy for a legal wrong that its national law permits.
2. A national court may enforce its own judgment on the national territory in any way national law permits.

# THE BIG PROBLEM

What if the judgment cannot be satisfied within the territory?

1. If local corporate assets are insufficient.
2. If the remedy given in a corporation's home country must be applied in another country.



# Jurisdiction and Remedies II

## International Law:

A state may exercise “enforcement jurisdiction” on the territory of a second state only with permission of the second state.

# Jurisdiction and Remedies III

In absence of treaty:

Most states will NOT enforce foreign criminal judgments.

Most states WILL, in some circumstances, enforce foreign civil money judgments.

# What to do? I

1. The “UN Convention on Corruption” route—allow monetary portions of criminal as well as civil judgments to be enforced across borders.
2. The EU route—require “prompt return of property” to crime victims, and allow victims to make claims across internal EU borders.

# What to do? II

3. The “EU/Civil Law” route: Allow a money judgment given to a *parti civile* (victim) in a criminal case to be enforceable across internal EU borders as though it were an ordinary civil judgment.
4. MASSIVELY REFORM national laws of recognition of criminal judgments across borders (will take decades).

# What to do? III

5. Admit that civil judgments may often be more effective than criminal judgments for providing remedies and reparative justice for victims of transnational human rights violations.  
(But as we all know, civil judgments are not perfect . . .)

And life goes on . . .

Thank you.