



Utrecht University

Tort Law and Historical Injustices - Call for papers

Workshop at the Ucall Conference – November 8th 2019 – Utrecht University

We cordially invite scholars to submit paper proposals on tort law and historical injustices. Selected authors will be invited to present at the annual conference of the Utrecht Centre for Accountability and Liability on November 8th 2019 in Utrecht (The Netherlands). Selected papers will be published in a special journal issue.

Victims of various historical injustices are increasingly having recourse to tort law to hold States, and on some occasion also private actors, legally accountable and liable for historical injustices. Ultimately, these proceedings may lead to reparation, compensation, and the apportion of moral blame. At the same time, they influence the public debate on how to come to terms with the past. The use of tort law in dealing with (alleged) historical injustices could be exemplified by lawsuits initiated in The Netherlands against the Dutch State in relation to Dutch police action carried out in Indonesia in the late 1940s (cf. the 2011 *Rawagede* litigation). The lawsuits against the Dutch State in relation to the Srebrenica massacre of 1995 are similarly illustrative (cf. the string of recent Dutch court decisions in *Mustafic/Nuhanovic* and *Mothers of Srebrenica*). There are also examples of tort litigation before courts of a third State, such as the ongoing US lawsuit initiated against the German State by descendants of the Namibian Herero tribe, which was on the verge of extermination under the German colonial administration in the early 1900s.

Tort claims in relation to historical injustices raise various moral, legal and policy issues, relating to the functions of tort law and the suitability of tort law's substantive and procedural rules to deal with historical injustices. At the most fundamental level, the question arises whether tort law is a legitimate and appropriate vehicle to come to terms with an unjust past. Are perhaps *other* transnational justice mechanisms more suitable when dealing with injustices that are, after all, different from ordinary torts in terms of scale, political context and lapse of time? And what if these other mechanisms (allegedly) fail in dealing with historical injustices? If one is of the view that tort law can or should play a role in addressing historical injustices, substantive and procedural legal issues arise. Some of these matters may regard limitations periods, the examination of wrongfulness, foreign sovereign immunities, evidence, causation, and the amount of damages.

This workshop aims to collect papers that critically engage with the themes portrayed above, either from a legal, philosophical or transitional justice perspective. Paper proposals (no longer than 500 words) can

be sent to the organisers of the workshop: Cedric Ryngaert (UU) and Elbert de Jong (UU) at e.r.dejong@uu.nl by 1 May 2019 the latest. The result of the selection process will be made known by **14 May 2019**. The deadline for submitting draft papers is 25 October 2019. Depending on the quality of the papers, the workshop will result in a special issue of the Utrecht Law Review. Unfortunately, Ucall will not be able to cover travel and accommodation costs.