

*Taking the war on terror to the court. A legal analysis on the right to
reparation for victims of extraordinary rendition.*

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Introduction

Chapter 1. The extraordinary renditions programme

- 1. The practice and scope of the extraordinary rendition programme**
- 2. The human rights compatibility of the programme**
 - 2.1. Violation of the prohibition of torture and other cruel, inhuman or degrading treatment
 - 2.1.1. Violations of the negative obligation
 - 2.1.2. The principle of *non-refoulement*
 - 2.1.3. Positive obligations and acts of complicity
 - 2.2. Violation of the right to liberty and security
 - 2.3. Violation of the prohibition on enforced disappearance

Chapter 2. The Duty to Investigate and Provide an Effective Remedy and Full and Adequate Reparation

- 1. The right to a remedy**
- 2. The right to an investigation**
- 3. The right to the truth**
- 4. The right to reparation (restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition)**
- 5. Cessation and guarantees of non-repetition**
- 6. The obligation to prosecute and punish**

Chapter 3. Seeking accountability and reparation

- 1. Duty bearers**
- 2. Assessing and overcoming obstacles when seeking reparation**
 - 2.1. Evidentiary obstacles
 - 2.1.1. Impact on reparation cases
 - 2.1.1.1. The use of the Privilege in the USA
 - A. Civil Reparation Cases
 - B. FOIA
 - 2.1.1.2. The European approach
 - A. Italy
 - B. Germany
 - C. The UK

2.1.2. State secrets and the right to an effective remedy

2.2. Obstacles relating to the competence of the court

2.2.1. Obstacles relating to the jurisdiction *ratione personae*

2.2.2. Obstacles relating to the jurisdiction *ratione loci*

2.3. Obstacles in the execution of judgements and orders

3. The need for a strategic approach

Conclusion

Abstract

*This thesis tries to analyse the right to reparation for victims of extraordinary rendition. By focussing on the obstacles which victims have encountered, an answer is sought on how victims should go about in their legal struggle for justice. In chapter 1 the extraordinary rendition programme is discussed and tested against human rights law. The chapter indicates that extraordinary rendition constitutes a multiple and serious human rights violation, which deserves to be repaired (chapter 2). In the last chapter the obstacles which victims encountered are discussed and analysed. They include: State secrecy claims, immunities, obstacles relating to the *ratione loci* of the Court and the refusal to request extradition. The chapter ends with a plea for a more strategic approach.*