

The Duty of State to Punish Gross Violations of Human Rights

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Abstract : Gross violations of human rights consisting of crime against humanity, genocide and war crime, are serious international crimes. Prohibition such crimes have obtain to the level of international norms of jus cogens based on conventions and customary international law. Therefore, the duty of the state to punish the crimes is obligatory. The legal consequence of jus cogens is obligation erga omnes which are a matter of state responsibility. When a state is not willing or neglects to do so in its national law, it results in state responsibility to be imposed by international human rights and humanitarian law. This article reviews the concept of jus cogens and obligatio erga omnes that appear as two sides of the same coin. It also explains how international human rights and humanitarian law set down the duty of the state to punish gross violations of human rights.

Keywords : duty of states, gross violations of human rights, jus cogens, obligatio erga omnes

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