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Balancing the scales of justice: towards a synthesised system of international criminal law

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Abstract



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The history of international relations has been spotted with examples of serious international crimes and the growing need to hold those responsible accountable for their actions has since given rise to a system of international criminal justice. There is, however, no unified theory of prosecution in international criminal law and the field has been plagued by divisions in both theory and practice. At the international level of prosecution, trials conducted under the principle of universal jurisdiction and underpinned by the theoretical tenets of legal positivism are pitted against those conducted under international-sanction and promoted by functionalists. Although the need to develop a common framework of practice has been articulated, the inability of legal theorists and political scientists to stretch the limits of their discipline has, to date, resulted in the pursuit of a limited justice. Utilising comparative case study analysis, this paper aims to assess the extent to which mechanisms of prosecution at the international level contribute to the outcome of justice and to what extent it may be suitable to advance a model of synthesised international criminal prosecution to balance the scales of justice in the future.