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## *Briefing Report*

# Transitional Justice and Corporate Accountability

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## Introduction

The field of Transition Justice (TJ) pertains to countries that seek to redress past episodes of systematic and often massive human rights violations that arise out of repression, war, apartheid and other situations that constitute a break-down of the rule of law. Given that these fragile settings cannot rely on traditional avenues of redress, they have resorted to an assortment of non-judicial mechanisms to meet the justice needs of victims while building a culture of rights and the rule of law. In 2005, the U.N. General Secretary issued an authoritative report to the Security Council in which he defined TJ as:

the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof.<sup>1</sup>

Significantly, transitional justice has focused primarily on holding governments accountable for violations of human rights law and international law, and rarely private actors like businesses and multinationals. A few countries have included a focus on non-state actors, but usually those who make up the opposition groups in internal armed struggles (such as insurgents, guerrillas and terrorist groups). Instead, human rights abuses committed by businesses have been addressed through litigation, often of transnational character.<sup>2</sup>

It is not clear that the role of business was purposely excluded, as much as simply overlooked especially since the notion of non-state accountability for human rights is a relatively new area of rights enforcement. That said, for societies undergoing transitions from conflict to peace or from dictatorship to democracy, litigation may not be the best way to address such abuses. For example, a foreign jurisdiction may not fully appreciate the context of the transition at the place where the violations occurred.<sup>3</sup> Certainly, TJ offers a variety of tools that can be suited to deal with human rights violations committed by businesses in the context of transitions complementing traditional litigation. At the same time, it is worth noting that while many cases against businesses may be brought to court independent of any transition within a state, they can be seen as a pursuit of TJ principles.<sup>4</sup> That said, our research confirms that this focus has been rare in most countries undergoing transitional justice.

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<sup>1</sup> UN Security Council, *Report of the Secretary-General, The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, 3 August 2004. S/2004/616, at para. 8.  
<https://www.ictj.org/sites/default/files/UNSC-Global-Justice-Post-conflict-2004-English.pdf>

<sup>2</sup> See for example litigations under the Alien Tort Statute in the US.

<sup>3</sup> Farah Y., *Toward a Multi-Directional Approach to Corporate Accountability*, in Michalowsky S., *Corporate Accountability in the Context of Transitional Justice*, Routledge NY (2013), p. 48.

<sup>4</sup> Van Ho T.L., *Transnational Civil and Criminal Litigation*, in Michalowsky S., *Corporate Accountability in the Context of Transitional Justice*, Routledge NY (2013), p. 59

## Background and Methodology

This briefing report arises out of a request by the Institute for Human Rights and Business (IHRB) made to the Center for International Law and Policy (CILP) to provide an initial overview of the relationship between the fields of transitional justice and business and human rights.<sup>5</sup> At present, there is minimal research or scholarship addressing this overlap and thus this preliminary report seeks to lay the initial foundation for better understanding the relationship between businesses and TJ.<sup>6</sup>

The research sought to conduct a holistic analysis of the strategies of several countries, focusing in particular on the work of truth commissions and litigations (both in domestic and foreign jurisdictions). The research team began by consulting the truth commission database organized by the United States Institute for Peace (USIP), one of the most complete archives in this field. This approach was taken because truth commissions are one of the *sine qua non* mechanisms of a transitional justice process, and are a good indicator that a country has adopted a TJ policy. It is possible that a country may develop a transitional justice platform without a truth commission (for example Colombia began its process as such), however for the sake of facilitating this research we chose to focus on countries with truth commissions, while also trying to observe other activities and actions they may have undertaken with regard to businesses.

The research looked at fourteen emblematic truth commissions out of the thirty countries that are currently featured on the USIP website. The aim was to identify two of the following models:

1. Countries with a truth commission that addressed the role of businesses as a part of their mandate
2. Countries with a truth commission that addressed non-state actors although not specifically businesses

As mentioned, it is relatively rare for a TJ process to explicitly include in its mandate a focus on businesses, specifically. However, when a TJ policy includes a focus on non-state actors, it opens the possibility of focusing on businesses as well as other types of non-governmental actors who participated in some form in the studied period of time.

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<sup>5</sup> This research was conducted by a team of students from New England Law | Boston: Jillian Carson, Rachel De Capita, Madhanga Wickramasinghe, Laura Rodriguez, Stephanie Naranjo, Sama Sayej, and Tequila Bester.

<sup>6</sup> There is very little literature on this subject, but see one of the few exceptions, Sabine Michalowski, *Corporate Accountability in the Context of Transitional Justice* (Routledge, 2013).

The research continues with the aim of investigating the remaining truth commissions listed on the USIP database. Moreover, the research on litigation is ongoing and will result in an additional report. The Annex of the research thus far is found at the end of this report.

## **1. Countries With A Truth Commission That Addressed Business**

### **a. EAST TIMOR**

#### **Background**

An internal conflict erupted between the Timorese Democratic Movement (UDT) and the Revolutionary Front for an Independent East Timor (FRETILIN) in November 1975.<sup>7</sup> FRETILIN (the ruling party at the time) declared independence from Portugal. A day after the declaration of independence, other political parties issued their “Proclamation of Integration” to counteract the move by FRETILIN and stated that the whole former Portuguese Timor colony would be integrated with Indonesia.<sup>8</sup> Portugal rejected both FRETILIN’s declaration of independence and the Proclamation of Integration. However, FRETILIN’s declaration of independence became the trigger for President Soeharto of Indonesia to authorize a full-scale invasion of Timor-Leste. The invasion occurred on December 7, 1975 and Indonesia maintained a repressive occupation for the next 24 years.<sup>9</sup>

#### **Truth Commission**

In June 2000 representatives of East Timorese civil society, the Catholic Church and community leaders held a workshop to consider transitional justice mechanisms, including the establishment of a truth commission.<sup>10</sup> The Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR - the Portuguese acronym) was established in 2001 and functioned from 2002 until its dissolution in December 2005.<sup>11</sup> The CAVR undertook truth seeking for the period of 1974-1999.

The CAVR recognized that non-state actors took part in human right violations in Timor-Leste in the period of 1975-1999.<sup>12</sup> The CAVR found that business played a major role in the destruction of natural resources such as Sandalwood trees with the help of the Indonesian government.<sup>13</sup> In this regard, the CAVR report recommended that business organizations who profited from the occupation of Timor-Leste, especially through the sale of weapons to Indonesia, contribute to the reparations program for victims of human rights

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<sup>7</sup> <http://www.usip.org/publications/truth-commission-timor-leste-east-timor>

<sup>8</sup> Chapter 3 section 9 para. 213, CHEGAH! THE CAVR REPORT

<sup>9</sup> <http://www.usip.org/publications/truth-commission-timor-leste-east-timor>

<sup>10</sup> Chapter 1, section, 2, para 36, CHEGAH! THE CAVR REPORT. <http://www.cavr-timorleste.org/chegaFiles/finalReportEng/01-Introduction.pdf>

<sup>11</sup> <http://www.cavr-timorleste.org/>

<sup>12</sup> Chapter 7, section 1, para 11, CHEGAH! THE CAVR REPORT. <http://www.cavr-timorleste.org/chegaFiles/finalReportEng/07.9-Economic-and-Social-Rights.pdf>

<sup>13</sup> Chapter 7, section 1, para 6, CHEGAH! THE CAVR REPORT. <http://www.cavr-timorleste.org/chegaFiles/finalReportEng/07.9-Economic-and-Social-Rights.pdf>

violations.<sup>14</sup> The recommendation to contribute to a reparations fund extended to Indonesian business companies, including state owned enterprises, as well as other international and multinational corporations and businesses who profited from the conflict or who supported the illegal occupation of Timor-Leste and thus indirectly supported human rights violations and abuses.<sup>15</sup>

### **Litigation**

No litigation addressing corporate responsibility related to the transition in East Timor was found.

## **b. EL SALVADOR**

### **Background**

El Salvador fought a twelve-year war against leftist guerrillas known as the Farabundo Marti National Liberation Front (FMLN) between 1980 and 1991 when the United Nations brokered peace accord that would stop the violent war.<sup>16</sup> Nearly 1.4 percent of the Salvadoran population was killed through political killings and disappearances, as well as large-scale massacres of the civilian population.<sup>17</sup> The 1991 UN brokered peace accord included an agreement to create a truth and reconciliation commission.<sup>18</sup>

### **Truth Commission**

The Commission on the Truth for El Salvador was mandated on January 16, 1992.<sup>19</sup> The Commission investigated serious acts of violence occurring from 1980 to 1991 through testimony from some two thousand victims and witnesses, reporting on over seven thousand cases of killings, disappearances, torture, rape, and massacres. It also collected information from secondary sources, including national and international human rights groups, relating to over twenty thousand additional victims.<sup>20</sup> The Commission acknowledged the likely participation of private businesses in financing the violence. However, the final report stated that, “because of the clandestine nature of their operation, it is not easy to establish all the links existing between private businessmen and the death squads.”<sup>21</sup> Final recommendations mainly focused on lack of human rights guarantees in El Salvador and imposed serious responsibility to the Salvadorian State. The report

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<sup>14</sup> Chapter 11, section 1. 8, CHEGA! THE CAVR REPORT. <http://www.cavr-timorleste.org/cheгаFiles/finalReportEng/11-Recommendations.pdf>

<sup>15</sup> Chapter 11, section 12.10, CHEGA! THE CAVR REPORT. <http://www.cavr-timorleste.org/cheгаFiles/finalReportEng/11-Recommendations.pdf>

<sup>16</sup> Hayner, Priscilla, UNSPEAKABLE TRUTHS: TRANSITIONAL JUSTICE AND THE CHALLENGE OF TRUTH COMMISSIONS, (New York, Routledge, 2011), 49.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid, 50.

<sup>19</sup> <http://www.usip.org/publications/truth-commission-el-salvador>.

<sup>20</sup> Hayner, 50.

<sup>21</sup> FROM MADNESS TO HOPE: THE 12-YEAR WAR IN EL SALVADOR: REPORT OF THE COMMISSION ON THE TRUTH FOR EL SALVADOR, 129.

recommended judicial reform, imposed penalties, education, reformation of the armed forces, and investigation of private armed groups.<sup>22</sup>

### **c. GERMANY**

#### **Background**

Between 1933 and 1945, under the leadership of Fuhrer Adolf Hitler, the Nazi Party adopted policies of persecution, extreme nationalism and wars of aggression. In November 1938 a widespread pogrom resulted in massive property loss and the arrest and detention of almost 30,000 Jewish males. Atrocities against Jewish populations and other minorities only worsened as the power of the Third Reich grew. In 1939, the German Army invaded Poland precipitating the outbreak of World War II.<sup>23</sup>

#### **Criminal Tribunal**

After the war, some of those responsible for the horrendous crimes committed during the Holocaust were brought to trial. The Nuremberg criminal trials lasted from 1945-1946. The First Military Tribunal prosecuted high-level Nazi leaders. The second focused on prosecutions of Nazi industrialists, including chemical production conglomerate I.G. Farben.<sup>24</sup>

#### **Litigation**

##### **I.G. Farben**

Criminal counts against Farben defendants in front of the Nuremberg Tribunal included “planning, preparation, initiation and waging of wars of aggression, and invasions of other countries (count 1); plunder and spoliation (count 2); slavery and mass murder (count 3); common plan of conspiracy (count 5)” and where applicable “membership in the SS (count 4).”<sup>25</sup> The Tribunal did not prosecute Farben as a company. However, this decision is attributed to political forces rather than a lack of legal grounds to prosecute a corporate entity.<sup>26</sup>

### **d. LIBERIA**

#### **Background**

After the suspension of the Liberian constitution under the Samuel Doe regime (1980-1989), Charles Taylor, of the National Patriotic Front of Liberia launched a civil war against the sitting military government.<sup>27</sup> Approximately 200,000 people were killed and over one million people displaced during this time. In the intervening years several peace

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<sup>22</sup> FROM MADNESS TO HOPE, 170.

<sup>23</sup> [http://archive.adl.org/education/dimensions\\_19/section1/background.html](http://archive.adl.org/education/dimensions_19/section1/background.html).

<sup>24</sup> Kelly, Michael J., PROSECUTING CORPORATIONS FOR GENOCIDE, New York: Oxford University Press (2016), 30.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid, 30-31.

<sup>27</sup> THE TRUTH AND RECONCILIATION COMMISSION OF LIBERIA: FINAL REPORT VOLUME II: CONSOLIDATED FINAL REPORT, 14.

accords were negotiated that ultimately proved to be ineffective. Taylor was elected President of Liberia under the threat of continued violence.<sup>28</sup> When violence did not cease, numerous rebel groups engaged in violent civil war with the government.<sup>29</sup>

### **Truth Commission**

After fourteen years of civil war, a Comprehensive Peace Agreement signed in August 2003, which included provisions for a Truth and Reconciliation Commission “to provide a forum that will address issues of impunity, as well as an opportunity for both the victims and perpetrators of human rights violations to share their experiences.”<sup>30</sup> The Truth and Reconciliation Commission (TRC) of Liberia operated between February 20, 2006 and June 22, 2009.<sup>31</sup>

The TRC was tasked with the promotion of national peace, security, unity and reconciliation by investigating gross human rights violations and violations of humanitarian law, sexual violations, and economic crimes that occurred between January 1979 and October 2003. According to the TRC, the human rights abuses committed during the lengthy civil war were “generally, but not exclusively committed by state actors.”<sup>32</sup> The report concludes that “[e]xternal state actors in Africa, North America and Europe participated, supported, aided, abetted, conspired and instigated violence, war and regime change for political, economic and foreign policy advantages and gains”<sup>33</sup> The report names several individual financiers and corporations that “seized upon the chaos and strife in Liberia to gain power and amass wealth,” with the result of prolonging violence and instability.<sup>34</sup> These corporations were mainly focused on exploitation of Liberia’s logging, mining, petroleum and telecommunications industries.<sup>35</sup> With recommendations that were uniquely authoritative, the report provides a list of both individuals and corporate entities accused of committing economic crimes during the civil war,<sup>36</sup> and calls for further investigation and legal proceedings to hold them accountable for a host of economic crimes.<sup>37</sup>

### **Litigation**

Both civil and criminal cases were brought against non-state actors and businesses in relation to violations committed during the civil war.

### **Guus Kouwenhoven**

The Dutch businessman Guus Kouwenhoven, was put to trial in the Netherlands for smuggling arms into Liberia during the country’s civil war and being complicit in the

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<sup>28</sup> <http://www.usip.org/publications/truth-commission-liberia>.

<sup>29</sup> TRC OF LIBERIA: FINAL REPORT VOLUME II, 14.

<sup>30</sup> Hayner, 66.

<sup>31</sup> <http://www.usip.org/publications/truth-commission-liberia>.

<sup>32</sup> TRC OF LIBERIA: FINAL REPORT VOLUME II, 18

<sup>33</sup> TRC OF LIBERIA: FINAL REPORT VOLUME II, 18.

<sup>34</sup> Ibid, 287.

<sup>35</sup> Ibid, 287-96.

<sup>36</sup> Ibid, 372.

<sup>37</sup> Ibid, 337-38.

various war crimes committed with those weapons.<sup>38</sup> Kouwenhoven was initially found guilty, but after a long procedural debacle, the case is currently before the Court of Appeal.<sup>39</sup>

### **DLH lawsuit**

In 2009 a complaint was brought in France against DLH alleging that the company bought timber from Liberian companies that supported Charles Taylor's government during the civil war.<sup>40</sup> The case was dismissed in 2013.<sup>41</sup>

## **e. MAURITIUS**

### **Background**

Although slavery was officially abolished in 1835, slavery and slavery-related practices remained common throughout the colonial and post-colonial period in Mauritius.<sup>42</sup> Close to half a million people were brought to Mauritius, primarily from India, to work as slaves or under conditions of debt bondage and indentured servitude beginning in the 1630s but leaving a legacy of inequality nearly 400 years later.<sup>43</sup>

### **Truth Commission**

In 2009, the Parliament of Mauritius created a Truth and Justice Commission to examine slavery and indentured labor practices that "began 371 years earlier, changed in nature after two hundred years, and whose impact on society was still felt to the present day."<sup>44</sup> The mandate of the Mauritius Truth and Justice Commission is unique because of its focus on socio-economic class abuses spanning over 370 years, the longest period that a truth commission has ever attempted to cover.<sup>45</sup>

The final report examines the laws and economic structures that protect the sugar industry and landownership by "the traditional economic elite who have today been joined by members of the state bureaucracy, politicians and the new business community."<sup>46</sup> The report finds that there is "a continuity in the economic system...which produces exclusion, poverty and unemployment."<sup>47</sup> The report recommends the establishment of an audit of public and private employment practices and recommends penalties for unfair discrimination in all employment opportunities.<sup>48</sup> The report also recommends the establishment of an affirmative action program and anti-discrimination unit to combat

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<sup>38</sup> <http://www.internationalcrimesdatabase.org/Case/2238>

<sup>39</sup> <http://www.internationalcrimesdatabase.org/Case/2238>

<sup>40</sup> <http://business-humanrights.org/en/dlh-lawsuit-re-liberian-civil-war>

<sup>41</sup> <http://business-humanrights.org/en/dlh-lawsuit-re-liberian-civil-war>

<sup>42</sup> <http://www.usip.org/publications/truth-commission-mauritius>.

<sup>43</sup> Ibid.

<sup>44</sup> Hayner, 70.

<sup>45</sup> <http://www.usip.org/publications/truth-commission-mauritius>.

<sup>46</sup> REPORT OF THE TRUTH AND JUSTICE COMMISSION OF MAURITIUS, VOLUME I, 4.

<sup>47</sup> Ibid, 402.

<sup>48</sup> REPORT OF THE TRC MAURITIUS, 17



inequality and institutionalized racism in Mauritian society.<sup>49</sup> Although the Commission addresses private businesses, the extended histories of particularly accountable industries, such as the sugar industry, make direct action difficult. Thus, business and industry is affected by the Commission recommendations for State programs that impose penalties or risk of prosecution on businesses in violation of new anti-discrimination, employment, and land preservation laws.

### **Litigation**

No litigation addressing corporate responsibility related to the conflict was found.

## **f. RWANDA**

### **Background**

The Rwandan Civil War began in October 1990. The Tutsi Rwandan Patriotic Front (RPF) invaded Rwanda from Uganda in an effort to unseat the government of President Juvénal Habyarimana. Government-controlled forces responded by attacking minority Tutsi populations and moderate Hutus within Rwanda. In turn, the RPF attacked numerous Hutu civilian targets and reportedly recruited child soldiers.<sup>50</sup> In July 1992, the RPF and the governments agreed to a ceasefire. The war officially ended on August 4, 1993 with the signing of the Arusha Accords. However, the signing of the accords did not relieve ethnic tensions persisted between Hutu and Tutsi factions. The assassination of President Habyarimana in 1994 reignited these tensions, catalyzing a genocide that lasted 100 days and killed an estimated 800,000 to 1,000,000 people.<sup>51</sup>

### **Truth Commission and Criminal Tribunal**

Although the Arusha Accords had included a mandate for a Commission of Inquiry and a National Commission on Human Rights, the intervening violence and continued tensions delayed any action. The National Unity and Reconciliation Commission was not officially set up until 1999, when it was established by the new Transitional National Assembly.<sup>52</sup> The National Unity and Reconciliation Commission is a permanent body that continues to issue reports on its activities.<sup>53</sup>

Following the extreme violence of 1994, the United Nations Security Council established the International Criminal Tribunal for Rwanda (ICTR). The tribunal was tasked with prosecuting persons “responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and neighbouring States, between 1 January 1994 and 31 December 1994.”<sup>54</sup>

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<sup>49</sup> Ibid, 403.

<sup>50</sup> <http://www.usip.org/publications/truth-commission-rwanda-99>.

<sup>51</sup> <http://unictr.unmict.org/en/genocide>.

<sup>52</sup> <http://www.usip.org/publications/truth-commission-rwanda-99>.

<sup>53</sup> <http://www.nurc.gov.rw/index.php?id=83>.

<sup>54</sup> <http://unictr.unmict.org/en/tribunal>.

The ICTR's "Media Case" in 2003 was the first judgment since the conviction of Julius Streicher at Nuremberg after World War II to examine the role of the media in the context of international criminal justice.<sup>55</sup> Although the case investigated the role of the media in the violence, only individuals were tried and the radio and newspapers involved were not prosecuted.

### **Litigation**

#### **Nahimana et. al. Media Case**

Between 1999 and 2000 Ferdinand Nahimana, Jean-Bosco Barayagwiza, and Hasan Ngeze were indicated for conspiracy to commit genocide, public incitement to commit genocide, and other crimes against humanity for their actions as media personnel for RTLM radio and the Kangura newspaper.<sup>56</sup> On September 29, 2014 the Appeals Chamber affirmed convictions for instigating genocide, conspiracy to commit genocide, public incitement to commit genocide, and extermination as a crime against humanity.<sup>57</sup>

### **g. SIERRA LEONE**

#### **Background**

Brutal civil war erupted in Sierra Leone in 1991 between government forces, the Armed Forces Revolutionary Council (AFRC) and the Revolutionary United Front (RUF).<sup>58</sup> The conflict became particularly brutal when militias and armed forces indiscriminately, and violently attacked civilian populations.<sup>59</sup> Control of Sierra Leone's vast mineral resources was a significant driving force for internal power struggles and in drawing external forces into the conflict.<sup>60</sup>

#### **Truth Commission**

The Sierra Leone Truth Commission (TC) was established with the signing of the Lome Peace Agreement on July 7, 1999.<sup>61</sup> The objective of the TC was to create an impartial historical record of the violations and abuses of human rights and international humanitarian law committed during the armed conflict in Sierra Leone.<sup>62</sup>

The TC concluded that, "the central cause of the war was endemic greed, corruption and nepotism that deprived the nation of its dignity and reduced most people into a state of

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<sup>55</sup> <http://www.un.org/en/preventgenocide/rwanda/about/bgjustice.shtml>.

<sup>56</sup> *The Prosecutor v. Nahimana et. al.*, Indictments, INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA, 2.

<sup>57</sup> UN Security Council, REPORT OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA A/70/218 – S/2015/577 (31 July 2015).

<sup>58</sup> <https://www.hrw.org/news/2012/04/11/armed-conflict-sierra-leone>.

<sup>59</sup> WITNESS TO TRUTH: FINAL REPORT OF THE TRC, VOLUME THREE A, CHAPTER 4: NATURE OF THE CONFLICT, 465.

<sup>60</sup> WITNESS TO TRUTH: FINAL REPORT OF THE TRC, VOLUME THREE A, CHAPTER 1: HISTORICAL ANTECEDENTS TO THE CONFLICT, 3.

<sup>61</sup> WITNESS TO TRUTH: FINAL REPORT OF THE TRC, VOLUME ONE, CHAPTER 1: THE MANDATE OF THE TRUTH AND RECONCILIATION COMMISSION, 28.

<sup>62</sup> Hayner, 58.

poverty.”<sup>63</sup> The TC established that although the armed conflict in Sierra Leone was an internal war, there was substantial involvement from external actors. External support received by the government or the RUF came from various actors, such as countries, regional organizations, international organizations and non-state actors, including private security firms.<sup>64</sup>

Although the TC did not focus on any particular business organization, it addressed the diamond industry as an indirect catalyst of the war in Sierra Leone. The TC recognizes the importance of local and international businesses as partners in the fight against corruption.<sup>65</sup> The report calls for responsible mining and sales of diamonds, as well as an end to diamond smuggling from Sierra Leone.<sup>66</sup> Finally, the report “calls the business sector to develop its own Code of Corporate Governance in order to build a culture of ethical conduct,” and in an effort to combat corruption within its own ranks.<sup>67</sup>

### **Litigation**

No litigation addressing corporate responsibility related to the conflict was found.

## **h. SOUTH AFRICA**

### **Background**

From 1948 – 1990 South Africa was under the apartheid regime - a legally enforced system of racial segregation. Under apartheid institutionalized racism stripped black South Africans of their civil and political rights, and failed to protect against many other human rights abuses.<sup>68</sup> Under pressure from internal opposition groups and international sanctions, South Africa began a process of transition out of the apartheid era.<sup>69</sup>

### **Truth Commission**

South Africa’s Truth and Reconciliation Commission (TRC) was set up by the Government of National Unity to help deal with the abuses committed during the apartheid.<sup>70</sup> The objective of the TRC was to promote national unity and reconciliation in a spirit of understanding, which transcended the conflicts and divisions of the past.<sup>71</sup>

In relation to non-state actors in general, and businesses in particular, the TRC investigated several media outlets, which played a role during the apartheid regime. It specifically

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<sup>63</sup> WITNESS TO TRUTH: FINAL REPORT OF THE TRC, VOLUME TWO, CHAPTER 3: RECOMMENDATIONS, 121.

<sup>64</sup> WITNESS TO TRUTH: FINAL REPORT OF THE TRC, VOLUME THREE B, CHAPTER 2: EXTERNAL ACTORS AND THEIR IMPACT ON THE CONFLICT, 68.

<sup>65</sup> WITNESS TO TRUTH, RECOMMENDATIONS, 183.

<sup>66</sup> Ibid, 184-85.

<sup>67</sup> Ibid, 164.

<sup>68</sup> <http://www.usip.org/publications/truth-commission-south-africa>.

<sup>69</sup> Ibid.

<sup>70</sup> <http://www.justice.gov.za/trc/>

<sup>71</sup> <http://www.justice.gov.za/legislation/acts/1995-034.pdf>

focused on the Independent Newspapers<sup>72</sup> to identify instances in which the company and its staff played some part in allowing human rights violations to occur.<sup>73</sup> The TRC found that State restrictions on the freedom of the media played a vital role in facilitating gross violations of human rights during the period covered by the commission's mandate. While these restrictions were not in themselves a gross violation of human rights as defined in the Act, they denied South Africans the right to a free flow of information and ideas, and created conditions conducive to the perpetration of gross human rights violations by a range of forces. Laws and restrictions controlling the media created an atmosphere conducive to self-censorship in the white-controlled media. As a result, most journalists failed to delve thoroughly enough into allegations that gross violations of human rights were occurring, or to speak out strongly enough when evidence was uncovered.<sup>74</sup>

The TRC made detailed recommendations for a reparations program including financial, symbolic and community reparations. The commission further recommended that South Africa's society and political system should be reformed to include faith communities, businesses, the judiciary, prisons, the armed forces, health sector, media and educational institutions in the reconciliation process.

### **Litigation**

Victims of the apartheid sued several corporations for their involvement with the regime from 1948 to 1994.<sup>75</sup> Many of these lawsuits were brought in the US using the Alien Tort Statute. In 2002 a group of victims sued 20 banks and corporations for their role during the apartheid in furthering abuses against black South Africans at the time.<sup>76</sup> Claims against Daimler, Ford, IBM and Rheinmetall Group were dismissed on the basis on the decision in Kiobel on the presumption against extraterritoriality.<sup>77</sup> In 2012 a settlement was reached between the plaintiffs and general Motors.<sup>78</sup>

## **i. URUGUAY**

### **Background**

In 1973, the Uruguayan military overthrew the Congress and the military leaders started a campaign eliminating leftist opponent.<sup>79</sup> In 1985 the military gave its power back to the people.<sup>80</sup> After the military era, two commission of inquiry were set up to examine the abuses that occurred during the military regime, but none of those commissions came out with an official report.<sup>81</sup>

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<sup>72</sup> <http://www.justice.gov.za/trc/hrvtrans/submit/inc.htm>

<sup>73</sup> <http://www.justice.gov.za/trc/hrvtrans/submit/inc.htm>

<sup>74</sup> <http://www.justice.gov.za/trc/report/finalreport/Volume5.pdf>

<sup>75</sup> <http://www.internationalcrimesdatabase.org/Case/1153>

<sup>76</sup> <http://business-humanrights.org/en/apartheid-reparations-lawsuits-re-so-africa>

<sup>77</sup> <http://business-humanrights.org/en/apartheid-reparations-lawsuits-re-so-africa>

<sup>78</sup> <http://business-humanrights.org/en/apartheid-reparations-lawsuits-re-so-africa>

<sup>79</sup> <http://www.usip.org/publications/truth-commission-uruguay>.

<sup>80</sup> <http://www.usip.org/publications/truth-commission-uruguay>

<sup>81</sup> <http://www.usip.org/publications/truth-commission-uruguay>

### **Truth Commission**

President Jorege Batlle established a Peace Commission (Comision para la Paz - CP) with the mandate to clarify the fate of those who “disappeared” between 1973-1985.<sup>82</sup> The CP indicated that private banks and private actors helped the military regime to carry out atrocities during 1973-1985. For example, private banks gave money to the military dictatorship to fund its military.<sup>83</sup> According to the commission’s final report, the State abandoned principles of the rule of law and basic human rights and the vast majority of abused involved state agents.<sup>84</sup>

The PC recommended the creation of a secretariat to follow-up its work, promote legal norms and recognize the legal gap regarding disappeared citizens. Also the secretariat would also be tasked with determining the criteria for monetary and symbolic reparations. While symbolic prosecutions against important figures of the regime were carried out, including former presidents and former ministers,<sup>85</sup> no prosecutions against private financiers resulted.

### **Litigation**

No litigation addressing corporate responsibility related to the conflict was found.

## **2. Countries With A Truth Commission That Addressed Other Non-State Actors**

### **a. KENYA**

The Truth, Justice and Reconciliation Commission of Kenya (TJRC) was created in 2008 to address the abuses committed during the 2007 Post-Election Violence (PEV).<sup>86</sup> The PEV broke along ethnic lines, causing great civil unrest that nearly 1,500 people and displaced almost 300,000. In January 2008, the two main political parties, the Party of National Unity (PNU) and the Orange Democratic Movement (ODM) agreed to negotiate.<sup>87</sup> They established an uneasy peace and called for the creation of a Commission of Inquiry on Post-Election Violence (CIPEV, or Waki Commission) and an Independent Review of the Elections Commission (IREC) to investigate the PEV.<sup>88</sup> One of the recommendations of The Waiki Commission and IREC was the establishment of a truth commission to

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<sup>82</sup> Trudy Peterson, “Final Acts: A Guide to Preserving the Records of Truth Commission” 80 (2005).

<sup>83</sup> Juan Pablo Bohoslavsky, Another Brick in the Uruguayan Transition Financial Complicity in Corporate Accountability in the Context of Transitional Justice, 200 (Sabine Michalowski ed., 2013).

<sup>84</sup> <http://www.usip.org/publications/truth-commission-uruguay>

<sup>85</sup> Francesca Lessa, “Nunca Mas: The Politics of Transitional Justice in Argentina and Uruguay 1983 -2010” Latin American Centre, Oxford. TC 24- Global Justice, 23, Thursday August 18, 2011. at 34.

<sup>86</sup> <http://www.usip.org/publications/truth-commission-kenya>

<sup>87</sup> <https://www.ictj.org/our-work/regions-and-countries/kenya>

<sup>88</sup> <https://www.ictj.org/our-work/regions-and-countries/kenya>

investigate past abuses, including the PEV.<sup>89</sup> In late October 2008, the Kenya Parliament unanimously passed the bill that created the TJRC and recommended appropriate action regarding abuses committed between the country's independence in 1963 and the conclusion of the power-sharing deal of February 28, 2008.<sup>90</sup>

The TJRC was tasked to establish a complete a picture of the causes, nature, and extent of the PEV. Its mandate included politically motivated violence, assassinations, displacements and major economic crimes such as grand corruption and irregular acquisition of land.<sup>91</sup> The TJRC's report discussed financial crimes and grand corruption committed by government officials.<sup>92</sup> It also considered the actions of non-state actors, especially militia groups such as Mungiki, Chinkororo and the Sabaot Land Defense Force.<sup>93</sup> Non-state actors who engaged in violence and people who financed these groups were prosecuted.<sup>94</sup> Businesses were not included in the TJRC's final recommendations.

The commission was also mandated to recommend policies with regard to reparations for victims, prosecutions, and the creation of institutions conducive to a stable and fair society.<sup>95</sup>

### **Litigation**

No litigation addressing corporate responsibility related to the PEV was found.

### **ANNEX: Other Researched Truth Commissions**

In the course of conducting this research, students also reported on truth commissions that did not include a focus on either businesses or non-state actors. We have included this research as a point of reference. In some cases, these countries did lead to separate litigation, which we have noted.

Future research could look for other sources verifying whether businesses may have had a role in the conflicts of each of these countries and therefore could potentially be included in the mandate. Below are the summaries of these cases.

#### **a. ARGENTINA**

Argentina's Truth Commission (TC) was created to address a period known as the period of the "dirty war." This was a period of oppression in Argentina between 1960 and 1980. During this time, there were arrests, murders, torture and abductions of individuals who fought against poverty. After Argentina's President Peron was overthrown, military

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<sup>89</sup> <https://www.ictj.org/our-work/regions-and-countries/kenya>

<sup>90</sup> <http://www.usip.org/publications/truth-commission-kenya>

<sup>91</sup> <http://www.usip.org/publications/truth-commission-kenya>

<sup>92</sup> <https://www.scribd.com/doc/142790251/22/Economic-Crimes-and-Grand-Corruption>

<sup>93</sup> TJRC Report Volume I, Responsibility for Violations and Injustices

<sup>94</sup> TJRC Report Volume IV, Recommendation and Implementation Matrix,

<https://www.scribd.com/doc/142790253/20/Recommendations-and-Implementation-Matrix>

<sup>95</sup> <http://www.usip.org/publications/truth-commission-kenya>

dictators who held office set up over 350 detention centers throughout the country. Each detention center held up to 2000 prisoners. Individuals were detained and arrested under no legal basis. The TC found that between the years 1976 and 1983, the military regime in Argentina committed around 2,300 political assassinations and had given no proper burial to those murdered.<sup>96</sup>

President Raul Alfonsin established the TC in 1983. The National Commission on the Disappearance of Persons (CONADEP) was also created and aimed at investigating human rights violations, which included forced disappearances committed during the period of military dictatorship. The period covered by the TC was March 1976 through October 1983.<sup>97</sup>

The role of businesses, if any, in these human rights violations was not reported by the TC. The kidnappings of individuals were carried out by members of the Security Forces, which were part of the military dictatorship in power.<sup>98</sup>

Due to its lack of judicial authority, the TC recommended the State to commence judicial investigations into the facts that were presented to the commission. It also recommended the State to provide economic assistance to the families and relatives of the disappeared.<sup>99</sup>

### **Litigation**

Several corporations were sued for the role they played during the years of the dictatorship.

#### **Daimler lawsuit**

In 2004, a lawsuit was filed in California against Daimler Chrysler AG (Daimler) under the Alien Tort Statute.<sup>100</sup> The 23 plaintiffs alleged that Mercedes Benz Argentina, one of Daimler's subsidiaries, collaborated with the Argentinian security forces to kidnap, detain, torture and kill the plaintiffs or their relatives, employees of Mercedes Benz Argentina during the dictatorship.<sup>101</sup> The case went all the way to the Supreme Court, which in 2014 ruled that California courts could not hear the case.<sup>102</sup>

#### **Ford lawsuits**

In 2002, criminal charges were brought in Argentina against the executives of Ford Motor Argentina. Ford was accused of helping the dictatorship in acts of political repression, which included the abduction and mistreatment of its workers and union organizers. Following a criminal investigation, the public prosecutor alleged that the military operated

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<sup>96</sup> <http://www.usip.org/publications/truth-commission-argentina>

<sup>97</sup> <http://www.usip.org/publications/truth-commission-argentina>

<sup>98</sup> <http://www.usip.org/publications/truth-commission-argentina>

<sup>99</sup> <http://www.usip.org/publications/truth-commission-argentina>

<sup>100</sup> <http://business-humanrights.org/en/daimler-lawsuit-re-argentina>

<sup>101</sup> <http://business-humanrights.org/en/daimler-lawsuit-re-argentina>

<sup>102</sup> <http://business-humanrights.org/en/daimler-lawsuit-re-argentina>

a detention center within Ford's factory complex.<sup>103</sup> Ford admitted that the company asked for army protection against guerrillas but denied the establishment of a detention center.<sup>104</sup>

In 2004, a lawsuit was filed against Ford Motor and Ford Motor Argentina in Los Angeles on behalf of workers and union organizers. According to the plaintiffs, Ford managers conspired with the military for the commission of abuses in the detention center located in the Ford's factory complex.<sup>105</sup> The plaintiffs had to withdraw the case in the US because this claim had to be heard in Argentina first.<sup>106</sup> Following the striking down of the amnesty laws by Argentina's Supreme Court, a similar suit was brought in Argentina in 2006.<sup>107</sup>

In 2013, three former Ford executives were charged with crimes against humanity for aiding the military forces in the abduction and torture of dozens of union workers in Buenos Aires.<sup>108</sup>

## **b. CHAD**

When the civil war in Chad ended in August 1979 with the signing of the Lagos Accord a national unity government was established. In 1981, fighting broke out between President Oueddei's and Defense Minister Hissene Habré's forces. Once Habré gained control, he began a campaign of widespread repression including torture and killings. Habré was ousted in 1990 and a Truth Commission (TC) was established to investigate crimes committed during Habré's rule.<sup>109</sup>

The TC of Chad ran from December 29, 1990 until around May 1992. The commission inquired into the crimes and misappropriations committed by ex-President Habré, along with his accomplices.<sup>110</sup> The TC's mandate was to investigate illegal detentions, assassinations, disappearances, torture, mistreatment, and other attacks on the physical and mental integrity of persons.<sup>111</sup>

The Habré's government was named responsible for an estimated 40,000 deaths. Among the institutions of the Habré regime, the Directorate of Documentation and Security was particularly responsible for cruelty, contempt, and terrorizing the population. The TC's report described the involvement of foreign governments in funding and training the perpetrators.<sup>112</sup> The TC did not mention other non-state actors or business involvement. The main actor was the Habré's government.

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<sup>103</sup> <http://business-humanrights.org/en/ford-lawsuit-re-argentina>

<sup>104</sup> <http://business-humanrights.org/en/ford-lawsuit-re-argentina>

<sup>105</sup> <http://business-humanrights.org/en/ford-lawsuit-re-argentina>

<sup>106</sup> <http://business-humanrights.org/en/ford-lawsuit-re-argentina>

<sup>107</sup> <http://business-humanrights.org/en/ford-lawsuit-re-argentina>

<sup>108</sup> <http://business-humanrights.org/en/ford-lawsuit-re-argentina>

<sup>109</sup> <http://www.usip.org/publications/truth-commission-chad>

<sup>110</sup> <http://www.usip.org/publications/truth-commission-chad>

<sup>111</sup> <http://www.usip.org/publications/truth-commission-chad>

<sup>112</sup> <http://www.usip.org/publications/truth-commission-chad>



The TC's principal recommendation was to accelerate the establishment of an independent judiciary and to reform the security forces. Further, the TC recommended the timely creation of a National Human Rights Commission and prosecutions as well as symbolic reparations.<sup>113</sup>

### **Litigation**

No litigation addressing corporate responsibility related to the Habré regime was found.

## **c. GHANA**

### **Truth Commission**

The National Reconciliation Commission (NRC) operated from January 14, 2003 until October 14, 2004. It was established by President Agyekum Kufor in 2000 to investigate human rights abuses that took place during three different periods in which Ghana was under an unconstitutional rule (1966-1969, 1972-1979, 1981-1993).

The NRC's mandate was to foster national reconciliation among the people of Ghana to establish an accurate history of any and all human rights violations and abuses related to the killing, abduction, disappearance, detention, torture, ill-treatment, and seizure of property during the three periods of unconstitutional government.

The NRC addressed previous military regime, and was publicly criticized for excluding violations of other post-independence regimes and the repression of the colonial period. The work of the NRC did not include non-state actors or businesses.

### **Litigation**

No litigation addressing corporate responsibility related to the periods of unconstitutional regime in Ghana was found.

## **d. HAITI**

### **Truth Commission**

In September 1991, Jean Bertrand Aristide, Haiti's president, was overthrown in a military coup. General Raoul Cedras was the military leader who led an oppressive regime marked by numerous human rights violations. The idea for the Truth and Justice Commission (TJC) in Haiti began with the Haitian diaspora community in North America and the Caribbean in 1993.<sup>114</sup> An executive order by President Jean Bertrand Aristide ultimately established the commission in December of 1994.<sup>115</sup>

The TJC's mandate was to investigate human rights abuses that took place over a three-year period beginning with the September 30, 1991 coup that overthrew elected President

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<sup>113</sup> <http://www.usip.org/publications/truth-commission-chad>

<sup>114</sup> <http://www.usip.org/publications/truth-commission-haiti>

<sup>115</sup> <http://www.usip.org/publications/truth-commission-haiti>

Aristide until his restoration to power in September 1994.<sup>116</sup> It also made special investigations into cases of sexual violence against women, abuse of journalists and the media and the April 1994 massacre in Roboteau.<sup>117</sup>

The TJC focused on military high command and heads of paramilitary FRAPH (Front Revolutionnaire pour'Avancement et le Proges Haitiens). It did not address non-state actors or businesses.

### **Litigation**

No litigation addressing corporate responsibility related to Cedras regime was found.

#### **e. MOROCCO**

Morocco gained full independence from France in April 1956. Hassan II became King in 1961, and continued the oppressive practices of the former reign. In 1965, after an opposition party won a small part of the legislature, King Hassan II took back an earlier promise of legislature independence and demanded full power over the legislature. He imposed secret detention, arbitrary arrest, and disappearances of his political opponents. This era became to be known as the “years of lead.” In 1990, however, King Hassan II created the National Consultative Council on Human Rights. This council began releasing detainees as a result of public protest. After the King’s death in 1999 his son, Mohammed VI, took over the reign. Upon realizing the disapproval and sensing the pressure from the people, he established a mechanism for reparations for past abuses known as the Independent Commission of Arbitration/Indemnity Commission. The level of information this mechanism provided was unsatisfactory to the families of the victims, which lead King Mohammed VI to establish the Equity and Reconciliation Commission (ERC) on January 7, 2004. This was the first truth commission in the Arab world.

The ERC was established to bring forth a healthy and democratic transition into a state of justice and law.<sup>118</sup> Its mandate focused on the investigation of forced disappearances and arbitrary detentions between Morocco’s independence in 1956 and 1999. Upon it’s findings, it became evident that the forced disappearances were a type of violence that was used to instill fear and terror among the political opponents of the kingdom. Unlike forced disappearances, arbitrary detentions were most often practiced within the realm of law. The state was the sole entity responsible for arbitrary detentions and torture. The responsibility for these abuses was shared between various security forces.

After completing the study and assessment of the period in question, the ERC worked to ensure reparations for the human rights violations that took place from 1956 to 1999. It viewed financial compensations as one of the basic rights to victims of gross human rights

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<sup>116</sup> <http://www.usip.org/publications/truth-commission-haiti>

<sup>117</sup> <http://www.usip.org/publications/truth-commission-haiti>

<sup>118</sup> Equity and Reconciliation Commission, *Truth Commission: Morocco*, United States Institute of Peace, <http://www.usip.org/publications/truth-commission-morocco>

violations. Additionally, the ERC implemented communal reparation aimed at rehabilitating regions that suffered gross violations and consequent damages.<sup>119</sup>

**The ERC did not address non-state actors or businesses.**

### **Litigation**

No litigation addressing corporate responsibility related to the Moroccan transition was found.

## **f. NIGERIA**

Nigeria's Truth Commission (TC) operated from June 14, 1999 until May 2002.<sup>120</sup> The TC promoted transparency and accountability, through the investigation of human rights violations. On November 29, 2007, when Governor Rotimi Amaechi inaugurated the TRC, he stated that its mandate was to “unearth the remote and immediate causes of cult clashes in Rivers state”, and to identify perpetrators and victims with the hope of pursuing prosecutions and granting compensation.<sup>121</sup>

The final recommendations proposed by the TRC did not mention businesses or non-state actors. In fact, the Nigerian military was largely responsible for the gross human rights violations. Apart from the military elite, the TRC mentioned the collaboration of powerful and rich civilians in preparation of numerous coups, however there was no mention of what role these particular civilians played. The commission's report also stated that some State Counsels in the Ministries of Justice violated fundamental rights of due process in attempts to protect perpetrators in specific named cases.

### **Litigation**

Several cases were brought in the US against corporations allegedly aiding and abetting human rights abuses committed by the Nigerian military.

#### **Kiobel et al. v. Shell**

The plaintiffs filed an Alien Tort Statute class action against Shell alleging that the company aided and abetted the Nigerian government to execute activists known as the Ogoni Nine to suppress their protests against Shell's operations.<sup>122</sup> The case reached the US Supreme Court, which found that Kiobel did not defeat the presumption of extraterritoriality.<sup>123</sup>

#### **Wiwa v. Shell**

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<sup>119</sup> Kingdom of Morocco Justice and Reconciliation Commission, *Summary of the Final Report* (2006) available at [http://www.ccdh.org.ma/sites/default/files/documents/rapport\\_final\\_mar\\_eng-3.pdf](http://www.ccdh.org.ma/sites/default/files/documents/rapport_final_mar_eng-3.pdf)

<sup>120</sup> <http://www.usip.org/publications/truth-commission-nigeria>

<sup>121</sup> <http://www.usip.org/publications/truth-commission-nigeria>

<sup>122</sup> <http://www.internationalcrimesdatabase.org/Case/778>

<sup>123</sup> <http://www.internationalcrimesdatabase.org/Case/778>

Plaintiffs in this lawsuit alleged that the Nigerian military government and security forces committed human rights violations, including torture and summary execution and that Shell was complicit in the commission of these abuses.<sup>124</sup> In June 2009, the parties agreed to a settlement for \$15.5 million.<sup>125</sup>

### **Bowoto et al. v. Chevron Corporation**

The plaintiffs allege that Chevron Corporation acted in concert with the Nigerian military and police to plan and execute attacks upon unarmed protesters between May 1998 and January 1999.<sup>126</sup> Chevron was cleared of the charges.<sup>127</sup>

### **g. PANAMA**

On January 18, 2001, President Mireya Moscoso established a truth commission called Panama Truth Commission (Comisión de la Verdad de Panamá – CVP). Its purpose was to investigate human right abuses and corruption during the military rule of General Omar Torrijos and General Manuel Noriega. General Omar Torrijo's led a military junta and took power of the Panamanian government after ousting President Arnulfo Arias. When General Torrijo's died in 1981, the Panama Defense Forces, led by General Noriega, continued to control the Panamanian government. Panama experienced an unstable political situation where any opposition was repressed. The instability and riots caused U.S. troops to overturn General Noriega in December 1989.

The CVP was mandated to investigate human rights violations committed during the military dictatorships of General Torrijos and General Noriega between 1968 and 1989. It was prohibited from making conclusions on the legal responsibility of individual perpetrators. The commission concluded that the military dictatorships engaged in torture and cruel, inhuman, and degrading treatment of the victims.

The CVP recommended the creation of a permanent government agency to follow up on the work of the commission. This agency would maintain the commission's files, improve human rights education in schools, along with maintaining strict civilian control over the national police and other internal public security forces. It also recommended the president to reactivate the office of the special prosecutor to take legal action against those suspected of committing the crimes. The CVP further recommended moral and financial reparations to the relatives of the victims.<sup>128</sup> **Its report did not include any focus or discussion on the role of businesses and non-state actors.**

### **Litigation**

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<sup>124</sup> <http://business-humanrights.org/en/shell-lawsuit-re-nigeria-kiobel-wiwa>

<sup>125</sup> <http://business-humanrights.org/en/shell-lawsuit-re-nigeria-kiobel-wiwa>

<sup>126</sup> <http://www.internationalcrimesdatabase.org/Case/175>

<sup>127</sup> <http://business-humanrights.org/en/chevron-lawsuit-re-nigeria>

<sup>128</sup> "The Bodies in Panama." *New York Times*, February 20, 2001, 2001, sec. A.

<http://query.nytimes.com/gst/fullpage.html?res=9C03E3D71F30F933A15751C0A9679C8B63&partner=rssnyt&emc=rss>

No litigation addressing corporate responsibility related to the transition in Panama was found.

## **h. ECUADOR**

### **Truth Commission**

There were two truth commissions (TCs) in Ecuador, one in 1996 and one in 2007. The TCs focused on human rights violations that occurred between 1979 and 1996.

#### **1996 TC**<sup>129</sup>

Although Ecuador moved from a military regime to a presidential one, the country continued to experience numerous human rights abuses. The landowner class funded paramilitary groups to help further land policies that negatively impacted farmers. Their job was to eliminate the farmer resistance. The 1996 TC had a 12-month mandate, however it was in operation only for 5 months (Sept. 1996 - Feb. 1997). The TC set out to investigate human rights abuses over a 17 year period. Its mandate was “to investigate and establish the truth about human rights violations that took place between 1979 and 1996, submit evidence to the judiciary, and provide reparations to the victims.”<sup>130</sup> There was no official report.

#### **2007 TC**<sup>131</sup>

The 2007 TC was instituted by President Rafael Correa Delgado. Its mandate was “to investigate, clarify, and impede impunity with respect to human rights abuses perpetrated between 1984 and 1988 and *other periods*”<sup>132</sup> In addition, the commission was tasked to design a reparations program, suggest possible reforms, and identify those responsible for the human rights abuses.<sup>133</sup>

The TC focused on the repressive policies of President Leon Febres, particularly actions taken against those student and social movements against his leadership. Under Febres rule, there were arbitrary detentions, torture, extrajudicial killings, and forced disappearances. A report was issued.<sup>134</sup> The TC found that serious human right abuses were committed including state sponsored terrorism, arbitrary detentions, sexual violence, executions, and torture.

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<sup>129</sup> United States Institute of Peace (USIP), *Truth Commission: Ecuador 96*, <http://www.usip.org/publications/truth-commission-ecuador-96>

<sup>130</sup> United States Institute of Peace (USIP), *Truth Commission: Ecuador 96*, <http://www.usip.org/publications/truth-commission-ecuador-96>

<sup>131</sup> United States Institute of Peace (USIP), *Truth Commission: Ecuador 07*, <http://www.usip.org/publications/truth-commission-ecuador-07>

<sup>132</sup> United States Institute of Peace (USIP), *Truth Commission: Ecuador 07*, <http://www.usip.org/publications/truth-commission-ecuador-07>

<sup>133</sup> United States Institute of Peace (USIP), *Truth Commission: Ecuador 07*, <http://www.usip.org/publications/truth-commission-ecuador-07>

<sup>134</sup> <https://issuu.com/dcalisaya/docs/resumenejecutivo>. The executive summary is in Spanish.

The TC made 155 recommendations. Restitution, rehabilitation, and compensation were highlighted in these recommendations. The TC did not mention businesses or non-state actors.

**Litigation**

No litigation addressing corporate responsibility related to the transition in Ecuador was found.