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# Combating Impunity: Transitional Justice and Anti-Corruption

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Conclusions from Practitioners' Dialogues on Transitional Justice

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**PREPARED BY**

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Sanja Pesek, Ph.D.

For further information, contact Lisa Davis, Senior Advisor for Rights and Justice Initiatives, Freedom House at [davis@freedomhouse.org](mailto:davis@freedomhouse.org)

Telephone: 202-747-7000

# Introduction

The link between grand corruption and mass human rights violations is undeniable.<sup>2</sup> Populations throughout the world recovering from conflict or authoritarian rule have prioritized their demands for righting social and economic wrongs, most recently during the Arab Spring of 2011.<sup>3</sup> Since anger about corruption helped fuel the wave of protests that swept the Middle East and North Africa (MENA) region, there are new expectations for TJ mechanisms to include economic justice within their scope.

TJ efforts that address large-scale corruption such as massive embezzlement of state funds or pillaging of the state's natural resources help establish a more comprehensive accountability and satisfy a public constituency that is larger than the victims of violence.<sup>4</sup> Until recently, however, civil and political rights have been the main focus of TJ mechanisms such as trials, commissions, reparation programs, policies of lustration/vetting, and institutional reform, while grand corruption and economic crimes have remained largely outside their scope. While TJ mechanisms understood as "an array of processes designed to address past human rights violations following periods of political turmoil, state repression or armed conflict" have not adequately dealt with the legacies of large scale corruption nor remedied the socio-economic effects, the anti-corruption efforts have failed to link repair and redress for grand corruption with the larger transitional justice agenda.<sup>5</sup> This may be one reason why even when they are established, most government-led anti-corruption commissions perform poorly and why corruption trials do not seem to have a deterrent or demonstration effect.<sup>6</sup> Thus, a comprehensive and complimentary strategy between TJ and anti-corruption fields is needed to address civil and political rights violations and socio-economic injustices to improve a transitional country's chances to achieve accountability, truth, repair, reconciliation and non-repetition.

In October 2013, Freedom House and Transparency International convened a two-day dialogue in Berlin, Germany, that included some 20 human rights lawyers and activists, investigative journalists, anti-corruption and financial experts, economists, members of truth commissions (TCs), academics, and others.

**The main question was:** *What transitional justice and anti-corruption tools can be used in pre and post-transition settings to build and maintain legitimacy, fight impunity and corruption, provide redress for human rights violations and secure justice?*

### The practitioners recommended the following next steps:

- **Design transitional justice processes** and anti-corruption initiatives for countries in transition that jointly uncover, link, make accountable, and repair past human rights abuses including socio-economic injustices caused by grand corruption.
- **Support the establishment** of a United Nations Special Rapporteur on financial crime, corruption and human rights to look at actual country situations.
- **Produce briefings connecting asset recovery** and large-scale corruption with accountability for mass human rights abuses, to help the World Bank and the United Nations Office of Drugs and Crime (UNODC)'s Stolen Asset Recovery (StAR) Initiative close the loop.
- **Increase joint TJ and anti-corruption** activities post 2015 MDGs.
- **Advocate inclusion of large-scale corruption** in the European Union's Policy on TJ, expected to be finalized in 2015, and the African Union's transitional justice framework.
- **Draft shadow reports** on States Parties' implementation of the UN Convention Against Corruption (UNCAC) highlighting its link to past and ongoing human rights abuses.

### Missed Opportunities: Transitional Justice and Anti-Corruption

Developing efficient strategies to deal jointly with corruption and mass human rights abuses is a matter of urgency. There is evidence that impunity for economic crimes reinforces impunity for human rights violations, creating an impunity gap. When rulers who lose their political power retain the resources they amassed illegally, these resources help them avoid accountability. Augusto Pinochet of Chile, Ferdinand Marcos of the Philippines, and Mohammed Suharto of Indonesia avoided accountability for their mass human rights violations by relying on assets gained through economic crimes, assets that helped them to avoid extraditions, delay trials, and intimidate witnesses.<sup>7</sup>

Where large-scale corruption and economic crimes were prosecuted, as was done with Peru's Alberto Fujimori and Liberia's Charles Taylor, trials failed to deprive perpetrators of ill-gotten assets, which were used to stifle investigation, fight extradition and even block unfavorable laws (as was the case with Liberian legislation that would have frozen some of Taylor's assets).<sup>8</sup> Also, grand corruption continues to harm populations who suffer more than physical harm in societies transitioning from authoritarian rule or violent conflict.<sup>9</sup>

Another concern is the exploitation of natural resources in the Global South. This area of development creates more opportunities for corruption, bribes, and looting of financial resources. As natural resource development accelerates, the potential for human rights violations increase.

TJ efforts have disappointing track record, either because they fail to directly address grand corruption or to link their efforts with those of anti-corruption institutions, or because they rely solely on domestic institutions ill-equipped to provide redress and repair.<sup>10</sup> When dictators are ousted but retain some public prestige and illegally amassed wealth, a society fails to address all of the true causes leading to political violence, the majority of the population may not discredit the ideology or associates of that leader over time, and the community of victims remains marginalized.

For example, although Chile's transition began in 1990, and a Spanish judge indicted Pinochet in 1998, it was not until a Chilean court formally opened an investigation into Pinochet's finances on allegations of fraud, misappropriation of funds, and bribery, that Pinochet's domestic prestige began to crumble, and his image as

a financial savior discredited.<sup>11</sup> In Serbia, the failure of TJ efforts to target corrupt individuals and companies that economically benefitted during Slobodan Milosevic's regime limited the transition's impact.<sup>12</sup>

Kenya's TJ process offers inspiration and lessons learned. The Kenyan TC's mandate did include research into all of the causes of the political violence. Its legally binding recommendations called for any money recovered by trials or prosecutions to be earmarked for a reparations fund. The commission collected over 5,000 statements that included information revealing corruption, yet these stories were not included in the TC's final report. Finally, the TC did not link corruption and mass human rights violations, a failure due largely to the commission's lack of financial expertise<sup>13</sup> and weak collaboration with anti-corruption agencies and civil society anti-corruption advocates.

**Overcoming Weaknesses: Media's Role in Transition**  
Investigative journalism and courageous brave media outlets play a vital role in uncovering corruption and identifying and linking parties to a corruption scheme and its trail of illicit gains. TJ practitioners and anti-corruption advocates should support and strengthen the enabling environment and the protection for these partners. Free access to information and

*Key number*

# 10

African countries with freedom of information acts.

freedom of expression are enshrined in international law, in regional human rights agreements and many national constitutions, but journalists face significant obstacles and limitations.<sup>14</sup> In pre- and transitional societies, journalists investigating human rights violations, corruption and economic crimes are often the primary targets of corrupt actors and can become victims themselves. Only 10 countries in Africa have freedom of information acts. A large number have criminalized defamation, including nearly every former British colony, which can cause journalists to self-censor because of fears of prosecution.<sup>15</sup> Also, anti-terrorism laws are increasingly used to silence journalists, and media are frequently not invited to the table during the talks about TJ. More fundamentally, many countries lack a tradition of independent, investigative journalism; others have laws or constitutional provisions that limit freedom of information, as in Egypt.

Still, some advances have occurred in the past decade, when the right to information has been interpreted

as a positive right of the states.<sup>16</sup> Journalists around the world are changing the paradigm of investigative journalism from solitary, almost-secret investigation into collaborative projects. For example, a news organization based in Romania has traced the network of Azerbaijani companies owned by relatives of President Ilham Aliyev.<sup>17</sup> Independent public commissions have themselves sought new ways to reach the public, such as the Anti-corruption Commission of Indonesia's creation of a radio streaming service revealing its findings and progress in its work.

### Recovering Assets: New Anti-Corruption Weapons

The United Nations Convention Against Corruption (UNCAC) took effect in 2005 and as of November 2013 has 170 parties. It requires countries to establish anti-corruption bodies.<sup>18</sup> In 2011, the UNCAC explicitly made asset recovery a "fundamental principle."<sup>19</sup> The Vienna +20 CSO Conference Declaration provides an overview of tools developed for asset recovery, such as the knowledge portal of UNODC "Tools and Resources for Anti-Corruption Knowledge" (TRACK) and the Asset Recovery Watch developed by the Stolen Asset Recovery Initiative (StAR).<sup>20</sup>

US anti-money laundering regulations are also beginning to be enforced, "including criminal law enforcement against non-American perpetrators of large-scale corruption. In 2004, there was a USA Presidential Proclamation No. 7750 issued that prohibits entry into America for foreigners linked to corruption abroad."<sup>21</sup> Additionally, the WB's StAR and the UNODC "explicitly connect asset recovery efforts with accountability for large-scale corruption and the level of a victim country's development."<sup>22</sup> On February 25, 2014, the European Parliament approved a directive making it easier for member states to freeze and confiscate criminal assets across the continent. "The directive enables authorities to confiscate criminal assets—even when a criminal conviction is not possible because a suspect is ill or a fugitive."<sup>23</sup> These recent improvements in asset recovery systems will have a positive impact on MENA countries, whose transitional priorities include tracing, seizing and recovering assets of corrupt leaders and their cronies.

### Evading Barriers: Secrecy Laws

In corruption investigations, the close relationship between political and corporate governance comes to the fore. According to the Tax Justice Network, "Secrecy hinders criminal investigation and fosters criminality and corruption such as insider trading, market

*Key numbers*

**\$21-\$32**  
**TRILLION**

Estimated private financial wealth located, untaxed or lightly taxed, in secrecy jurisdictions around the world, according to the 2013 Secrecy Ranking, by the Financial Secrecy Index.

**\$1-\$1.6**  
**TRILLION**

Illicit cross-border financial flows, yearly.

**\$1.5**  
**MILLION**

Amount of frozen assets, the status of which has yet to be fulfilled as of 2003 when asset recovery efforts began.

rigging, tax evasion, fraud, embezzlement, bribery, the illicit funding of political parties – and much more... We must bring tax, tax avoidance and tax evasion decisively into the corruption debate.<sup>24</sup> Whether or not to bring tax evasion into the TJ efforts remained one of the central questions for the practitioners gathered in Berlin. According to the 2013 Secrecy Ranking, by the Financial Secrecy Index, "an estimated \$21 to \$32 trillion of private financial wealth is located, untaxed or lightly taxed, in secrecy jurisdictions around the world. Illicit cross-border financial flows add up to an estimated \$1-1.6 trillion each year.<sup>25</sup> In 2013, top secrecy jurisdictions are located in Switzerland, Luxemburg, Hong Kong, the Cayman Islands and Singapore.<sup>26</sup>

Jurisdictions tend to have safeguards to make sure that money is not stolen, but they are not always effective. Offshore trusts are supported by banking secrecy; in the Cayman Islands, for example, divulging or even asking for confidential information is punishable by imprisonment.<sup>27</sup> Discretionary trusts are also common; by some estimates, such trusts have \$20- to 30 trillion, untaxed. In addition, transitional countries usually lack resources for tracing funds and recovering stolen assets. Change comes when pressure is put not on countries but on financial intermediaries – the private banks and global banks plus an infrastructure of lawyers and accountants that are the enablers of the tax haven system. Many of the same structures used to hide assets are designed for tax evasion and tax avoidance. Bringing taxes into the money laundering agenda is essential given the exorbitant value of the assets in question. Experts and practitioners are pushing for automatic information exchange systems – most recently, the G20 mandated the OECD to take action against tax secrecy.<sup>28</sup> Efforts like those of the Tax Justice Network, which has recently published results on Financial Secrecy Index for 2013, are essential in establishing transparency.<sup>29</sup>

### Leveraging New Openings: Transitional Justice Processes

Expanding TJ mechanisms to include grand corruption when TJ mechanisms are over-stretched, under-staffed, and under-funded is risky. There is also a danger of raising already inflated expectations of what TJ mechanisms can accomplish, especially given that TJ mechanisms rely on human rights experts who lack the set of skills required for corruption investigations and asset recovery. Since TJ mechanisms are temporary bodies that are limited in terms of scope and work within short timeframes, they may be poorly equipped to follow through on asset recovery.<sup>30</sup>

Yet in many if not all transition contexts, it is appropriate and efficient to address large scale corruption and economic crimes at the time of transition. A broad civic consciousness is awakened and political will is at its greatest. It is the opportune time to advance these aims within TJ mechanisms particularly trials, lustration/vetting, TCs, and reparations programs<sup>31</sup> and to publicly link parallel anti-corruption efforts to the aims of transitional justice.

Grand corruption and economic crimes have been taken up in Chad and Sierra Leone, and to a limited extent in Liberia, Peru, Kenya and Timor-Leste. Since TCs have mandates to look at background causes of conflict, they are appropriate when inquiring into the links of human rights abuses with acts of grand corruption and economic crimes, such as land grabs or discriminatory or disproportionate delivery of economic and social services to certain populations or constituencies. During the pre-operational or preparatory period of a TC, a strategy for inquiry into these elements can be developed. To address grand corruption directly TCs can hire or train special staff with financial forensic investigative skills. Also, TC staff could be sensitized to the types of information related to grand or systemic corruption that surface

during statement-taking, investigations, public hearings, victims support and the final analysis and report writing phases.

Also, some acts of grand corruption and economic crimes are judicable as war crimes – appropriation of property, pillage including resource extraction and massive embezzlement of state funds, starvation, etc. – and possibly as crimes against humanity.<sup>32</sup> Other forms of large scale corruption can be pursued under civil law, where the goal is not punitive but reparative. In addition to imprisonment, the International Criminal Court may order “forfeiture of proceeds, property and assets derived directly or indirectly from that crime, without prejudice to the rights of bona fide third parties.”<sup>33</sup>

There have been efforts to recover stolen assets and to use them to provide repair to the victims. For example, “Sierra Leone has established a precedent, declaring that earnings from the diamonds that fuelled the war should be directed to paying a part of the reparations required to alleviate the impact of war on victims.”<sup>34</sup> Still, as of 2003 when the asset recovery

efforts began, the status of some \$1.5 million frozen assets has not yet been fulfilled.<sup>35</sup> It is important to remember that stolen assets should not be written in the line of reparations, but should rather be noted separately. The TJ mechanism of reparations aims to induce government-administered reparations where the state acknowledges its failure to protect its citizens, which should not be contingent upon court decisions, recovery of assets, etc. This duty of the state to protect and redress when it fails to do so is a legal obligation and using stolen assets to fund these reparations can be used as *additional* (but not primary or in any way conditional) funds to provide individual/group compensation, build monuments, cover health-care costs, etc.

The achievements by the Anti-corruption Commission in Indonesia in contrast to the challenges met in parallel transitional justice efforts offer models for examination and learning. As well, Tunisia’s structure for inter-Ministerial collaboration on anti-corruption and transitional justice responses offers new opportunities to support and study on joint efforts for greater impact.

## Conclusion

Practitioners pursuing TJ processes to address mass human rights abuses and corruption have many strategies to share. Our recommendations include the following:

- **Address corruption from the start:** A moment of “civic consciousness” exists immediately following a transition, when the will to reform is strongest.
- **Civil society should raise awareness** about the issue of stolen assets. Since victims are in both rich and poor countries, there could be more transnational civil society cooperation.
- **Where appropriate, civil society** should identify corruption as a precedent of atrocities, because in many situations corrupt regimes commit atrocities to increase and retain power.
- **Civil society should expand its role** to monitor the status of frozen assets, the administrators of the funds, as well as the use of those funds.
- **TJ practitioners and anti-corruption experts** should support media’s critical role by advocating for access to information and freedom of information laws, lobbying legislative bodies to de-criminalize defamation laws, and training investigative journalists.
- **TJ and anti-corruption bodies** should work together, and while prosecutions of corruption cases related to mass human rights violations could be left to technically-equipped anti-corruption commissions, the link to human rights violations must be recognized, pursued, and supported by TJ mechanisms so they are recognized as part of transitional justice.
- **Human rights organizations could use** the UNCAC convention in transitional justice. For example, if corruption is detected within truth commissions, corruption groups should be informed to ensure that these findings lead to consequences.
- **Truth commissions should give a voice** to victims of corruption. They should also have resources to conduct financial forensic work.
- **Examine the impact of corruption** on women as a group, building on the growing evidence that corruption has a disproportionate impact on vulnerable groups in society.
- **Design the mandates of anti-corruption bodies** in collaboration with human rights organizations.

## ENDNOTES

1. For further information contact Freedom House staff, Lisa Davis, Senior Advisor for Rights and Justice Initiatives, at davis@freedomhouse.org. Contact Freedom House for the Report from the First Dialogue held in Istanbul (June 2013) "Delivering Justice Before and After Transitions."
2. In Indonesia, between 1965 and 1998 under General Suharto, economic crimes including appropriations of property, pillage and starvation, as well as large-scale corruption such as money laundering, and crimes connected to resource extraction went hand in hand with mass human rights abuses. During a 30 year dictatorship in Indonesia there was a highly organized mass theft using human rights violations as a blanket for mass fear to facilitate the movement of assets to family members or overseas. In 1998, Indonesia collapsed economically; an IMF bailout totaled \$43 billion.
3. TI's Corruption Perception Index 2011 underlines the popular perception that the region suffers from endemic corruption: TI rates countries on a scale of 0 (highly corrupt) to 10 (highly clean); Scores in North Africa are 3.4 (Morocco), 2.9 (Algeria), 3.8 (Tunisia), 2 (Libya), and 2.9 (Egypt); for more, see: <http://cpi.transparency.org/cpi2011/results/>.
4. In the European Parliament report on corruption and human rights, corruption is defined as the abuse of entrusted power for individual or collective, direct or indirect personal gain. It includes the crimes of bribery, embezzlement, trading in influence, abuse of functions and illicit enrichment, as defined by the UNCAC – <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2013-0250&language=EN>.
5. Tricia D. Olsen, Leigh A. Payne and Andrew G. Reiter in Transitional Justice in Balance: Comparing Processes, Weighing Efficacy, USIP, Washington DC (2010)
6. For example, in the Philippines, after Ferdinand Marcos's large-scale corruption was discovered, other high-level corruption cases followed. One remarkable success and an exception to failed attempts to hold corrupt leaders and their cronies responsible is the Indonesian Corruption Eradication Commission (KPK). The IMF exerted considerable pressure while astute, capable people drafted the law. The anti-corruption commission was given substantial powers, including wire tapping powers without requiring prior judicial approval, which has been key to its success. The appointment process was another important part of its success. Despite Indonesia's corrupt police force, a corrupt judiciary and corrupt prosecutors the anti-corruption commission succeeded because it had its own court, investigators, and prosecutors. Most of them were seconded, but extremely high standards were required. The commission did nothing publicly in its first years except prepare cases; its mandate requires that once an investigation starts it cannot be stopped until it is completed. In an attempt to undermine the commission, the chair of the commission was charged with murder and two other commissioners were charged by police with taking bribes. But, thanks to the commission's wiretapping powers, the constitutional court played tapes from police leaders setting the commissioners up. Civil society rallied around the commission, the trumped-up charges were dropped, and the conspiring senior police general was charged and convicted.
7. Carranza, "Plunder and Pain . . ." the IJTJ (2008): p. 314
8. Ibid.
9. Corrupt regimes commit atrocities to increase and retain their hold on power. As a result, corruption can become a precedent for atrocities. For example, oil and gas interests in Timor-Leste led to the tensions around taking over the territory. In 1975, East Timor declared independence, and within 10 days Indonesia invaded. Indonesians thought the war would be over in six weeks, instead it lasted 24 years (1975-99). The policy of "the military in every village" allowed them to control natural resources, gold mine, oil, etc. Mass human rights violations kept the population under control and afraid, while the grand theft by political leaders continued. Then, East Timor had a ballot for independence in 1999 in which 78% of the population voted in favor of independence. Following the vote, the Indonesian military took a scorched earth policy before international forces arrived, destroying some 60,000 houses, infrastructure, livestock, etc. in which more than 200,000 people, one-third of the pre-invasion population, was murdered. Although there were 200,000 dead in Timor-Leste, in Papua 100,000, and in Aceh 30,000, there have been no successful results for human rights and no convictions but a 100 percent conviction rate for anti-corruption commission.
10. For example, after East Timor voted for independence and the Indonesian military destroyed everything as a response, the UN Commission of Inquiry recommended the establishment of an international criminal tribunal. Instead, the Indonesian government lobbied to prosecute these nationally. Although it set up a human rights court and passed good laws, the implementation of the laws has been slow and the convictions have not been forthcoming. The court indicted 18 generals and civilian leaders involved in the East Timor violence, trials were held and six out of 18 were convicted. A new human rights law based on the Rome Statute was passed, but the category of war crimes was deleted. Off the 18 convictions all were overturned.
11. Even when assets are frozen, they are either not returned to the country of origin where they could be used to fund reparations and development programs or they are returned to the country of origin but not used to provide repair to the victims. This is a concern in Chile, where the big corruption case came from abroad. While visiting London, Augusto Pinochet was detained. The Spanish judge Baltasar Garzón's indictment for human rights violations led Pinochet to start moving money around at the same time the US was investigating money laundering.. Pinochet's accounts (totaling some \$27 million) were found during the investigation. In November of 2005, Pinochet was deemed fit to stand trial by the Chilean Supreme Court and was indicted and put under house arrest on tax fraud charges. He died in 2006, before a verdict was reached. His assets remain frozen. They are under the disposition of a Chilean judge, but it is not clear whether they will be returned to the country and if so, what they will be used for.
12. Additionally, like many other states, Serbia lacks resources and capacity needed to track and seize assets. Although an informal investigation into assets was sent abroad, the results are unknown. There is a public consensus in Serbia that poverty stems from the Milošević regime. Each of these missed opportunities can be traced to the failure of civil society to make the link between mass human rights violations and corruption and use it as an advocacy tool to address and acknowledge mass human rights violations.
13. The mandate of the Kenyan Truth, Justice and Reconciliation Commission was the broadest mandate of any TC to date; it could look at any evidence including from the colonial period. That is, it not only looked at violations of bodily integrity, deaths, massacres, torture, disappearances, but it also looked at economic crimes, violations of socio-economic rights, economic marginalization of communities, land, and corruption. When the TC began to consider the

- corruption issues, it sought to cooperate with the existing institution that focused on corruption. The Anti-Corruption Commission was itself corrupt, which made cooperation difficult due to a lack of confidence in its inner workings. For the TC, the main challenge was getting people to talk about socio-economic rights violations, corruption, and land in addition to the mass violence they experienced. To overcome this information gap, the commission put together focus group discussions and trained people on socio-economic rights, who were then able to gather information on these issues.
- 14.** Article 19 of the Universal Declaration of Human Rights adopted in 1948 states, "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers." The International Covenant on Civil and Political Rights, a multilateral treaty adopted by the U.N. General Assembly in 1966, broadly reaffirms this language, as does the American Convention on Human Rights, whose Article 13 contains an explicit prohibition on prior censorship within the Americas [<http://www.cpj.org/2013/02/attacks-on-the-press-beyond-article-19.php>].
- 15.** Almost all TV channels are effectively controlled by the ruling family in Azerbaijan. Only a small number of NGOs and some investigative journalists are working collaboratively with international organizations, who are reporting on corruption and human rights abuses. The only independent media outlet – Radio Liberty – reported that the ruling family had amassed assets overseas (in Dubai) worth \$75 million. But, even when the evidence is presented, no measures are taken by state bodies and no criminal prosecutions follow. Investigative work by journalists in areas like corruption puts their lives at risk (harassment, threats), there are attempts to buy them off (bribery) and they face a number of legislative roadblocks.
- 16.** TI's "Corruption and Human Rights: Making a Connection," p. 11
- 17.** <https://reportingproject.net/occrp/index.php/en/about-us/about-us>
- 18.** The UNCAC is a legally binding international anti-corruption instrument created under the auspices of the United Nations Office on Drugs and Crime. The main chapters of the Convention deal with: prevention, establishing criminal and other offences, international cooperation, and asset-recovery.
- 19.** Carranza, p. 318 quotes Chapter V, art. 51, of the UNCAC which states that "The return of assets pursuant to this chapter is a fundamental principle of this Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard."
- 20.** <http://www.unodc.org/documents/treaties/UNCAC/Working-Groups/workinggroup2/2013-August-29-30/V1386136e.pdf>
- 21.** Carranza, p. 319
- 22.** Carranza, p. 319; for more on StAR see: <http://star.worldbank.org/star/>
- 23.** <http://www.europarl.europa.eu/news/en/news-room/content/20140221IPR36627/html/New-rules-make-it-easier-to-confiscate-crooks%20%99-assets-across-the-EU>
- 24.** See [http://www.taxjustice.net/cms/front\\_content.php?idcat=2&lang=1](http://www.taxjustice.net/cms/front_content.php?idcat=2&lang=1)
- 25.** "Since the 1970s African countries alone are estimated to have lost over \$1 trillion in capital flight, dwarfing their current external debts of 'just' \$190 billion and making Africa a major net creditor to the world. But those assets are in the hands of a few wealthy people, protected by offshore secrecy, while the debts are shouldered by broad African populations." <http://beta.financialsecrecyindex.com/introduction/introduction>
- 26.** <http://www.financialsecrecyindex.com/>
- 27.** These trusts are difficult to document. A person will put money into a trust, a lawyer will manage the assets according to a strict set of rules, and assets will be distributed to beneficiaries. The trusts thus effectively separate out the beneficial owner from the legal owner, where the information about the legal owner of the assets is available but not about the beneficial owner.
- 28.** "Global Financial Integrity advocates that world leaders implement policies to increase the transparency in the international financial system as a means to curtail the illicit flow of money" [<http://www.gfintegrity.org/content/view/667/70/>].
- 29.** <http://www.financialsecrecyindex.com/introduction/fsi-2013-results>
- 30.** For example, in the Philippines a separate, short-term commission investigated human rights violations of the Marcos regime, while a permanent commission was to go after corruption and recover assets, work that has taken more than 15 years.
- 31.** Lisa Hecht and Sabine Michalowski, "The Economic and Social Dimensions of Transitional Justice," p. 1 [<http://www.essex.ac.uk/tjn/documents/TheeconomicandsocialdimensionsofTJ.pdf>].
- 32.** TI's "Corruption and Human Rights: Making the Connection," p. 33
- 33.** According to the Article 79, "a Trust Fund shall be established by decision of the Assembly of States Parties for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims... The Court may order money and other property collected through fines or forfeiture to be transferred, by order of the Court, to the Trust Fund." Perpetrators held accountable for economic crimes under the statute of the ICC, and the victims of crimes tried before the ICC can obtain reparations from the ICC's Trust Fund for Victims where the penalty is "the forfeiture of proceeds, property and assets derived directly or indirectly from that crime" (according to the ICC statute article 77(2)) [<http://www.preventgenocide.org/law/icc/statute/part-c.htm>].
- 34.** Rama Mani, "Dilemmas of Expanding Transitional Justice, or Forging the Nexus between Transitional Justice and Development," the IJTJ, Vol. 2, (2008): p. 258.
- 35.** <http://star.worldbank.org/corruption-cases/node/18477>



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1301 Connecticut Ave. NW, Floor 6  
Washington D.C. 20036

120 Wall Street, 26th floor  
New York, NY 10005

[www.freedomhouse.org](http://www.freedomhouse.org)

202.296.5101  
[info@freedomhouse.org](mailto:info@freedomhouse.org)