

**Transitional Justice and the Diaspora:
Examining the impact of the Haitian Diaspora on the Haitian Truth Commission¹**

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Over the last 20 years, transitional justice scholarship has expanded considerably in response to the growth of the practice of transitional justice, especially at the international level. It is clear that a consensus has been reached at the international level that, in most cases, a response to mass human rights violations is of significant value in the transition from conflict to peace and democracy and enhancing the concept of universal human rights.³ With regard to legal justice, this consensus culminated with the establishment of the International Criminal Court in 2002. Moving outside of the retributive paradigm, mechanisms including truth commissions, lustration, and reparations have become, more or less, commonplace in the international state-building toolkit in cases where mass atrocities have been committed.

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³ United Nations Security Council, "Report of the Secretary-General: The Rule of Law and Transitional Justice in Post-Conflict Societies." United Nations S/2004/616, 23 August, 2004.

The impulse for some type of justice seems to be one of the driving rationales for the field of transitional justice. As Weinstein and Stover point out “the human desire to ‘right wrongs’ is as old as recorded history.”⁴ For them, the search for justice is a desire to reclaim what has been lost as a result of a crime that was committed.⁵ The definition of justice, however, remains highly contested. There is no universal method to ‘reclaiming the lost’ and ‘righting the wrongs’. Weinstein and Stover suggest that caution needs to be taken when trying to formulate a specific definition, as “justice, like beauty, is in the eye of the beholder and can be interpreted in a variety of ways.”⁶ Defining what justice looks like is a matter of interpretation with varying perspectives both between cultures and within them. Clark suggests that “perceptions of justice are fundamentally shaped by a variety of factors, including personal experiences and group membership.”⁷ Consequently, justice can be a very personal journey with very real consequences for intimate relationships, as well as the wider society. What this suggests is that the process of seeking justice is both private and public at the same time, and attitudes towards justice can vary greatly from one person to the next just as much as they can vary from one culture to the next.

For those in the business of crafting responses to injustice, identifying the *right* mechanisms is a difficult and, maybe, an impossible job. Perhaps for this reason, the field of transitional justice has come under significant scrutiny recently as failing to accurately address the local needs when crafting a response to mass human rights violations. Several works have emerged that call for further investigation into the foundation of the field of transitional justice.

⁴ Harvey M. Weinstein and Eric Stover, “Introduction: Conflict, Justice and Reclamation,” in *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, ed. Eric Stover and Harvey M. Weinstein (Cambridge: Cambridge University Press, 2004), 11.

⁵ Ibid.

⁶ Weinstein and Stover, “Introduction,” 4.

⁷ Janine Clark, “The three Rs: Retributive Justice, Restorative Justice, and Reconciliation,” *Contemporary Justice Review* 11, no. 4 (2008): 333.

Shaw and Waldorf, for example, assert that transitional justice “embodies a liberal vision of history as progress, a redemptive model in which the harms of the past may be repaired in order to produce a future characterized by the non-recurrence of violence, the rule of law, and a culture of human rights. This vision is put into practice through a set of legal mechanisms and commemorative projects – war crimes prosecutions, truth commissions, purges of perpetrators, reparations, memorials – that is often conceived as a ‘toolkit’ for use all over the world.”⁸ Others, like Okello, assert that “transitional justice arises out of a liberal paradigm that emphasizes redress of past harms as a means of ensuring a future in which violence does not occur. The question that is raised...pertains to the unintended consequences of assuming that we are all progressing toward the same destination.”⁹ The overriding concern is for the needs of locals, as several authors have called into question the flow of seemingly ‘good’ ideas that do not always resonate among survivors of conflict.¹⁰ As Shaw and Waldorf point out, “the paradigm of transitional justice is increasingly destabilized by its local application...attention to locality shows us how foundational assumptions and practices of transitional justice break down.”¹¹

What these critiques suggest, among other things, is the need for a greater focus on the movement of ideas in the field of transitional justice. That is, given the vulnerability of the field to attacks which suggest it is merely perpetuating a western model, we think it is important to

⁸ Rosalind Shaw and Lars Waldorf, “Introduction: Localizing Transitional Justice,” in *Localizing Transitional Justice: Interventions and Priorities after Mass Violence*, ed. Rosalind Shaw and Lars Waldorf, with Pierre Hazan (Stanford: Stanford University Press, 2010), 1.

⁹ Moses Chrispus Okello, “Afterward: Elevating Transitional Local Justice or Crystallizing Global Governance?” in *Localizing Transitional Justice: Interventions and Priorities after Mass Violence*, ed. Rosalind Shaw and Lars Waldorf, with Pierre Hazan (Stanford: Stanford University Press, 2010), 279.

¹⁰ See, for example, Harvey M. Weinstein, Laurel E. Fletcher, Patrick Vinck, and Phuong N. Pham, “Stay the Hand of Justice: Whose Priorities take Priority?” in *Localizing Transitional Justice: Interventions and Priorities after Mass Violence*, ed. Rosalind Shaw and Lars Waldorf, with Pierre Hazan (Stanford: Stanford University Press, 2010), 27-48; and Rosalind Shaw, “Rethinking Truth and Reconciliation Commissions,” *United States Institute of Peace Special Report 130* (2005).

¹¹ Rosalind Shaw and Lars Waldorf, “Introduction: Localizing Transitional Justice,” in *Localizing Transitional Justice: Interventions and Priorities after Mass Violence*, ed. Rosalind Shaw and Lars Waldorf, with Pierre Hazan (Stanford: Stanford University Press, 2010), 4.

understand the movement of these ideas and the actors involved in the transmission of the principles of transitional justice. For example, in his examination of truth commissions, Wiebelhaus-Brahm suggests that

most important in the development of the truth commission is the growing cadre of international human rights experts that consult with countries that are considering establishing some form of transitional justice to examine past human rights violations. Commissioners and staff from prior truth commissions have figured prominently in this group. Part activists and part epistemic community, this ‘justice cascade’ applies continual pressure to fully address past crimes...Foundations, too, have largely been persuaded of the benefit of truth commissions and have been significant sources of funding in many instances. As a result, the majority of the global human rights community sees some value in truth commissions.¹²

The emerging network of influential transitional justice experts perhaps reinforces the concerns of scholars like Okello who fear a “one-size-fits-all” approach will inevitably be imposed in a top-down fashion. For us, this further reinforces the need to examine the role of various international actors in the movement of transitional justice principles.

Of the many actors involved, we think one under-researched actor has been diaspora communities. In an increasingly connected globe, diaspora communities have the capability of significantly impacting the politics of their homeland. Indeed, diaspora communities are increasingly recognized as unique international actors. They seem to straddle the realms of the international and local. According to Van Hear, these communities are “shaped by the societies from which they have come, the new societies in which they find themselves, and their experience of conflict and flight. The migrants carry with them the values of their homeland and absorb to a great or lesser degree the values of their host societies.” that occupy a unique position, given their intimate knowledge of their homeland.¹³

¹² Eric Wiebelhaus-Brahm, *Truth Commissions and Transitional Societies: The impact on human rights and democracy*, (London: Routledge: 2010), 6.

¹³ Nicholas Van Hear, “The Rise of Refugee Diasporas,” *Current History* 108.717 (2009): 183.

Understanding Diaspora Communities

In general, research on the diaspora is growing. Basch, Schiller, and Blanc examine the increasingly transnational ties between diaspora communities in the West and their homeland. Indeed, diaspora communities are increasingly becoming a force in international relations. For many, emigration from a country resulted in the severance of ties beyond familial relations.¹⁴ However, Vertovec suggests that, for many diaspora communities, the ties are stronger to their homeland. Accordingly, he suggests that “belonging to a diaspora entails a consciousness of, or emotional attachment to, commonly claimed origins and cultural attributes associated with them. Such origins and attributes may emphasize ethno-linguistic, regional, religious, national, or other features. Concerns for homeland development and the plight of co-diaspora members in other parts of the world flow from this consciousness and emotional attachment.”¹⁵ Indeed, as Baser and Swain point out, a diaspora’s “empathy for economic development of the homeland, and support to the other members of their group living in other parts of the world, originate from their emotional connection...due to this sentimental attachment, diasporas are gradually becoming crucial links between immigrant receiving countries and political developments in countries of origin.”¹⁶

Studying diaspora communities poses several challenges for researchers. First, there is the challenge of identifying the boundaries of a specific diaspora. Shain and Barth define diaspora as “a people with a common origin who reside, more or less on a permanent basis,

¹⁴ Peggy Levitt, “Social Remittances: Migration Driven Local-Level Forms of Cultural Diffusion,” *International Migration Review* 32.4 (1998): 927.

¹⁵ Steven Vertovec, “The Political Importance of Diasporas,” *Migration Information Source*, June 2005, <<http://www.migrationinformation.org/Feature/display.cfm?ID=313>> (accessed 01 June 2009).

¹⁶ Bahar Baser and Ashok Swain, “Diasporas as Peacemakers: Third Party Mediation in Homeland Conflicts,” *International Journal on World Peace* 25, no. 3 (2008): 8.

outside the borders of their ethnic or religious homeland.”¹⁷ According to Bercovitch, diaspora communities are “transnational communities living in one or more host countries, organized on the basis of solidarity, shared ideas, and collective identities, and showing loyalty to, and affinity with, their host country as well as their original homeland... [W]hereas ‘immigrant’ connotes individuals who are trying to come to terms with a new society, ‘diaspora’ acknowledges that communities settled outside their original territories maintain some level of ties with their place of origin.”¹⁸ We must recognize, however, that while diaspora communities are growing in size in the West, there may also be a flow of individuals to and from their homeland, perhaps due to professional obligation or family issues. For obvious reasons, this fluidity complicates the identification of individuals as being in the diaspora communities or not.

Second, researchers cannot assume that all of those in the diaspora communities share similar attitudes towards the politics in their homeland. That is, not all diaspora communities are cohesive in their outlook. Instead, there needs to be an explicit recognition of the diverse attitudes and behaviours within the community.¹⁹ Similarly, Smith asserts that “different parts of the same diaspora can and do have different interests, defined among other things by class, gender, generation, occupation, or religion.”²⁰ Further, she argues that, “diasporas are rarely constituted by a single factor other than the broadest of connections to a specific homeland.”²¹

Relatively little research has been focused on the role of diaspora communities in the process of transitional justice or, more generally, post-conflict reconstruction, with the exception

¹⁷ Yossi Shain and Aharon Barth, “Diaspora and International Relations Theory,” *International Organization* 57.3 (2003): 452.

¹⁸ Jacob Bercovitch, “A Neglected Relationship: Diaspora and Conflict Resolution,” in *Diaspora in Conflict: Peace-Makers or Peace-Wreckers?* ed. Hazel Smith and Paul Stares (New York: United Nations University Press, 2007), 19.

¹⁹ Abdullah A. Mohamoud, “African Diaspora and Post-Conflict Reconstruction in Africa,” *Danish Institute for International Studies DIIS Brief* (February, 2006): 7.

²⁰ Hazel Smith, “Diasporas in International Conflict,” in *Diaspora in Conflict: Peace-Makers or Peace-Wreckers?* ed. Hazel Smith and Paul Stares (New York: United Nations University Press, 2007), 5.

²¹ *Ibid.*

of the work done by Young and Park and their examination of the innovative approach taken by the Liberian Truth and Reconciliation Commission (LTRC) with its systematic incorporation of diaspora communities.²² According to Baser and Swain, research on the diaspora has tended to focus on “examining its role as a spoiler of peace negotiations in homeland conflicts...the importance and influence of diaspora remittances and support for promotion of conflicts in the homeland have been well-documented.”²³ Further, they assert that, “it is perceived that the diaspora members, by sending large remittances as well as channelling huge funds through welfare organizations close to insurgent or terrorist groups, contribute to the conflict escalation rather than support constructive conflict transformation.”²⁴ Similarly, Cochrane argues that, “when diasporas are mentioned within the context of violent conflicts, the focus frequently tends to be on their tendency to fund the continuation of warfare and their propensity to destabilize negotiations and peace-building efforts.”²⁵ Van Hear argues that “a general shift in perception, a shift away from assigning blame to diasporas for fomenting and supporting conflict and instead toward a more nuanced view that recognizes the fact that diasporas can assist with relief, peace building and post-conflict reconstruction and recovery. At least, the role of diasporas is now more often seen as ambiguous – sometimes negative and sometimes positive.”²⁶ This suggests that further research in this area is needed.

Understanding the role of diaspora communities is important for two reasons: First, diaspora communities, as actors engaged in the practice of transitional justice, are under-researched. Further research, then, will better clarify their role in transitional justice and the

²² Laura A. Young and Rosalyn Park, “Engaging Diasporas in Truth Commissions: Lessons from the Liberian Truth and Reconciliation Commission Diaspora Project,” *The International Journal of Transitional Justice* 3.3 (2009): 324.

²³ Baser and Swain, *Diasporas*, 9-10.

²⁴ *Ibid.*, 10.

²⁵ Feargal Cochrane, “Civil Society Beyond the State: The Impact of Diaspora Communities on Peace Building,” *Global Media Journal: Mediterranean Edition* 2.2 (2007): 21.

²⁶ Van Hear, “The Rise,” 181.

wider field of state-building. Second, we think the emerging area of research which criticizes the foundation of the field of transitional justice as embodying a western perspective is important and understanding the movement of these principles is key. Indeed, we think Miller correctly notes that “the role of international actors in the process of spreading the ideas and ideals of the ‘movement’ of transitional justice has not yet been fully explored in the literature, perhaps because of (at least in part) the tendency of scholars or ex- commissioners to become consultants to, rather than fully external critics of, the enterprise.”²⁷ And, given the unique perspective of diaspora communities, understanding their role can provide a greater awareness of the movement of these ideas and ideals.

The Haitian Case: The role of the Haitian Diaspora

And so the case of the role of the Haitian diaspora in influencing the particular circumstances surrounding the creation of the *Commission Nationale de Vérité et de Justice* is particularly compelling. The Haitian diaspora, and particularly that portion of the diaspora living in Montreal, Canada, was deeply involved in the rebuilding processes that were put in place in Haiti after the ouster of the regime of General Raoul Cédras. To be sure, their involvement was critical in the restoration of Jean-Bertrand Aristide to the presidency of Haiti. And in conceiving of and ultimately implementing the truth commission that was carried out upon his return.

²⁷ Zinaida Miller, “Effects of Invisibility: In Search of the ‘Economic’ in Transitional Justice” *The International Journal of Transitional Justice* 2.3 (2008): 290.

Haiti: Social and Historical Context in Brief

Jean-Bertrand Aristide was elected President of Haiti in 1990.²⁸ When the military engineered a coup and forced Aristide out of power in 1991, he was forced into exile, first in Venezuela, and, later, in Washington. For the next three years, the regime of General Raoul Cédras, who had staged the coup that forced Aristide into exile, waged a campaign of violence and torture against Aristide's supporters. A series of provisional governments, all backed by the armed forces under Cédras, ruled the country. In September 1991, Aristide established a government-in-exile, and during this period parallel governments existed: the *de facto* Haitian regime, and the constitutional, democratically-elected government-in-exile.

For a period of three years, Haiti was rocked by violence carried out by the military-backed Cédras regime to crack down on Aristide's supporters. 5,000 or more were killed. Thousands more were beaten, tortured, and raped by Haitian military and police officials. More than 50,000 attempted to escape by boat to the United States. As many as 300,000 went into hiding within the country itself.²⁹ The violence was considerably worse in certain regions of the country, where wholesale slaughter ensued.³⁰ In other cases, Aristide's key supporters were brutally murdered.³¹ A peace agreement, called the Governors Island Accord, was eventually signed by Aristide and Cédras in 1993, under which Cédras and his comrades were awarded handsome settlements and amnesties in return for their cooperation³²—and the violence ceased.

On 15 October, 1994, Aristide was returned to power in Port-au-Prince—with the support of more than 20,000 U.S. troops and uneven support from the international community. Aristide

²⁸ Jean-Bertrand Aristide, *Dignity*, 2nd ed. (Charlottesville, VA: The Rector and Visitors of the University of Virginia, 1996), 14.

²⁹ Charles Arthur, *After the Dance, the Drum is Heavy: Haiti One Year after the Invasion* (London: The Haiti Support Group, 1995), 23. See also Alex Dupuy, *Haiti in the New World Order: The Limits of the Democratic Revolution* (Boulder, CO: Westview, 1997), 139.

³⁰ American Forensic Anthropology Team, *Annual Report 2000* (New York: EAAF, 2000), 50-55.

³¹ "Vérité et Justice," *Information Libre* IX.00 (Jan. 1997): 22-40.

³² Catholic Institute for International Relations, *Haiti: Building Democracy* (London: CIIR, 1996), 3.

finished serving his one term in office, and then stepped aside to cede power to René Préval, as per the terms of the constitution. Aristide was re-elected in 2000 with 92% of the electoral vote, and returned to office in February, 2001.³³

Composition of the Haitian Diaspora

“Millions of Haitians live abroad, chiefly in North America: the Dominican Republic, United States, Cuba, Canada (primarily Montreal) and Bahamas. They live in other nations like France, French Antilles, the Turks and Caicos, Venezuela and French Guiana. There are an estimated 600,000 Haitians in the United States, 100,000 in Canada and 800,000 in the Dominican Republic.”³⁴

Generations of Haitians have fled their country in response to civil unrest and violence, and with the hope of a brighter economic future.³⁵ “Up to 1971, Haiti was a limited source of immigrants for Canada and the Haitian immigrants were mainly professionals who fled the repressive Duvalier regime... [These were largely] Haitian doctors, nurses and teachers... Mass immigration only started in the seventies when the worsening economic conditions forced the Haitian peasants to look for a haven.”³⁶ “Significant influxes [were reported] in 1976, 1980–81, and 1991... By 1992, there were about 36,000 Haitians in Canada, and 10 years later, more than

³³ CIA, *The World Factbook*, 19 March 2002 [report online]; available from <http://www.odci.gov/cia/publications/factbook/print/ha.html>; accessed 23 May 2003.

³⁴ Haitian Diaspora, *Living Beyond the Mountains...* [online]; available from <http://haitiandiaspora.com/about/>; accessed 27 February 2011.

³⁵ Immigration On-Line, “Haitian immigration,” [article online]; available from <http://immigration-online.org/121-haitian-immigration.html>; accessed 27 February 2011.

³⁶ Gabrielle A. Brenner, Gérard Célas, and Jean-Marie Toulouse, “New Immigrants and New Businesses: the Chinese and the Haitians in Montreal,” a paper presented at the conference “Autrement Entreprenants,” 24 October 1991, Hotel Queen Elizabeth, Montréal, 5. See also P. Déjean, *Les Haïtiens au Québec* (Presses de l'Université du Québec, 1978); and A. Bastien, *Distribution spatiale et structure démographique: la population haïtienne à Montréal (1971-1982)*. Ph.D. Thesis, Université de Montréal, January 1986.

twice that number. Of 52,625 immigrants in 2001, 17,275 arrived between 1991 and 2001.³⁷ At least in the earlier waves of immigration, the Haitian population in Canada tended to be professionals and skilled immigrants³⁸ from the *bourgeoisie* and *classes moyennes*.³⁹

The Haitian diaspora community in Montreal has been quite influential.

Many groups of Haitian immigrants maintain close family, cultural, or political ties with similar groups in other places, especially New York, Miami, or Paris. Haitians in Canada also provide financial help to immediate and extended family members still in Haiti, or contribute regularly to Haitian economic or political development. It is estimated that Haitians living abroad transferred nearly \$300 million a year between 1977 and 1987. This amount was twice the level of foreign aid to Haiti at the time and greater than the entire budget of the Haitian government.⁴⁰

“The Haitian diaspora in the United States and elsewhere has become an integral part of the transnational Haitian political field and has influenced in various ways the behavior of the Haitian political system.”⁴¹ Laguerre notes the fundamental role played by the Haitian diaspora in providing financial support for political campaigns, the provision of technical skills and campaign assistance, influencing the votes of relatives and friends, the distribution of underground resistance messages, the dissemination of information by the diasporic Haitian media, and the exertion of political influence in their new countries.⁴² Aristide went so far as to conceive of the diaspora as an extraterritorial tenth department,⁴³ divided into a number of *arrondissements*, each with its own grassroots leader.⁴⁴

“While the President was in exile, there were many consultations. There were many Haitians who went, and inevitably not all of them supported President Aristide, but who went,

³⁷ Immigration On-Line, “Haitian immigration.”

³⁸ Daniel Gay, “Haiti,” in *Encyclopedia of Canada’s Peoples*, ed. Paul Robert Magocsi (Toronto: University of Toronto Press, 1999), 649-657.

³⁹ Brian Weinstein and Aaron Segal, *Haiti: The failure of politics* (New York: Praeger, 1992).

⁴⁰ Gay, “Haiti,” 656.

⁴¹ Michael S. Laguerre, “The Role of the Diaspora in Haitian Politics,” in *Haiti Renewed*, ed. Robert I. Rotberg (Washington, D.C.: Brookings Institution Press, 1997), 170.

⁴² Laguerre, “The Role of the Diaspora in Haitian Politics,” 172-173.

⁴³ Jean Jean-Pierre, “The Tenth Department,” *North American Congress on Latin America*, XXVII (1994): 41-45.

⁴⁴ Laguerre, “The Role of the Diaspora in Haitian Politics,” 174-175.

while they were in Washington. They held meetings and they collected a lot of ideas. One can say that the government could have been consumed with making so many changes. But I am sure that compared to all this it had collected similar ideas.”⁴⁵

Influence of the Haitian Diaspora

And so it should come as no surprise that the Haitian diaspora, which had rallied in force around the government-in-exile of Jean-Bertrand Aristide in Washington, was “very much interested in the success of the democratic process.”⁴⁶ Using its political influence both at home and abroad, the diaspora community played an integral role in rallying the support of the Canadian, French, Venezuelan and United States governments, as well as the United Nations and the Organization of American States to end the conflict that was being perpetrated by Cédras, and which had forced Aristide and his supporters into exile.⁴⁷ Important actors, including then-U.S. President Bill Clinton and former U.S. President Jimmy Carter, “played a role in shaping the policies and conditions under which Aristide could return to power.”⁴⁸ When, on 3 July 1993, the international community brokered the Governors Island Accord between the Commander-in-Chief, Cédras, and the President, Aristide, the diaspora’s influence⁴⁹ in promoting a “stable and

⁴⁵ Ertha Elysée, interview by Quinn, 17 November 2001, Montreal.

⁴⁶ Laguerre, “The Role of the Diaspora in Haitian Politics,” 181.

⁴⁷ It must be noted that the United States vigorously pursued its own agenda, at the cost of what some have called the obstruction of justice in Haiti, pushing for amnesty for the coup leadership, allowing top criminals to leave, and withholding key documents. See Reed Brody, “International Aspects of Current Efforts at Judicial Reform: Undermining Justice in Haiti,” in *The (Un)Rule of Law and the Under-Privileged in Latin America*, eds. Juan Mendez, Guillermo O’Donnell, and Paulo Sérgio Pinheiro (Notre Dame, In.: University of Notre Dame Press, 1999); and Human Rights Watch, “Thirst for Justice: A Decade of Impunity in Haiti,” 8.7 (Sep. 1996).

⁴⁸ Joanna R. Quinn, “Haiti’s Failed Truth Commission: Lessons in Transitional Justice,” *Journal of Human Rights* 8 (2009): 267. See also CIIR, *Haiti: Building Democracy*, 17.

⁴⁹ John R. Ballard, *Upholding Democracy: The U.S. Military Campaign in Haiti, 1994-1997* (Westport, CT: Praeger, 1998), 48.

lasting democratic society in which all Haitians will be able to live in a climate of freedom, justice, security and respect for human rights” was evident.⁵⁰

The group of Haitians living in Montreal was “among the most influential of all the Haitian groups outside of Haiti.”⁵¹ “While they have not made much headway within the formal political system, many Haitian immigrants participate effectively in informal but no less significant dimensions of political life: citizens’ committees, raising awareness, ad hoc efforts to establish alternate power bases, and protecting and promoting the interests of immigrants in Canada.”⁵²

Members of the Montreal Haitian diaspora community made early contact⁵³ with the then-nascent International Centre for Human Rights and Democratic Development (ICHRDD),⁵⁴ located in Montreal and headed at first by former national New Democratic Party (NDP) leader Ed Broadbent. The ICHRDD was established in 1988 “to initiate, encourage and support cooperation between Canada and other countries in the promotion, development and strengthening of democratic and human rights institutions and programs that give effect to the rights and freedoms enshrined in the International Bill of Human Rights.”⁵⁵ More importantly, ICHRDD “initiates and supports the activities of Canadian individuals and groups relating to human rights and democratic development around the world”⁵⁶ by “sponsor[ing] and support[ing] technical assistance, training programs and advisory services and provid[ing]

⁵⁰ United Nations, Governors Island Accord, 1993.

⁵¹ Quinn, “Haiti’s Failed Truth Commission,” 268.

⁵² Gay, “Haiti,” 655.

⁵³ Ed Broadbent, former President of ICHRDD, interview by Quinn, 16 October 2002, Ottawa.

⁵⁴ ICHRDD is now known as *Rights and Democracy*. At the time of its involvement with the Haitian diaspora community leading to the creation of the *Commission Nationale de Vérité et de Justice*, however, it was known as ICHRDD, and so it will be referred to as such throughout this paper.

⁵⁵ Government of Canada, *International Centre for Human Rights and Democratic Development Act*, 1985, c.54, (4th Supp.), Art. 4.1.

⁵⁶ Rights and Democracy, “Who We Are,” [online]; available from http://www.dd-rd.ca/site/who_we_are/index.php?lang=en; accessed 27 February 2011.

financial resources as required in response to requests emerging directly or indirectly from governments, public or private organizations, institutions or agencies.”⁵⁷

The involvement of the Haitian diaspora with the ICHRDD came in various ways. Many were junior staffers with the ICHRDD, and others “may have been involved in NDP politics [Broadbent’s own former political party], as many of them were on the political left.”⁵⁸ But long before any official requests were made, the “ICHRDD saw that many Haitian leaders were in exile, and that the diaspora in Montreal was growing.”⁵⁹

Many within the Haitian community were, in fact, “looking for an organization to give them voice. The ICHRDD, with our international mandate in human rights and funding, looked like a good match.”⁶⁰ Several times, Broadbent brought Aristide to Montreal and to the ICHRDD, to cultivate a relationship with him. Broadbent encouraged the human rights process in Haiti, and served as an advisor to the Haitian government.⁶¹ All of this was done at the request of the Haitian diaspora in Montreal.

And so when the proposal came from within the Montreal Haitian diaspora community to hold a popular tribunal to mobilize popular opinion to sort out what to do in the reconstruction of Haiti, the ICHRDD was eager to help. In the summer of 1994, the tribunal was held, with high-level support from partisan, non-partisan, and independent sources, with the goal of consolidating and strengthening the Haitian community. A number of next steps were considered by the Montreal diaspora community, in consultation with Aristide.⁶²

⁵⁷ Government of Canada, *ICHRDD Act*, 1985, Art. 5.1.a.

⁵⁸ *ICHRDD Act*, 1985.

⁵⁹ Iris Almeida, Programme Officer, ICHRDD, interview by Quinn, 27 November 2001, Montreal.

⁶⁰ Ed Broadbent, former President of ICHRDD, interview by Quinn, 16 October 2002, Ottawa.

⁶¹ Iris Almeida, Programme Officer, ICHRDD, interview by Quinn, 27 November 2001, Montreal.

⁶² *Ibid.*

One of the most substantive of these was the idea for a truth commission. The ICHRDD, of course, saw a truth commission as squarely within its mandate of “supporting international instruments, by giving special support to civil society organizations and institutionally strengthening indigenous groups.”⁶³ And so on 24 and 25 October 1994, Broadbent and others travelled to Port-au-Prince to hold further consultations, surrounding the possible creation of a truth commission, with Haitian individuals, Haitian civil society organizations, and the many international players that were by then working in Haiti. Along the way, the ICHRDD secured support from the Organization of American States (OAS), whose own Democracy Unit had been established and appointed by former Canadian Prime Minister Brian Mulroney and was being financed by then-Ministry of External Affairs under then-Secretary of State for External Affairs Barbara MacDougall.⁶⁴

The outcome of those meetings was a report, dated 27 November 1994, entitled “Proposition pour une Commission de la Vérité en Haïti.”⁶⁵ The 59-page report outlined the required objectives, mandate, expertise, powers, the role of civil society, composition, financing, duration, report, and next steps.⁶⁶ Effectively, the community had drawn up a framework for how a truth commission should be set up, what it should look like, and how it should function. Broadbent, and the larger ICHRDD apparatus, encouraged the human rights process as a whole, including the establishment of the truth commission, and Broadbent “was prepared to put the resources of the ICHRDD” at the disposal of the commission.⁶⁷

⁶³ Iris Almeida, Programme Officer, ICHRDD, interview by Quinn, 27 November 2001, Montreal.

⁶⁴ Ed Broadbent, former President of ICHRDD, interview by Quinn, 16 October 2002, Ottawa.

⁶⁵ International Centre for Human Rights and Democratic Development, “Proposition pour une Commission de la Vérité en Haïti,” (Montreal: ICHRDD, 1994).

⁶⁶ ICHRDD, “Proposition.”

⁶⁷ Ed Broadbent, former President of ICHRDD, interview by Quinn, 16 October 2002, Ottawa.

One of the provisions specified was the inclusion of international commissioners, along with members of the Montreal Haitian diaspora community. “Haitians do not trust outsiders, so they wanted to do it their way. They proposed a formula of four national and three international commissioners... The Haitians seemed to have enormous respect for and interest in black officials from Africa, Canada, and elsewhere. The Haitian community had enormous influence over the choice of the international commissioners, too.”⁶⁸ In fact, one person of Haitian descent who was then resident in Montreal, and who had been present at the 1994 meetings, René Magloire, eventually became one of the commissioners appointed.

Many of those who eventually became involved in the Haitian CNVJ were involved in this initial attempt at truth commission-style investigation in Montreal. Indeed, the Haitian diaspora community had enormous influence in determining the commissioners who were finally selected. Two of the commissioners, exiled Haitians living in Montreal, Ertha Elysée and René Magloire, the executive secretary, Jean-Claude Icart, another exiled Haitian in Montreal, and a consultant on judicial reform, Juanita Westmoreland-Traoré, were, in fact, from Montreal. Ed Broadbent continued to play a special role as international advisor to the commission. At the head of the commission was a Haitian woman and sociologist named Françoise Boucard, who had spent considerable time in Montreal. One other Haitian commissioner, Freud Jean, was selected as a representative of the Haitian NGO community. Jean was the only Haitian, strictly defined, who was involved in running the commission.

These were members of the educated elite in the Montreal Haitian diaspora community. Elysée’s husband had served as Minister of Justice-in-Exile, and Boucard’s husband had at one point served as Minister of Health. Magloire eventually left the commission to become Minister of Health. They had easy access to Aristide and to the diaspora communities in other cities and

⁶⁸ Iris Almeida, Programme Officer, ICHRDD, interview by Quinn, 27 November 2001, Montreal.

regions, and shared many of the same goals. These connections were used and magnified throughout the life of the commission.

Commission Nationale de Vérité et de Justice

The *Commission Nationale de Vérité et de Justice* (CNVJ) was appointed by Presidential Decree on 28 March 1995, less than six months after Aristide returned to Haiti and resumed power. Based very clearly on the “Proposition pour une Commission de la Vérité en Haïti,” the Commission was charged with seeking to identify instigators, criminals and accessories to the serious human rights violations and the crimes against humanity which had been carried out under the Cédras regime, from 29 September 1991 to 15 October 1994, both inside and outside of Haiti.⁶⁹ The Commission was to establish the overall truth about the most grave violations of human rights during the specified dates, and to aid in the reconciliation of all Haitians, with the potential for legal recourse.⁷⁰

The Haitian commission was to be carried out by the Organization of American States and the United Nations Permanent Mission to Haiti (*International Civilian Mission in Haiti* or MICIVIH). Accordingly, four of the appointed commissioners were Haitian nationals, three of whom had then been living in exile in Montreal (the Chair, Françoise Boucard; Ertha Elysée; and René Magloire), and three others were representatives of the international community (Patrick Robinson, Oliver Jackman, and Bacre Waly Ndiaye). During the tenure of the Commission, the CNVJ carried out 8,650 interviews with people who reported a total of 19,308 violations.⁷¹

⁶⁹ The Republic of Haiti, *Rapport de la Commission Nationale de Vérité et de Justice*, trans. Joanna R. Quinn (Port-au-Prince: Government of Haiti, 1995), Annexe I, 355-357.

⁷⁰ *Rapport*, Chapitre 2, Art. 2.

⁷¹ Amnesty International, *Haiti: Still Crying Out for Justice* AI Index: AMR 36/02/98 (Washington, D.C.: Amnesty International, 1998), 8.

Initially, the Commission was to complete its work by September 1995, but this period was eventually extended by three months.

The CNVJ presented its final report in December 1995. The Commission was forced to deliver a report that many considered unfinished, simply because Aristide was forced to hand power over to his elected successor, and the mandate had stipulated that the report must be presented directly to Aristide. The final report was, however, essentially intended for an international audience. It was written, for example, in French, not in Créole—excluding the majority of the Haitian audience. Even though the mandate of the commission had been understood as including public enlightenment, time and financial constraints imposed strict limitations on the reporting of what had been uncovered. The report succeeds in revealing the names of more than 8,700 victims from the period, along with a comprehensive and cross-referenced list of the abuses they suffered.⁷² Its eight chapters are filled with detailed analyses of the events which took place.

The Haitian diaspora community even participated from abroad, sending written accounts and coming themselves to testify before the Commission. Yet there was growing concern that the Montreal Haitian diaspora community, as well as diasporas from other centers, “seemed to want to do things their own way.”⁷³ Although the Haitian community in Montreal had asked the International Centre for Human Rights and Democratic Development for assistance, the ICHRDD sometimes felt that the diaspora was not approaching things in the right manner.⁷⁴ The ICHRDD was concerned enough, for example, about the number of international commissioners to be appointed, that they withheld funding until the commission’s composition reflected a better balance. Once the commission seemed to be back on track, though, the

⁷² *Rapport*, Annexe III, 1-456.

⁷³ Ed Broadbent, former President of ICHRDD, interview by Quinn, 16 October 2002, Ottawa.

⁷⁴ *Ibid.*

ICHRDD went along with things. In this way, the ICHRDD, too, played an important role in shaping the CNVJ.

Conclusions

What this suggests, then, is that the Haitian diaspora played a key role in the establishment of the truth commission in Haiti. This is important for several reasons. First, in general, it shows that diaspora community can play a positive role in the rebuilding of their homeland. This contrasts the majority of images and stories which identify diaspora communities as perpetuating conflict rather than working towards its cessation.

Second, it shows the multitude of actors involved in the “process of spreading the ideas and ideals of the ‘movement’ of transitional justice,” to borrow a phrase from Miller. Not least of them, the Haitian diaspora was an integral player in putting the truth commission on the table at the peace talks. It was, indeed, an agent of change, and not merely an object of more powerful international actors. The Haitian CNVJ came together as a result of a number of factors acting in concert. The well-placed diasporic influence harnessed a Canadian institution, the ICHRDD, that bought in to their agenda, and provided sympathetic and influential champions for their ideas. And so, when opportunity knocked, in the form of a political opening to pursue those same ideas,⁷⁵ they were ready to act. The networks and relationships they had formed in their host country gave them the wherewithal to operationalize their plans in their home country.

It is possible that the Haitian situation perhaps represents a unique confluence of circumstances. On the other hand, it is entirely possible that an entrepreneurial community, with

⁷⁵ We think here, for example, of Kingdon’s “policy window,” an opening which may occur only rarely and especially unpredictably. See John Kingdon, *Agendas, Alternatives, and Public Policies* (Boston: Little Brown, 1984), 171-198.

well-placed political influence at home and abroad, with the demonstrated financial and political impact, and with the kind of *bona fides* generally accorded to those in the diaspora who are assumed to know more and better things, are capable of significantly influencing transitional justice planning and programming. Whatever the case, it seems likely that the role of the diaspora should not go unexamined. On the contrary, it appears to be a critical actor—at least in the Haitian case. In fact, as we seek to broaden our understanding of the flow of information and knowledge in processes of transitional justice, it is critical that we carefully scrutinize the important role that the diaspora can and does play.

Finally, while the idea of a truth commission in Haiti may not have come from the top-down, the CNVJ does highlight a major problem with the field of transitional justice. Mainly, that the report from the CNVJ appeared to be largely written for an international audience, and not for Haitians' own consumption. Transitional justice mechanisms do not have to be imposed from the outside to be problematic. If the report was, indeed, intended for international consumption and not for those living within the transitional society, this case points to a wider problem in which the mechanisms of transitional justice are now being viewed as a necessary component in a state's transition from war to peace. Indeed, as was pointed out at the start of this paper. There is a clear consensus that has been reached at the international level that states must respond to mass human rights violations when transitioning from conflict to peace and democracy. While such a consensus is, no doubt, clearly beneficial for the protection of human rights, perhaps it produces incentives for states to adopt these mechanisms without any real "buy-in" as a way to legitimate their new state.