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INTERIM REPORT

ACCESS TO REMEDIES AND REPARATIONS

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Members of the Committee who participated in the preparation of this report:

Professor Humberto Cantú Rivera (Mexico): *Co-Chair*
Professor Markus Krajewski (Germany): *Co-Chair*
Ambassador Carolina Olarte Bácares (Colombia): *Co-Chair*
Professor Dr Jernej Letnar Černič (Slovenia): *Co-Rapporteur*
Dr Caroline Lichuma (HQ): *Co-Rapporteur*
Dr Catherine Pédamon (France): *Co-Rapporteur*

Dr Oyeniyi Abe (Nigeria)
Professor Kai Ambos (Germany)
Alternate: Ms Stephanie Regalia
Jurist Miguel Ángel Abdiel Barboza López (Peru)
Professor Vivienne Bath (Australia)
Professor Angelica Bonfanti (Italy)
Alternate: Mr Marco Fasciglione
Dr Azadeh Chalabi (UK)
Professor Ludovica Chiussi (Italy)
Professor Laurence Dubin (France)
Emeritus Professor Jan Eijsbouts (The Netherlands)
Alternate: Dr Ratna Juwita
Dr Oonagh Fitzgerald (Canada)
Professor Ugljesa Grusic (UK)
Alternate: Professor Veronica Fikfak
Dr Jane Alice Hofbauer (Austria)
Assistant Professor Daniel Iglesias Márquez (Mexico)
Professor Toshiyuki Kono (Japan)
Mr Daniel Litwin (Canada)
Mr César Dante López Arredondo (Mexico)
Professor María del Carmen Márquez Carrasco (Spain)
Mrs Kathia Martin-Chenut (France)
Professor Danielle Anne Pamplona (Brazil)
Alternate: Professor Liliana Lyra Jubilut
Professor Francisco Pascual-Vives (Spain)
Professor Anita Ramasastry (USA)
Professor Giesela Rühl (Germany)
Alternate: Ms Yang Wan
Mr Martijn Scheltema (The Netherlands)
Alternate: Assistant Professor Anneloes Kuiper Slendebroek
Mr John Southalan (Australia)
Professor Dr Natalia Szablewska (UK)
Professor Louise Ellen Teitz (USA)
Ms María del Pilar Vanegas Guzmán (Colombia)
Ms Danielle Yeow (Singapore)
Professor Peter Yu (USA)

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I. The Committee's work

1. The Committee on Business and Human Rights was formed in November 2023. It builds on the work of the ILA Committee on International Civil Litigation and the Interests of the Public, which concluded its mandate in 2012, with the adoption of the Sofia Guidelines on Best Practices for International Civil Litigation for Human Rights Violations.[1] It also follows the work undertaken by the Study Group on Business and Human Rights, which concluded its mandate in 2018, recommending the establishment of a Committee on the topic.

2. After the first meeting held during the 81st ILA Conference in Athens (2024), which was devoted mostly to coordination and clarification purposes, a second (hybrid) meeting was held in May 2025 in the offices of Affilia Legal LLP in Montréal, Canada, with the support of the Canadian Branch of the International Law Association. The meeting was convened to address the first item in the programme of work of the Committee: the question of access to remedies and reparations. The basis of the meeting was a questionnaire circulated in October 2024, addressing remedies and reparations for business-related human rights abuses, covering the areas of civil law (tort/non-contractual), criminal law, administrative law and constitutional law. The objective of the questionnaire, and of the meeting, was to identify national practice (legislation and case law), and experiences in accessing different forms of remedies and obtaining reparations for corporate human rights harms. The questionnaire is included at the end of this report.

3. A follow-up meeting was held online in December 2025, where information was provided on the progress of work regarding remedies and reparations, as well as on the next item in the Committee's programme of work: Domestic and regional legislation on corporate obligations in the field of human rights. The membership was also informed that the first report of the Committee, to be presented during the 82nd ILA Conference in Vienna (2026), would only focus on the first item in the programme of work of the Committee.

II. Introduction

4. One of the key challenges in the area of business and human rights is the extent to which individuals or groups whose rights have been affected by business activities can have access to remedies and reparations. For terminological purposes, the Committee chose to focus on "remedies and reparations" (instead of just "remedies") to give visibility to the technical differences between what a remedy is and what constitutes reparation, but also to highlight difference in treatment to the two terms both across legal cultures and languages. In this regard, "remedy" is understood as the mechanism or procedure, whether judicial or non-judicial, that allows a person whose human rights have been affected by business activities to initiate a legal action under public or private law;[2] conversely, "reparation" is understood as the different forms in which a person's rights can be redressed, encompassing restitution, compensation, rehabilitation, satisfaction and guarantees

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[1] https://www.ila-hq.org/en/documents/conference-resolution-english-sofia-2012-3

[2] Generally speaking, see Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, A/HRC/17/31 (21 March 2011), principle 25.

of non-repetition.[3] While legal and practical challenges have been extensively documented, the law and practice in numerous jurisdictions show a nuanced, multi-layered picture of how courts and other regulatory bodies address grievances and provide reparations for business-related human rights abuses.

5. The UN Guiding Principles on Business and Human Rights (UNGPs or Guiding Principles) clearly recognize this challenge, highlighting in the foundational principle of the third pillar that States must take adequate measures to ensure access to remedy in relation to abuses that occur within their territory or jurisdiction. In that sense, the Guiding Principles also recognize that remedies can be provided through different channels, including judicial, administrative, legislative or other means. This is consistent with different international human rights instruments and their interpretation, including article 2.3 of the International Covenant on Civil and Political Rights, as well as the views of the Human Rights Committee in its General Comment No. 31. International human rights law imposes on States a duty to ensure human rights, including to ensure the right to an effective remedy, which is the basis upon which the third pillar of the UNGPs rests.

6. However, international human rights law leaves ample room for States to decide how to discharge their international obligations in their domestic law, which creates in some instances an asymmetrical practice with regard to the right to an effective remedy. While in some jurisdictions victims of corporate human rights abuses may be able to initiate proceedings leading to criminal inquiries against corporations, in many others the prospect of civil remedies for tort or non-contractual liability may be more promising. Furthermore, in certain jurisdictions, constitutional remedies may be a more suitable option, due to larger protections offered to claimants. And in general, States have different types of regulatory mechanisms that allow them to impose administrative sanctions for breaches of domestic law.

7. Such mechanisms face a higher degree of complexity when a "transnational" or "foreign" element (*élément d'extranéité*) is present, which in many instances is a common characteristic of what can be termed as "business and human rights litigation". While there is a certain degree of clarity regarding this question when addressed through civil litigation, practice is less developed in criminal or administrative law, although different legislative and practical efforts are being undertaken to explore such angles.

8. The present report aims to clarify the scope of access to remedies and reparations for business-related human rights abuses, and to assess the level of progress and opportunities for further legal development in domestic jurisdictions. It is based on the written submissions provided by members of the Committee regarding numerous jurisdictions from different regions of the world, including Australia, Austria, Brazil, Cambodia, China, England, France, Germany, Indonesia, Italy, Japan, Mexico, The Netherlands, Nigeria, Peru, Serbia, Singapore, Slovenia, Spain and Taiwan.[4] Consideration has also been given to the discussions held during the Montréal meeting of the Committee in May 2025, as well as other sources of information consulted in the preparation of

[3] General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, A/RES/60/147 (16 December 2005), para. 12, 15-23.
[4] For clarification purposes, national responses to the questionnaire had varying levels of detail. They can be consulted in the online annex.

this report. This report is completed by an online annex, available at the Committee's ILA webpage,[5] containing the summary of responses by national jurisdictions, with detailed responses to the different elements in the questionnaire.

9. In general terms, the countries analysed for the purpose of this report broadly recognize in their domestic legislation that corporate human rights abuses can lead to liability through different forms, including civil, administrative and criminal liability (where the legal principles of the State recognize corporate criminal liability). Such types of liability may also cover certain thematic areas of law, including environmental law, labour law and non-discrimination, violations of which can lead to different (and simultaneous) types of liability. Nevertheless, two major complexities were identified in the submissions: cross-border (or transnational) litigation, particularly involving corporate groups and supply chains operating across multiple jurisdictions; and enforcement and application, especially in certain jurisdictions.

III. Access to remedies and reparations for business-related human rights abuses: an analysis of legislation and practice in selected jurisdictions

A. Civil Liability

10. The most common avenue for remedy and reparation that has been explored in cases related to corporate human rights abuses is civil liability. Indeed, numerous reports and significant literature has devoted its attention to the manner in which this type of litigation flourished, particularly as the topic gained visibility and specific judicial avenues were identified in selected fora. And yet, less attention has been devoted to the practice of such type of litigation outside of certain jurisdictions, notably in the United States of America and certain European countries. This section of the questionnaire thus aimed at obtaining responses from different jurisdictions, with a particular focus on the characteristics of the legal system (causes of action, types of reparation, burden of proof, among others), and its approach to transnational litigation.

1. Causes of action

11. One initial question for which the Committee sought responses were the causes of action recognized under the domestic civil law of the examined jurisdictions,[6] that could be relied upon to initiate litigation against business enterprises for alleged human rights abuses. In general terms, a clear difference appeared between those countries following a common law tradition, and those from the continental (civil law) tradition.

12. In common law jurisdictions, most answers recognized as causes of action the torts of negligence, breach of statutory duty, trespass against the person, vicarious liability, nuisance, among others.[7] These could be invoked for breaches related to different fields or statutes, including on anti-discrimination, consumer protection, environmental damage, employment conditions, and

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[5] https://www.ila-hq.org/en/committees/business-and-human-rights
[6] For clarification purposes, the focus revolved particularly around non-contractual or tort liability.
[7] Australia, England, Nigeria, Singapore.

in some cases director duties, among others. In many civil law jurisdictions, non-contractual liability is grounded in the principle of *neminem laedere* ("to harm no one"). Other fields, such as consumer protection or employment/labour law (which would to some extent be based on contractual breaches), were also highlighted as examples.

13. Certain specificities were underlined by some jurisdictions that have developed specific legislation around the figure of human rights due diligence. In the case of France, for example, the report highlights the creation of an injunction procedure to address the lack of compliance with the requirement of adopting a vigilance plan based on an impact assessment, as well as the civil liability procedure for negligence leading to harm. In the case of Germany, the report acknowledges that the feasibility of determining civil liability for breaches under the German Supply Chain Act is questionable, although debate exists regarding such possibility through the legal figure of *neminem laedere* under the German Civil Code.

14. There is, however, a general acknowledgment of the possibility of relying on civil litigation for determining the liability of legal or natural persons for harm amounting to human rights abuses.

2. Types of reparation in cases of civil liability

15. An important characteristic of civil liability litigation is the focus on economic compensation for harm suffered as a result of the failure to fulfil an existing obligation. However, the questionnaire aimed to inquire if other forms of reparation, in line with the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation, were also feasible through the mechanism of civil liability.

16. Responses in this regard were varied, with a significant number of jurisdictions from the sample surveyed recognizing that measures of restitution,[8] satisfaction,[9] guarantees of non-repetition[10] and measures of cessation[11] would also be possible. This aspect is of particular significance, as it demonstrates the possibility for certain forms of remedy (in this case civil liability) to provide different types of reparation to victims, beyond the traditional focus on economic compensation.

3. Burden of proof

17. Another relevant aspect upon which the questionnaire sought examples of State practice was the question of the allocation of the burden of proof. In the area of business and human rights, a long-held debate has been the possibility of reversing the *onus probandi* in the context of civil litigation, so that instead of asking plaintiffs to demonstrate the alleged wrongdoing by a business enterprise –which, in certain scenarios could amount to a *probatio diabolica*,[12] due to the

[8] Restitution: Australia, Brazil, Cambodia, China, Japan, Nigeria, Serbia, Singapore, Spain.
[9] Satisfaction: Australia, China, Japan, Slovenia, Taiwan.
[10] Guarantees of non-repetition: Brazil, China, Taiwan.
[11] Cessation (injunctions): Cambodia, England, Italy, Japan, The Netherlands, Nigeria, Serbia, Singapore, Slovenia, Taiwan.
[12] *Probatio diabolica* refers to an unreasonable or impossible burden of proof that is imposed upon a party.

complexity of obtaining access to information–, it would be the company that would have to demonstrate that it adopted reasonable measures to prevent harm from happening.

18. A large number of replies received acknowledged the longstanding traditional allocation of the burden of proof, resting with the plaintiff.[13] Certain areas of law, however, statutorily introduce a reversal of the burden of proof,[14] such as labour law or consumer law. In addition, some jurisdictions currently recognize a dynamic burden of proof,[15] whereby on a case-by-case basis and depending on the proximity of evidence, a judge may decide to reverse the *onus probandi* and ask the defendant to demonstrate the measures it took to prevent harm. Some responses also highlighted that the reversal of the burden of proof or the dynamic burden of proof may create grounds for a legal defence, if the defendant can effectively demonstrate that it took adequate and reasonable measures to prevent harm.

4. Transnational litigation

19. Transnational civil litigation has been one of the defining characteristics of the business and human rights movement, with relevant decisions adopted in a number of jurisdictions. Whereas initial trends of transnational civil litigation unfolded mainly in the United States of America under the Alien Tort Statute, many recent developments have taken place in other jurisdictions, notably in Canada, France, Germany, The Netherlands and the United Kingdom. While an analysis of recent case law is beyond the scope of this report, this section will focus on the feasibility of undertaking transnational civil litigation for corporate human rights abuses against parent companies for the wrongful acts or omissions of subsidiaries or suppliers abroad, or against parent companies domiciled abroad for the wrongful acts or omissions of subsidiaries or suppliers in the relevant jurisdiction.

a. Parent company liability for wrongful acts or omissions of subsidiaries or suppliers abroad

20. One of the key aspects of transnational civil litigation in the area of business and human rights is the focus on establishing parent company liability for the wrongful acts or omissions of its subsidiaries or suppliers abroad. Indeed, this trend, initially relying on the principle of agency without much success, recently has shifted its focus to advance the existence of a duty of care (or general duty of prevention) of parent companies regarding the activities of its subsidiaries or suppliers abroad, particularly on account of the level of management control of parent companies over its subsidiaries or suppliers.

21. Responses in this regard were varied. For France, as the only jurisdiction that currently has legislation on human rights due diligence accompanied by a civil liability mechanism, the relevant statute envisaged such a possibility where harm was sustained as a result of a lack of diligence in identifying and managing existing risks. However, the scope of the duty extends only to subsidiaries and to subcontractors or suppliers with whom the company maintains an established commercial relationship.

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[13] Australia, Cambodia, China, England, France, Germany, Indonesia, Italy, Peru, Serbia, Singapore, Slovenia, Spain, Taiwan.
[14] Brazil, China, England, Germany, Italy, Peru, Serbia, Slovenia, Spain.
[15] Brazil, Cambodia, Italy, Singapore, Taiwan.

22. For a large number of jurisdictions within the survey, there would appear to be an inclination towards hypothetically recognizing the possibility of holding parent companies liable in the relevant jurisdiction for the wrongful acts or omissions of subsidiaries or suppliers abroad, depending on the degree of control or the failure to enforce compliance within its corporate group or supply chain.[16] For others, however, legal principles such as separate legal personality or the corporate veil could limit such a possibility.[17] In certain jurisdictions, there would appear to be no general recognition of indirect liability for wrongful acts committed by a (foreign) subsidiary.[18]

b. Liability of parent company domiciled abroad for wrongful acts or omissions of subsidiaries or suppliers in the country

23. A second approach addressed by the questionnaire inquired about an alternative approach, whereby a parent company domiciled abroad could be attracted to the forum where its subsidiaries or suppliers caused harm as a result of wrongful acts or omissions. Responses were varied, although it would appear hypothetically possible if the harm was sustained wholly or partially in the jurisdiction;[19] if there was substantive control over the national subsidiary by the foreign parent company;[20] if the entities constitute an economic group;[21] or if there is a sufficient connection to the forum.[22] However, there appears to be limited practice with this approach, or it may be insufficiently regulated.

5. Lis pendens

24. The questionnaire sought views on the manner in which legislations address situations of *lis pendens* (duplicity of proceedings) between the courts in two jurisdictions. This question has been significant in common law jurisdictions, where it coexists with doctrines such as *forum non conveniens* and comity.[23] Civil law jurisdictions generally follow a codified approach, stipulating in which cases a court may stay its jurisdiction in favour of another.

25. For EU Member States, the question has been addressed in the Brussels I bis Regulation,[24] which provides that the court in an EU Member State first seized of a case shall retain jurisdiction, with all other courts in EU Member States staying their proceedings of their own motion after engaging with the court first seized of the dispute. For cases involving parallel proceedings before a court of a third State, the court of an EU Member State may stay the proceedings if its counterpart in a third State is expected to give a judgment capable of recognition and enforcement, and if it is necessary for the proper administration of justice.

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[16] Brazil (for environmental and labour cases), Cambodia, China, England ("proper party" gateway), Germany, The Netherlands, Peru, Serbia, Singapore, Spain, Taiwan.
[17] Italy, Nigeria.
[18] Australia.
[19] Australia, Germany, Serbia.
[20] China, Singapore.
[21] Brazil.
[22] England, Spain.
[23] England, Singapore.
[24] *Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)*, articles 29-34.

26. For States from other regions, responses were varied. In certain cases, the fact that proceedings were instituted first in time before a court were not necessarily determinative, and persuading courts to stay proceedings could be difficult.[25] In other cases, legislation does not recognize a mandatory stay or dismissal, with preference being given to the national judgment in cases of contradiction with a judgment given in a third country.[26] In other cases, suspension of proceedings is subject to judicial discretion,[27] or would depend on an analysis to determine which court is closer to issuing a judgment.[28] For other jurisdictions, such determinations are made depending on bilateral judicial assistance treaties, the chronological order of acceptance of proceedings, or the priority of domestic judgments.[29] Finally, reference was made to the question of reciprocity, which would need to be assessed on a case-by-case basis.[30]

6. Applicable law

27. One of the aspects that has been consistently debated in recent years is the question of applicable law in the context of transnational civil litigation related to corporate human rights abuses. It has not only been a matter of debate in specific litigation taking place in different countries (and notably in Europe), but also a matter of regulatory concern at the national, regional[31] and international levels, including in the context of the business and human rights treaty negotiations at the Human Rights Council.[32]

28. For EU Member States, the question has been addressed in the Rome II Regulation,[33] which stipulates two rules: generally, the law applicable to a non-contractual obligation arising out of a tort/delict shall be the law of the country in which the damage occurs (*lex loci delictii*). However, for cases of environmental damage or the harm resulting from it, the applicable law will follow the general rule, unless the plaintiff chooses to base the claim on the law of the country in which the event giving rise to the damage occurred.

29. For States from other regions, responses were varied. Several responses highlighted that their jurisdiction retained *lex loci delictii* as the main criterion for applicable law.[34] In other cases, the

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[25] Australia.
[26] Brazil.
[27] Cambodia.
[28] Peru.
[29] China.
[30] Serbia.
[31] See, for instance, *Recommendation of the European Group of Private International Law (GEDIP) concerning the Proposal for a directive of 23 February 2022 on Corporate Sustainability Due Diligence, following up on its Recommendation to the Commission of 8 October 2021*, available at https://gedip-egpil.eu/wp-content/uploads/2022/07/Recommendation-GEDIP2022E.pdf
[32] See OEIGWG, *Updated draft legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises*, available at https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/igwg-transcorp/session10/igwg-10th-updated-draft-lbi-with-proposals.pdf, for a detailed record of State interventions on the draft text, including regarding the article on applicable law (article 11).
[33] *Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II)*.
[34] Australia, Brazil, Singapore, Slovenia, Taiwan.

law of the place where the act was performed or where the consequence occurred was a possibility, depending on which one was more favourable.[35]

30. For countries where specific human rights due diligence legislation has been adopted, the question has also been addressed. In the case of France, for example, under the Law on the Duty of Vigilance, it would appear that the applicable law would be that of the place where the event generating liability occurred.

7. Statute of limitations for gross human rights violations

31. The questionnaire inquired about a specific topic that has been discussed in the context of the business and human rights treaty negotiations at the Human Rights Council: the existence of specific rules regarding statutes of limitations for gross human rights violations that could be applicable in cases of civil litigation for corporate human rights abuses. In this regard, although there is no generally accepted definition under international human rights law of the concept of "gross human rights violations", it was understood to refer to enforced disappearances, torture and extrajudicial executions. Other violations could also fit within this definition, including slavery or human trafficking, for example. It is an aspect that has been raised in civil litigation in certain countries where business enterprises have been involved in gross human rights violations, such as Argentina, and which could be relevant to consider as negotiations get underway for a Convention on the Prevention and Punishment of Crimes Against Humanity.[36]

32. A large majority of responses received stipulated that there were no specific rules regarding statutes of limitations under civil law applicable to cases of gross human rights violations. One answer mentioned that no specific limitations were applicable in such cases when raised in civil proceedings.[37]

8. Recognition and enforcement of foreign judgments

33. Another aspect on which the questionnaire sought insights was on the issue of recognition and enforcement of foreign judgments.

34. In general terms, several conditions were highlighted for the recognition and enforcement of foreign judgments, including their compliance with public policy principles,[38] reciprocity,[39] judicial assistance,[40] not having been obtained by fraud,[41] and finality or conclusiveness of the

[35] Serbia.
[36] Recent developments on this intergovernmental negotiation process can be reviewed at the following link: https://legal.un.org/diplomaticconferences/cah/?_gl=1*1o4kp6y*_ga*Mzc3MDkxNTk1LjE3NTU2NDIzOTQ.*_ga_TK9BQL5X7Z*czE3NzYzMzQ3OTAkbzQ2JGcxJHQxNzc2MzM0ODE1JGozNSRsMCRoMA (last accessed on 15 April 2026).
[37] Australia.
[38] Brazil, Cambodia, China, Germany, Nigeria, Peru, Slovenia.
[39] Cambodia, China, Nigeria, Peru, Slovenia.
[40] China.
[41] Nigeria, Singapore.

judgment.[42] For EU Member States, the question of recognition and enforcement is regulated in Chapter III on Recognition and Enforcement of the Brussels I bis Regulation.[43]

9. Interpretation: linkage between duty of care/general duty of prevention and human rights due diligence

35. A final aspect upon which the questionnaire sought insights was on the interpretation given by domestic courts on the linkage between a duty of care or a general duty of prevention with the concept and/or purpose of human rights due diligence, as framed by the UN Guiding Principles on Business and Human Rights and other instruments in the area of responsible business conduct.

36. Responses were generally varied, although a trend was noticed in a growing number of jurisdictions regarding the use of elements underlying the concept (or teleology) of human rights due diligence, such as reasonable care, diligence or prevention of harm, to inform judicial decisions on civil liability for corporate human rights abuses.[44] While specific legislation on this matter is not a *conditio sine qua non* for that purpose (as evidenced by the number of jurisdictions where judgments have already been issued), the emergence of domestic legislations stipulating a link between a failure to adequately undertake risk-based due diligence, harm and civil liability is leading (and will continue to lead) to a growing judicial practice in this regard.

B. Administrative Liability

37. International instruments referring to the administrative liability of legal persons generally do not specify what exactly is understood by such a concept or its application in practice. On the contrary, such a definition is largely left to the discretion of each State, on the basis of its constitutional and administrative organization. However, for the purpose of the questionnaire and of this report, it is understood as any instance in which a regulatory authority within the domestic jurisdiction of a State conducts oversight functions to ensure compliance with applicable law and regulations, which on many occasions also serves to protect public interests reflective of or constituting human rights. The questionnaire has also aimed to cover certain areas in which the State acts as an economic actor, notably public procurement and State-owned or State-controlled enterprises, where the focus is centred on the existence of legislative measures that put into practice human rights due diligence or sustainability due diligence measures. As will be seen in the following paragraphs, States have developed a generally uniform practice around several thematic areas, with some other aspects being the subject of growing interest –and regulation– in domestic law, giving administrative law an important role to play in the area of business and human rights.

1. Business enterprises, human rights and administrative law

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[42] Nigeria, Serbia, Singapore.
[43] *Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)*.
[44] Australia, Brazil, China, England, France, Mexico, The Netherlands, Nigeria.

38. One initial aspect that the questionnaire sought to address was the different legal fields within a legal system on the basis of which an administrative authority can impose liability for corporate human rights abuses. Two areas were largely highlighted in different replies: environmental law and employment (or labour) law. Beyond them, different examples of legislation were also indicated, including on non-discrimination (or anti-discrimination), consumer protection, corporate governance, competition, and anti-corruption. Other isolated examples were also shared –some of them specifically aligned with developments after 2011– including regulation concerning conflict minerals; modern slavery; data privacy; and sectoral regulations (extractive and energy sectors, sanitation, telecommunications, among others). One common and cross-cutting aspect that was highlighted, as a basic purpose of administrative law, was the role of the State in establishing specific legislation or regulations in certain areas, and in exercising oversight regarding compliance by business enterprises.

39. In light of the above, administrative liability can derive from the lack of compliance by a business enterprise with the applicable laws and regulations in a given jurisdiction. In this regard, both administrative and regulatory authorities, as well as judicial authorities, have specific functions to perform. Administrative authorities would be expected to monitor compliance with legislation and/or regulations in different areas (including as a result of individual or collective complaints for alleged breaches), take measures to prevent or limit harm, and sanction any failure in that regard. Additionally, the role of judicial authorities in this context could comprehend a review of the fulfilment of the principle of legality in the conduct of administrative authorities, for example when authorizing permits or licenses, and to confirm or correct sanctions applied by them. Furthermore, different stakeholders could also rely on judicial procedures to challenge permits or sanctions issued by administrative authorities which could be prejudicial to the protection of human rights or the environment.

40. Domestic experiences in this regard are varied. Responses to the questionnaire highlighted a significant amount of practice in different areas, although particularly in labour contexts (for example, in anti-discrimination, occupational health and safety, aged care, among others), or regarding environmental protection. Three special references stand out: reliance by certain courts on international standards, such as the UNGPs, to analyse and interpret applicable domestic legislation or regulations;[45] consideration of a "due diligence" expectation in the oversight of labour obligations by business enterprises that would be parallel to the concept included in the UNGPs;[46] and, in one instance, an analysis of the duty of a public financial institution to ensure access to information under environmental law regarding a business activity conducted outside of the territory of the State.[47] These examples show the relevance and potential of administrative law in cases that go beyond the more traditional focus of the field, applying a broader territorial and substantive scope.

2. Types of reparation through administrative law

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[45] Mexico.
[46] Australia.
[47] Italy.

41. A second aspect that was addressed in the replies by the membership relates to the types of reparation that can be obtained in cases where corporate liability is determined through administrative proceedings for conduct or harm amounting to human rights abuses.

42. Whereas much of the focus in the realm of business and human rights has revolved around economic compensation to victims –largely driven by transnational civil litigation in a relatively limited number of jurisdictions– an important question to address is the manner in which the five elements of reparation[48] recognized in the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation[49] translate into –and can be effectively obtained through– different legal avenues under domestic law. Indeed, an element that is particularly significant in the context of administrative liability is satisfaction, which according to the aforementioned UN Guidelines, could include measures of cessation, public disclosure of the truth, official declarations or judicial decisions, apologies, acknowledgement of the facts, and judicial and administrative sanctions against persons liable for the violations, among others.[50] Furthermore, while rehabilitation under such UN Guidelines refers exclusively to medical and psychological care, the general recognition of the relationship between the environment and human rights –not to mention the human right to a clean, healthy and sustainable environment as a stand-alone right– could potentially facilitate the inclusion of an environmental dimension to this form of reparation.

43. Most jurisdictions represented in the replies to the questionnaire appear to have a common approach to the manner in which administrative law can be used in the context of reparations for corporate human rights abuses. One common aspect described by the membership is the focus on economic fines,[51] in addition to suspension or cessation of activities (injunctions),[52] revocation of permits or licenses,[53] or other corrective actions. Some references were also made to reparation in kind,[54] which can be relevant in both environmental and labour cases. A limited number of references were also made to exclusion from public procurement or termination of contracts.[55] Above all, however, a point was made that although administrative liability led to certain forms of reparation that could be beneficial to both individuals and groups affected by corporate harm, it did not lead to individual compensation.

3. Public procurement

44. A second approach pursued through the questionnaire relates to the administrative law applicable to some functions of the State as an economic actor, as well as potential consequences for its breach. At least since 2011, there has been a growing acknowledgement that the conditions upon which public procurement takes place can be instrumental in driving the practice of suppliers

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[48] Restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.
[49] General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, A/RES/60/147 (16 December 2005).
[50] *Ibid*., par. 22.
[51] Brazil, Cambodia, China, England, Germany, Indonesia, Italy, Mexico, The Netherlands, Nigeria, Peru, Singapore, Slovenia, Spain, Taiwan.
[52] Brazil, China, England, France, Slovenia, Spain.
[53] Brazil, China, Singapore, Slovenia, Spain.
[54] Brazil, China, England, Italy, Mexico, The Netherlands, Nigeria, Serbia, Singapore, Slovenia, Spain, Taiwan.
[55] Slovenia.

or providers with regards to human rights and environmental protection. In this sense, international instruments such as the UN Guiding Principles on Business and Human Rights have posited that States have the capacity to promote the integration of human rights due diligence and other practices into the processes through which contracting with third parties takes place. This establishes a clear link with administrative law, which is a specific avenue through which the State could unfold its international human rights obligations.

45. The questionnaire asked the membership if human rights due diligence or sustainability due diligence measures are legally required from bidders or contractors in the context of public procurement. A vast majority of responses concurred on the fact that the integration of such practices within the administrative law regulating public procurement was not a legal requirement yet, although several examples recognized the integration of environmental[56] (and to some extent social[57]) safeguards as progress in that direction. Certain practices were also identified that, although not necessarily legally binding, do indicate a growing governmental expectation in that regard. Australia, for example, has a Commonwealth Supplier Code of Conduct where reasonable efforts to prevent labour and human rights impacts are expected from suppliers and supply chains. Other countries, such as Italy or the Netherlands, have developed guidance on the integration of human rights due diligence in public procurement. Finally, with the entry into force of the Corporate Sustainability Due Diligence Directive,[58] EU member States will have to integrate such measures in their domestic law.

46. Due to the limited integration into domestic law of explicit human rights requirements in the context of public procurement, most responses agreed that holding business enterprises liable under administrative law for human rights abuses linked to that procurement may be challenging. Most responses considered that liability may arise from general legal frameworks on public procurement, stipulating *inter alia* that non-compliance with procurement obligations may lead to some form of administrative sanctions, including exclusion from public procurement (tenders) or regulatory enforcement. However, such actions would need to be initiated by the corresponding government agencies, without implying a specific participation by affected individuals or groups.

4. State-owned and State-controlled enterprises

47. Within the focus on administrative law related to the role of the State as an economic actor, a second relevant aspect that was considered was the regulation of State-owned and State-controlled enterprises. While there are differences in the implications of ownership or control by a State, for the purpose of the present report, both situations are considered under the umbrella term "State-owned enterprises" or "SOEs". Under different international instruments emanating from both the UN and the OECD, there is a recognition that State-owned enterprises should lead by example in the integration and implementation of responsible business conduct practices, including human rights due diligence. Thus, the membership was asked to reflect on the legal requirement of such practices within their legal systems.

[56] China, Italy, Peru, Serbia, Singapore.
[57] Italy, Peru, Serbia.
[58] *Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859*.

48. The responses received were largely homogeneous: States do not currently require SOEs to integrate human rights due diligence processes in their operations as a matter of law. The replies from certain jurisdictions acknowledged that there is no distinction in the legal requirements for private companies and SOEs. This would imply that the latter would have a legal duty to observe certain substantive standards, such as environmental protection or labour rights, even if human rights due diligence is not a legal requirement. [59] Replies from other jurisdictions also acknowledged that "social responsibility" practices or "sustainability strategies" are encouraged.[60]

49. The fact that there is no legal requirement of human rights due diligence for SOEs has implications for the determination of administrative liability. In principle, it would be challenging to sanction an entity for failing to undertake certain practices that are not legally required. However, any entity could in principle bear liability for conduct (actions or omissions) that harms human rights or the environment. Responses in this regard were more heterogeneous, recognizing in different instances that administrative sanctions could be imposed on SOEs for failure to comply with substantive standards, including regarding labour or environmental protection, in the same way that they would apply to private enterprises. [61] Thus, the focus shifted from procedural practices to the protection of substantive standards.

C. Criminal Liability

50. One relevant aspect in the field of business and human rights is the extent to which criminal law can play a role in the context of corporate human rights abuses, both as a deterrent and as a means to establish corporate liability. It is not a novel question, although recent practice in this regard highlights the potential –and complexities– of corporate criminal liability for human rights abuses. The focus of the questionnaire was to obtain information on the legal design of corporate criminal liability in domestic jurisdictions, as well as its relationship with human rights abuses; the approaches to corporate culpability; the types of sanctions available; and the extraterritorial reach of domestic criminal law applicable to legal entities.

1. Domestic recognition of corporate criminal liability and its relationship with human rights protection

51. One of the most relevant findings of the survey was the general recognition of corporate criminal liability in a significant number of jurisdictions. Indeed, except for two jurisdictions,[62] legislation in the different countries in Europe, Latin America, Africa and Asia that were examined currently recognize the possibility of holding business enterprises –as legal entities or persons– criminally liable, including for certain conducts that would amount to or be the equivalent of human rights abuses. While the limited number of jurisdictions examined prevents making a more general assessment on the international recognition of corporate criminal liability, it does constitute a relevant indicator of the presumption of a growing –if not yet generalized– practice in this regard.

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[59] England, The Netherlands, Nigeria, Slovenia.
[60] Peru, Singapore, Taiwan, Mexico.
[61] Australia, Cambodia, China, Mexico, Nigeria, Peru, Singapore, Slovenia, Spain, Taiwan.
[62] Germany, Taiwan.

52. Evidently, the conceptual recognition of corporate criminal liability in domestic law does not automatically imply that it has a material scope covering all conduct that may amount to human rights abuses. In that regard, the material scope upon which corporate criminal liability can be determined varies significantly across jurisdictions. Some, for example, have a narrow scope, focusing particularly on "economic crimes" (bribery, money laundering, etc.);[63] for others, the scope is limited to "environmental crimes".[64] Other jurisdictions focus on certain types of conduct that go beyond the aforementioned, including *inter alia* human trafficking, slavery, forced labour or manslaughter.[65] Finally, a more limited number of jurisdictions have a broad scope, recognizing that legal persons may be liable for a certain number of the crimes that can be committed by natural persons.[66] Several examples stand out, recognizing not just certain crimes equivalent to human rights abuses, but also acknowledging that international crimes, such as genocide, crimes against humanity and war crimes may be attributable to legal persons.[67]

53. Some differences may also be identified in the form in which domestic legislation incorporates corporate criminal liability. For example, a large number of jurisdictions within the survey stipulate in their criminal legislation certain provisions that establish corporate criminal liability with a general material scope, covering a wide range of conducts that may constitute human rights abuses.[68] Other jurisdictions recognize corporate criminal liability on a statute-by-statute basis,[69] but not generally. And others stipulate corporate criminal liability in a decentralized manner,[70] recognizing the legal person in its criminal law provisions, but also in other pieces of legislation, both sectoral and/or thematic.

2. Determining corporate culpability

54. Another interesting angle that was addressed through the questionnaire is the way in which domestic legislation determines corporate culpability, or said differently, which elements are considered and assessed for the purpose of attribution of criminal liability to a corporation. As a preliminary reference, one of the approaches adopted in different jurisdictions regarding corporate criminal liability relies on a model based on obligations of means, that is, on adequate efforts undertaken by a legal entity to prevent foreseeable risks –and in this context, to prevent the commission of a crime. There are some similarities between this approach and the general focus of human rights due diligence as framed by the UN Guiding Principles on Business and Human Rights, namely the existence of a corporate culture conducive to prevention and mitigation, as well as of mechanisms of control that contribute to that preventive effort.

55. Precisely along those lines were the responses on how to determine corporate culpability. One recurrent element in a large number of jurisdictions within the survery is that, for the purpose of

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[63] Indonesia, Nigeria.
[64] Brazil, Indonesia, Nigeria.
[65] Austria, Cambodia, China, England, Japan, Mexico, Peru, Singapore, Slovenia, Spain.
[66] Australia, France, Italy, The Netherlands, Serbia.
[67] Australia, France.
[68] Australia, Austria, Cambodia, China, England, France, Italy, Mexico, The Netherlands, Serbia, Singapore, Slovenia.
[69] Japan.
[70] Mexico.

attributing the criminal conduct to the legal entity, the crime must have been committed for the benefit of the corporation, which to some extent implies that there was intent or awareness by decision-makers or employees in that regard (identification doctrine).[71] The other, more general reply was related to organizational controls amounting to corporate culture, according to which, if the company should have been aware of the existence of risks but its internal controls were deficient or negligent, the conduct can be attributed to the corporation. Another element that was raised in the responses had to do with the application of strict liability for certain offenses, rendering culpability irrelevant.

3. Sanctions

56. Regarding sanctions applicable to corporate entities for criminal behaviour, most responses identified economic sanctions (fines) as the main type of instrument used to punish corporate crimes.[72] In some jurisdictions, sanctions also include the suspension of activities or even the dissolution of the corporate entity may be applicable sanctions,[73] depending on the specific characteristics of the crime committed. Other types of sanctions include exclusion from public procurement, confiscation of assets, public apologies, and other measures to prevent repetition.[74] In addition, the public announcement (publication) of the conviction was highlighted as a type of sanction,[75] as well as judicial supervision.[76] Finally, other examples of sanctions include the reparation of damage, performance of obligations, and revocation of licenses as types of sanctions,[77] as well as remediation of environmental damage,[78] where applicable.

57. It is important to note that, when compared to the different types of reparation established in the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation, many of the types of sanctions mentioned in the responses represent a large majority (if not all) of the spectrum of possible measures of reparation. Whereas reparation in kind or environmental remediation may amount under certain circumstances to restitution or rehabilitation, many other types of sanctions (namely suspension of activities, dissolution of the corporate entity, exclusion from public procurement, confiscation of assets, public apologies, publication of the conviction, revocation of licenses) may equate with measures of satisfaction, and some (implementation of compliance programmes) with guarantees of non-repetition.

4. Corporate criminal liability and extraterritoriality

58. The next area of focus of the questionnaire relates specifically to two theories recognized under international law for the exercise of extraterritorial jurisdiction, in this case under the lens of

[71] Australia, Austria, Cambodia, China, England, France, Japan, Mexico, The Netherlands, Nigeria, Peru, Serbia, Singapore, Slovenia, Spain.
[72] Australia, Austria, Brazil, Cambodia, China, England, France, Indonesia, Italy, Japan, Mexico, The Netherlands, Nigeria, Peru, Serbia, Singapore, Spain, Taiwan.
[73] Brazil, England, France.
[74] Cambodia, Italy, Mexico, Peru, Serbia, Singapore, Slovenia, Spain.
[75] England, France, Slovenia.
[76] France, Spain.
[77] Indonesia.
[78] Nigeria.

criminal law: the nationality principle,[79] and the passive personality principle.[80] According to the preliminary study undertaken by the International Law Commission's Secretariat on the topic of extraterritorial jurisdiction, the nationality principle refers to the jurisdiction that a State may exercise with respect to the activities of its nationals abroad, whereas the passive personality principle refers to the jurisdiction that a State may exercise with respect to conduct abroad which injures one or more of its nationals.

59. The first aspect sought clarification on whether a domestic court can exercise its jurisdiction over a corporation headquartered in its territory for criminal acts that took place abroad. A large majority of the responses received concluded that the domestic courts in the relevant jurisdictions would have the power to prosecute a business enterprise headquartered in their territory for criminal acts that took place abroad. Some responses highlighted certain qualifications that would need to be met for a prosecution to be judicialized: the determination of the seat of association or place of business of the relevant enterprise;[81] the commission of part of the criminal conduct in the jurisdiction;[82] the recognition that the offence has an extraterritorial basis in the relevant statute;[83] or the double criminality principle.[84] On the contrary, some jurisdictions appear not to recognize such a possibility.[85]

60. The second issue that was addressed in the questionnaire relates to the possibility for a domestic court to exercise its jurisdiction over a foreign corporation for criminal acts that took place abroad against its nationals. Although a majority of responses highlighted the possibility for such jurisdiction to be exercised, responses were less conclusive than in the first scenario, potentially because of a lack of practice. Only a handful of responses highlighted the impossibility for such a prosecution to take place,[86] with a few more identifying certain criteria that would need to be met.[87]

5. Corporate criminal liability in practice

61. In general terms, a large majority of responses coincided in the scarce practice regarding corporate criminal liability in their jurisdictions (measured in terms of final judicial decisions rendered), particularly for cases involving a transnational dimension. In addition, some responses highlighted the lack of corporate criminal prosecutions for human rights abuses.

62. However, some exceptions were noted. In certain jurisdictions in Europe, for example, criminal cases have been brought against companies regarding labour exploitation, environmental pollution, workplace safety or public health, including in the supply chains of companies

[79] General Assembly, *Report of the International Law Commission on the work of its fifty-eighth session (1 May-9 June and 3 July-11 August 2006)*, A/61/10 (2006), Annex E. Extraterritorial jurisdiction, p. 522.
[80] *Ibid*.
[81] Austria.
[82] China.
[83] Japan.
[84] Slovenia.
[85] Taiwan.
[86] Singapore, Taiwan.
[87] In Japan, for example, it would depend on the relevant statute providing for extraterritorial offences and for a dual liability clause (applicable to corporate entities).

headquartered in their territory.[88] In Asia, certain jurisdictions have issued convictions in cases involving labour rights abuses or environmental damage, or other cases amounting to human rights abuses.[89] In Latin America, while no convictions have been made public, experience has led to reparation agreements between the relevant company and the victims.[90]

D. Consititutional Remedies

63. A final aspect that the Committee sought to address in its first work stream was the role, if any, of constitutional remedies in the context of business and human rights. This is a question that has received scarce attention in literature, and which could provide –at the very least– some grounds for reflection on future pathways for both doctrine and practice. Thus, this section of the questionnaire focused on the existence or availability of constitutional remedies that are relevant in the context of corporate human rights abuses; the approach followed by each constitutional model (direct or indirect mechanisms); and finally, the types of reparation available through constitutional remedies.

1. Availability of constitutional remedies relevant for corporate human rights abuses

64. A first aspect that the questionnaire sought to address was the availability of constitutional remedies relevant to corporate human rights abuses. The focus revolved particularly around the existence of such mechanisms, whether available against the State or directly against a company, rather than on the modality chosen by the relevant jurisdiction. The purpose was to determine to which extent constitutional mechanisms could be useful to address certain questions that may be relevant in the context of business and human rights.

65. Replies in this regard were mixed. Certain jurisdictions recognize that the existing constitutional remedies could be useful in cases involving State actions or omissions, or even business actions.[91] Of those, some jurisdictions recognize the existence of mechanisms available against acts undertaken by business enterprises acting as public authorities or exercising a delegation of public authority or governmental functions.[92]

2. Models of constitutional remedies: direct and indirect mechanisms

66. In terms of the models of constitutional remedies relevant for corporate human rights abuses, the questionnaire presented two options: direct mechanisms, that can be directly activated against business enterprises for human rights abuses; and indirect mechanisms, where the focus of the claim is on State actions or omissions linked to business activities that cause (or may cause) harm to human rights.

[88] France, Italy, The Netherlands, Spain.
[89] Japan, Singapore, Taiwan.
[90] Mexico.
[91] Australia (at state level), Austria, Brazil, Cambodia, England, Mexico, Nigeria, Peru, Serbia, Singapore, Slovenia, Spain, Taiwan.
[92] Australia (at state level), Brazil, Mexico, Nigeria, Peru, Serbia.

67. Those jurisdictions envisaging constitutional remedies relevant for corporate human rights abuses have opted to follow an indirect approach, that is, one where the focus is on the State conduct vis-à-vis a business enterprise.[93] Responses coincided that the focus would normally be on the actions undertaken by a State (granting of authorization or permits, for example) or on its omissions (failure to regulate in order to prevent harm) as the basis to bring a claim. The same approach could be followed in cases where private actors exercise public functions,[94] where the analysis would normally revolve around the application of criteria in their activities as if it were a governmental entity, including with regard to preventing human rights harm.

68. The second model, which is more restricted, focuses on direct mechanisms that could be activated against companies themselves, and not exclusively against those exercising public functions. Two relevant responses were provided, where legislation allows for the exercise of constitutional remedies directly against business enterprises for actions or omissions that harm human rights.[95] In one such case, the reply highlighted that certain writs, such as *habeas corpus*, *habeas data* or *amparo* could be activated against private business enterprises, as human rights are not limited to the relation between the State and its individuals, but also among private parties.[96]

3. Reparation through constitutional remedies

69. The final question presented with respect to constitutional remedies was the types of reparations available. In general terms, most available measures of reparation consisted of restitution, [97] cessation (injunctions), [98] satisfaction (declarations of inconsistency or incompatibility, annulment of decisions), [99] and guarantees of non-repetition. [100] Very few jurisdictions recognized the possibility of obtaining compensation through constitutional remedies.[101]

IV. Conclusions

70. As stated at the outset of this report, there is evidence of the existence of diverse remedies across multiple jurisdictions that can establish corporate liability and provide reparations for business-related human rights abuses. The existence of such remedies is complemented by a growing body of practice whereby, through civil, administrative, criminal and constitutional mechanisms, business enterprises are being found liable and held to account for harm to human rights. This report presents indicia of the convergence of different forms of State practice on the recognition of corporate liability for human rights abuses, and of the areas where further developments and clarification may be needed.

[93] Austria, Cambodia, England, Indonesia, Mexico, Peru, Serbia, Singapore, Slovenia, Spain, Taiwan.
[94] Brazil, Mexico, Peru.
[95] Nigeria, Peru.
[96] Peru.
[97] Restitution: Mexico, Peru, Spain.
[98] Cessation: Brazil, Nigeria.
[99] Satisfaction: Australia, Mexico, Nigeria, Peru, Singapore, Slovenia, Spain.
[100] Non-repetition: Brazil, Peru, Slovenia.
[101] Compensation: Brazil, Nigeria, Peru.

71. Civil liability for corporate human rights abuses is generally recognized in the jurisdictions surveyed for this study, as well as in others that were not examined specifically for this report. A key aspect was identified: while certain recent developments have coupled human rights due diligence obligations with a civil liability mechanism, clarifying that a failure to prevent harm may lead to civil liability, it is not a prerequisite for such a mechanism to function to have human rights due diligence legislation. Indeed, in a significant number of countries within the survey, judicial decisions have recognized that the failure to prevent harm to human rights (or at least to some of them) can already lead to civil liability for business enterprises, regardless of the existence of human rights due diligence legislation. This finding would appear to confirm the existence of a parallel between the teleology of human rights due diligence (prevention of harm) and certain essential principles of civil law, namely the existence of a duty of care or of a general duty of prevention. An emerging jurisprudence from different jurisdictions, including in transnational cases, would appear to complement legislative efforts to specify the human rights due diligence expectations of corporate conduct.

72. Administrative liability for corporate human rights abuses is another aspect which has gained prominence in recent years, particularly as it relates to certain labour standards and its linkage with trade and access to markets, as well as with regard to environmental protection. Through its regulatory and oversight function, administrative action by public administration bodies serves to fulfil the duty to protect rights as recognized under international human rights law, including in certain transnational contexts or situations. In addition, administrative or regulatory sanctions are in themselves a form of reparation (satisfaction), which are routinely used for non-compliance with legal requirements and, in certain instances, for damage caused. Other forms of reparation can also be sought through administrative liability. A gap may exist, however, with regard to reparation to victims, especially through compensation. Further potential developments may take place with regard to administrative liability for harm caused in the context of public procurement or by State-owned enterprises, where legislative standards would appear to not have reached yet a sufficient level of maturity for adequate integration in those contexts.

73. Criminal liability for corporate human rights abuses is a question where certain legislative progress has been achieved, although practice is still lagging behind. A large majority of the jurisdictions covered under this report recognize corporate criminal liability, which in itself is a promising development for the purpose of corporate accountability. However, further work is needed to ensure that at least some of the conducts amounting to human rights abuses can lead to criminal liability. Responses in this regard were varied, with some jurisdictions having a more restrictive approach than others with regard to the types of conduct constituting human rights abuses that can lead to criminal prosecution of corporations. One general conclusion drawn from the survey is that while theoretically and normatively possible, practice of corporate criminal liability for human rights abuses remains limited.

74. A final element that was considered in the report were constitutional remedies, which in general terms remain understudied in the context of business and human rights. While not universally present, for those jurisdictions within the survey that do recognize them, a large majority focus on their use against State omissions in the context of business activities, with only a couple of exceptions allowing for direct remedies against corporate actors. With a particular focus on

restitution, satisfaction and guarantees of non-repetition, such mechanisms complement other existing procedures under civil, administrative and criminal law.

75. Beyond its discussion and use in the context of the International Law Association, this report will be presented as a contribution to the upcoming 12th session of the UN Open-Ended Intergovernmental Working Group on transnational corporations and other business enterprises with respect to human rights, as well as to States and other stakeholders, in an effort to contribute to the clarification of certain questions pertaining to access to remedies and legal liability currently under discussion. Furthermore, it will also be shared with States and other stakeholders in the work leading to the upcoming United Nations Diplomatic Conference of Plenipotentiaries on Prevention and Punishment of Crimes Against Humanity, where the question of corporate liability for crimes against humanity will also be addressed.

76. Finally, the Committee will continue with its programme of work as provided by its mandate, with the next report being (potentially) devoted to three important questions: domestic and regional legislation on corporate responsibilities in the field of human rights; international and domestic law related to corporate governance; and business and human rights and its relationship with other fields of international law.

ANNEX

INTERNATIONAL LAW ASSOCIATION
COMMITTEE ON BUSINESS AND HUMAN RIGHTS

Work stream 1: Access to remedy and reparations for corporate human rights abuses in domestic legal systems

Questionnaire

This questionnaire seeks to obtain information regarding the extent to which domestic legal systems provide for remedies and reparations for corporate human rights abuses. In this context, ‘remedies’ refer to the different judicial or administrative mechanisms available to establish the liability of a business enterprise for actions or omissions negatively affecting human rights, whereas ‘reparations’ refer to the type of measures that can be adopted to make a victim whole (restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, in accordance with the UN Basic Principles and Guidelines on the Right to Remedy and Reparation).[102] By human rights, we refer to the internationally recognized set of rights enshrined, at a minimum, in the nine core UN human rights treaties, as well as relevant ILO conventions and other related instruments, such as the Aarhus Convention or the Escazú Agreement or regional human rights treaties.

To the extent possible, please include relevant details in your responses, including references to statutes, case law and/or literature that may help us understand better the characteristics and experiences of your jurisdiction with the topic.

Part I. Access to remedy in the context of corporate human rights abuses

1. Can corporations be held liable in your jurisdiction for human rights abuses? If so, what are the specific rules of civil, administrative, or criminal law to that end?
NB. Please note that this question seeks for a general assessment of your jurisdiction/legal system; you will be able to provide more details on the liability regime in place in your jurisdiction below.

2. According to your legal system, how is the domicile of a corporation defined (place of incorporation or registration / principal assets or operations / central administration or management / principal place of business activity / other)?

Part II. Civil liability

1. Does your domestic legal regime recognize civil liability for corporate human rights abuses? If so, what causes of action are available in your jurisdiction to hold businesses liable for human rights abuses?

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[102] https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation

2. Has the case law in your jurisdiction addressed or developed civil liability for corporate human rights abuses? What type of reparations are available?

3. Has the case law in your jurisdiction established a link between civil liability and human rights due diligence?

4. How is the burden of proof allocated in your legal system? Is it possible for a judge to reverse the burden of proof, or to apply a dynamic burden of proof?

5. Can a parent company domiciled in the country be held liable for wrongful acts and/or omissions committed by its subsidiaries or suppliers abroad?

6. Can a parent company domiciled abroad be held liable for wrongful acts and/or omissions committed by its subsidiary or suppliers in the country?

7. How does your jurisdiction address any potential case of a duplicity of proceedings (*lis pendens*) between a court of your country and a court in a third country?

8. What is the applicable law if a dispute has been submitted to a court in your country for corporate human rights abuses that occurred abroad?

9. Are there specific rules in your jurisdiction regarding the statute of limitations for gross human rights violations,[103] that could be applicable in cases of civil litigation for corporate human rights abuses?

10. If a judgment given abroad holds a company liable for human rights abuses, is your country likely to recognize or enforce the judgment?

Part III. Administrative liability

1. Which legal fields (environmental law, employment law, etc.) within your legal system have the capacity to determine administrative liability for corporate human rights abuses? Which specific bodies can pursue administrative liability for corporate human rights abuses?

2. Has the case law within your jurisdiction addressed or developed administrative liability for corporate human rights abuses?

3. What type of reparation can be obtained in cases of administrative liability for corporate human rights abuses?

4. Are human rights due diligence or sustainability due diligence measures legally required in the context of public procurement within your legal system?

[103] Although there is no generally accepted definition under international human rights law, gross human rights violations are understood in this context as enforced disappearances, torture and extrajudicial executions.

5. Can administrative liability be established in cases of corporate human rights abuses in the context of public procurement?

6. Are human rights due diligence or sustainability due diligence measures legally required from State-owned or State-controlled enterprises within your legal system?

7. Can administrative liability be established in cases of corporate human rights abuses caused or contributed to by State-owned or State-controlled enterprises?

Part IV. Criminal liability

1. Does your domestic legal system recognize corporate criminal liability?
    - 1.1. If yes, for which crimes?
        - 1.1.1. Are the crimes that could lead to corporate liability equivalent to human rights abuses?
        - 1.1.2. How is corporate culpability established? Is the determination of *mens rea* a question of attribution, criminal intent, recklessness or merely negligence?
        - 1.1.3. Does your jurisdiction recognize corporate complicity under other legal principles of accessory liability?
    - 1.2. If no, does it recognize individual criminal liability for acts committed on behalf of or for the interest of a company?

2. If corporate criminal liability is recognized under domestic law, are there specific provisions regarding statutes of limitations?

3. If corporate criminal liability can be established under domestic law, what sanctions are applicable to corporations?

4. Have corporations been found liable for crimes that could be qualified as human rights abuses?

5. Can a domestic court exercise its jurisdiction over a corporation headquartered in its territory for criminal acts that took place abroad?

6. Can a domestic court exercise its jurisdiction over a foreign corporation for criminal acts that took place abroad against its nationals?

7. Do victims of corporate human rights abuses and/or their representatives play any special role in criminal proceedings against corporations in your jurisdiction? Can they initiate criminal proceedings?

Part V. Constitutional remedies

1. Does your legal system contemplate constitutional remedies that may be relevant in the context of corporate human rights abuses?

2. In case constitutional remedies exist for corporate human rights abuses, do they focus on State omissions, or can they be activated directly against a business entity?

3. What type of reparations can be ordered through constitutional remedies in cases of corporate human rights abuses?

Part VI. Other relevant aspects of your domestic legal system

1. Please share any other details that you consider relevant or specific to your legal system regarding access to remedy and reparations for corporate human rights abuses.