GUIDANCE NOTE: THE ROLE OF NON STATES ACTORS IN ANTI-CORRUPTION AND ASSET RECOVERY

Enhancing Citizens Voice for Accountability in Africa | AGI
ACKNOWLEDGEMENTS

This Guidance Note was prepared by a team led by Dr. Maurice Engueleguele, Officer in Charge of the Africa Governance Institute (AGI).

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<th>Abbreviation</th>
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<td>AfDB</td>
<td>African Development Bank</td>
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<td>AGI</td>
<td>Africa Governance Institute</td>
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<td>AU</td>
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<td>AUBC</td>
<td>African Union Board on Anti-Corruption</td>
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<td>CSOs</td>
<td>Civil Society Organizations</td>
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<td>CoSP</td>
<td>Conference of States Parties to UNCAC</td>
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<td>DNFBPS</td>
<td>Designated Non-Financial Business and Professions</td>
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<td>FDI</td>
<td>Foreign Direct Investments</td>
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<td>Global Financial Integrity</td>
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<td>MLA</td>
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<td>Stolen Asset Recovery Initiative</td>
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‘THE ROLE OF NON STATES ACTORS IN ANTI-CORRUPTION AND ASSET RECOVERY’

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GUIDANCE NOTE ON ‘THE ROLE OF NON STATES ACTORS IN ANTI-CORRUPTION AND ASSET RECOVERY’

a- Domestic Resources Mobilization has been identified by the African Non-State Actors (NSAs) as the second priority¹ of Economic and Financial Governance in which they feel a need for capacity development. Among the targeted resources, NSAs cite particularly assets derived from corruption, tax evasion, money laundering and illicit financial flows. The emphasis on these resources illustrates the strong demand for accountability and social justice expressed by citizens, which is one of the features of the dynamics of the landscape of governance in Africa in recent years (Afrobarometer 2013; IIAG 2013). One of the consequences is the commitment of these actors in campaigns to enhance the recovery of illicit assets as illustrated by the examples of Equatorial Guinea, Gabon, Congo, Zambia, Nigeria, Senegal, Tunisia and most recently Libya.

b- To respond this demand, the Africa Governance Institute (AGI) organized in Brazzaville (Congo) with the support of African Development Bank (AfDB) and the United Nations Development Programme (UNDP), from October 23 to 24, 2012, an experience sharing workshop and capacity development session of NSAs on Domestic Revenue mobilization. The meeting was attended by 60 NSAs from the 10 countries members of the Economic Community of Central African States – including both Fragile States and Middle Income Countries- (Angola, Burundi, Cameroon, Central African Republic, Congo, DR Congo, Gabon, Equatorial Guinea, Sao Tome and Principe, Chad), Ghana, Nigeria, Senegal, Tunisia and representatives from Transparency International (TI), Global Financial Integrity (GFI) and from African Union Board on Anti-Corruption (AUBC). The meeting focused on the issue of the role of NSAs in the fight against corruption and stolen assets recovery to finance development of African countries. This guidance note is part of the follow up process of the face to face interaction engaged with NSAs in Brazzaville and aims to capitalize on the exchanges that took place there.

¹ See the Report on the Study on ‘The Assessment of capacity development needs of Non States Actors on Economic and Financial governance’, Project AGI/AfDB ‘Enhancing Citizens Voice for Accountability in Africa’, The first one was Public Procurement.
I-The Key Elements of asset recovery

c- Even if corruption is identified and exposed, victims rarely recover all the assets that have been stolen. This is usually because of one simple reason: the assets cannot be found. To benefit from gains of their corrupt activities, the perpetrators of such offences will usually need to insert these assets into the financial system. Money laundering and asset recovery go hand-in-hand. Money laundering is the criminal activity that a person, following the commission of a predicate offence, commits in order to hide the true origin, nature and ownership of their criminal proceeds. Asset recovery, on the other hand, is the action investigative and prosecutorial authorities’ conduct to trace those unlawful assets, seize them from the perpetrators and restore them to their rightful owner. Consequently, these perpetrators have become exceptionally skilled at laundering their criminally acquired assets through financial channels, usually across multiple jurisdictions, in order to disguise the illegitimate origins of their assets.

d- Asset recovery thus refers to the process by which these proceeds of crime are identified, traced, seized, confiscated and returned to their rightful owners (which may include states, state owned enterprises as well as private individuals or private legal entities). The United Nations Convention against Corruption (UNCAC) explicitly states asset recovery as a fundamental principle of the Convention (Article 51, UNCAC) and dedicates an entire chapter to asset recovery (Chapter V). This chapter outlines, inter alia, measures to be taken for the prevention and detection of transfers of proceeds of crime (Article 52); measures for direct recovery of property (Article 53); mechanisms for recovery of property through international cooperation in confiscation and international cooperation for purposes of confiscation (Articles 54 and 55); and measures for the return and disposal of assets (Article 57). Several articles in other chapters also relate to asset recovery and the role of NSAs. Relevant sections relate to participation of society (Article 13); prevention and criminalization of money-laundering (Articles 14 and 23); protection of reporting persons- or whistle-blowers (Article 33); compensation for damage (Article 35; cooperation between national authorities and the private sector (Article 39); bank secrecy (Article 40); and, mutual legal assistance (Article 46).
Legal Framework for Asset Recovery

Legislation and procedures (domestic and foreign jurisdictions):

- Confiscation provisions (criminal, NCB, administrative);
- MLA;
- Criminal law provisions and codes of procedures (corruption, money laundering);
- Private (civil) law provisions and codes of procedure; and
- Asset sharing laws.

International conventions and treaties:

- UNCAC;
- United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances;
- UNTOC;
- Organization for Economic Co-operation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions;
- Southeast Asian Mutual Legal Assistance in Criminal Matters Treaty;
- Inter-American Convention against Corruption;
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime (1990) and the revised Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and on the Financing of Terrorism (2005);
- Council of the European Union Framework Decision 2006/783/JHA on the Application of the Principle of Mutual Recognition to Confiscation Orders;
- ECOWAS protocol on the fight against Corruption (2001);
- Southern African Development Community Protocol against Corruption (2001);
- African Union Convention on Preventing and Combating Corruption and Related Offenses (2003);
- Commonwealth of Independent States Conventions on Legal Assistance and Legal Relationship in Civil, Family and Criminal Matters;
- Scheme Relating to Mutual Assistance in Criminal Matters within the Commonwealth (the Harare Scheme);
- Mercosur Mutual Legal Assistance in Criminal Matters Treaty (December. N°. 12/01); and
- Bilateral MLA treaties.

e- While each asset recovery case is unique, given the circumstances surrounding it, the process itself can generally be broken down into four phases:
• The pre-investigative phase, where an investigator will receive information from a source about a crime and/or particular stolen assets, and will work to gather further intelligence to verify the authenticity of this information. Financial intelligence in particular plays a critical role at this stage in ascertaining the preliminary information required to confirm the actual theft and movement of assets, and their potential locations. The key question to be answered in this phase is whether or not an offence has taken place and who has committed it.

• The investigative phase, where the proceeds of crime are identified, located, frozen and evidence in respect of ownership of these assets is collated to allow for a seizure order to subsequently be made. This is the stage during which investigative and prosecutorial authorities in both the requesting and requested jurisdictions need to choose the appropriate tool(s) to achieve the desired results (e.g., evidence gathering, freezing or seizure of assets). It is important to understand that this phase relates to both the original offence as well as the actions taken to launder the proceeds derived from this original (predicate) offence. The investigative stage is a double-faceted process that aims to both locate and freeze stolen funds, as well as to link them to the commission of an illegal act. Thus in this stage it is important to focus on both establishing sufficient evidence of the criminality of the original action that generated the assets in question as well as on unraveling the specific techniques of money laundering that were adopted by the perpetrators to launder these assets. The key questions to answer can be summarized simply as: Who (individuals, companies) was involved in the commission of the offence? What was the damage of the offence, i.e. what was taken or what proceeds of crime was generated? When did the offence take place? Where did the offence take place? Where were the proceeds of crime transferred to, and where are they located now? Why did the perpetrators commit the offence? What was the motive behind the commission of this offence? How was the offence committed? How were the proceeds of crime generated? How were they transferred?

• The judicial phase, which follows the investigative phase and takes place when the investigation is completed and referred for trial. The judicial phase includes the trial and then issuance of the judgment against the persons identified in the previous phase. In
the event that the accused are convicted, the court hands down a final decision for the legal confiscation of assets they have stolen in connection with the criminal offence committed. When all avenues of appeal have been exhausted, this phase marks the transition from the phase of “frozen assets” to the phase of “confiscated assets”. In order to confiscate the assets in the jurisdiction(s) in which they have been found, the judicial authorities of the requesting jurisdiction must work closely with their counterparts, to ensure that an appropriate course of action is taken (e.g., enforcement of the confiscation order from the requesting country or obtaining a local confiscation order in the requested jurisdiction). It is important to note that while this section predominantly relates to criminal procedures, judicial procedures surrounding civil actions as well as non-conviction based forfeiture proceedings are also a viable avenue to take at this stage, depending on the individual circumstances of the case at hand (for more information please refer to the resources noted at the end of this section). The questions to be answered in this phase (in particular by a judiciary) include whether enough persuasive evidence has been collated and whether the rule of law has been observed in the investigation phase.

- The return phase: where property is actually returned to the rightful owner and disposed of (taking into account any international asset sharing obligations and rights of bona fide third parties). The questions to be addressed in this phase will generally include determining the amount of assets that should be returned and the ways in which these assets should be disposed of. No matter how high the degree of political will is, the process of recovering stolen assets is immensely intricate, time-consuming and resource intensive. The term asset recovery therefore encompasses the series of actions undertaken in order to trace, seize and confiscate and return stolen assets. This process is complicated at every phase of the asset recovery process, not only because the perpetrators of the criminal offences are attempting to hide the true nature, origin and ownership of the stolen assets, through money laundering techniques, but also because it requires active communication and close coordination between both the relevant authorities in the jurisdiction where the criminal offences have been committed, and between these and their foreign counterparts, where evidence or assets may be found. This is because skilled money launderers adopt numerous
strategies to conceal the origins of assets, and to transform them into numerous forms including hard currency, electronic funds, tangible and intangible property, corporate structures and shareholdings, to name just a few. They will transfer and spread these assets across multiple jurisdictions under the name of multiple owners to further disguise the true nature of these assets and make it increasingly difficult for state law enforcement agencies to track, trace and legally seize them. This multijurisdictional element of money laundering can particularly frustrate asset recovery efforts as it gives rise to several cross-border related hurdles which range from potentially conflicting legislative and procedural differences to language inconsistencies, among others. This is the principal reason why jurisdictions need to begin active communication with one another early on, beginning at the pre-investigative phase of the asset recovery process (as indicated above). Consequently, if different states have trouble working together efficiently it will be extremely difficult to effectively untangle a money launderer’s web of deceit. Moreover, even when states do work together effectively, cross border co-ordination between States can be extremely time consuming, which can give criminals additional opportunities to stay one step ahead of law enforcement agencies. Another factor, which often hampers asset recovery efforts, relates to when the person who committed the corrupt acts is deceased or has fled from justice. As a response, many jurisdictions now have the so-called non-conviction based forfeiture (NCB): these proceedings are initiated against the proceeds of crime themselves, and not against the person under investigation. The immediate consequence of initiating NCB forfeiture proceedings is that the level of proof is lower when compared to a criminal prosecution, and that there is no need to convict the criminal. In light of these barriers, active communication and co-ordination internally and internationally is the crux of the asset recovery process. No formal action that will directly or indirectly impact intelligence gathering, investigation, prosecution or adjudication of an asset recovery case should be taken by any of the agencies involved alone, without prior consultation and discussion of the risks and mitigating factors with their national and international counterparts. This holds particularly true when countries need to issue or to process a request for mutual legal assistance.
The return of confiscated assets is of practical importance. In particular, it is widely recognized that the recovery of stolen assets could provide essential resources for the financing of public services and investments in infrastructure and other programmes aimed at enhancing social and economic development. In addition, the recovery of stolen assets is seen as a deterrent to corruption as it fundamentally undermines the key incentive for corruption – the assets which are stolen. It is for these reasons that it is imperative that all concerned actors – States, international organizations, the private sector and in particular financial institutions, and CSOs – understand their respective roles, duties and responsibilities in relation to the recovery of stolen assets, and seek to collaborate and mutually support each other as best possible.2

Figure 1: The Asset Recovery Process

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II- Asset Recovery in the context of Africa

f- African States and other Developing countries lose between US$20 to US$40 billion\(^3\) each year through bribery, misappropriation of funds, and other corrupt practices. Much of the proceeds of corruption find “safe haven” in the world’s financial centers. These criminal flows are a drain on social services and economic development programs, contributing to the further impoverishment of the world’s poorest countries. The victims include children in need of education, patients in need of treatment, and all members of society who contribute their fair share and deserve assurance that public funds are being used to improve their lives. But corruption affects us all by undermining confidence in governments, banks, and companies in both developed and developing economies.

g- The international community has responded to the challenge and, in principles and through international agreements, is now moving forward. The G20 has put the fight against corruption at the forefront of its efforts to improve global integrity and accountability. The Stolen Asset Recovery (StAR) Initiative was launched in September 2007 by the World Bank and the United Nations Office on Drugs and Crime (UNODC) to promote the ratification and implementation of the United Nations Convention against Corruption (UNCAC), and specifically its chapter 5, which provides the first comprehensive and innovative framework for asset recovery. Many developing countries have already sought to recover stolen assets. A number of successful high-profile cases with creative international cooperation have demonstrated that asset recovery is possible. The 2011, 2012 and 2013 G8 presidencies responded to the demand for change from citizens across the world for more accountability and integrity by committing to support political and judicial processes and mechanisms of illicit asset recovery and against illicit financial flows\(^4\).


On the Continent, parallel with the African union convention on Preventing and combating Corruption and Related Offenses (2003) and of action of the AUBC, a High Level Panel on Illicit Financial Flows from Africa has been established following a resolution of the 4th Annual Meeting of ECA/AU Ministers of Finance, Planning and Economic Development. The aims of this Panel, Chaired by Former President Thabo Mbeki, are to undertake extensive and in-depth studies to shed light on the extent and ramifications of illicit financial flows on national economies as well as the human impacts of the phenomenon. The Panel is also expected to streamline possible initiatives that African Countries can undertake either individually and collectively to stem the flows and repatriate the stolen assets. At Regional Level, the SADC has adopted the Southern African Development Community Protocol against Corruption in 2001 and ECOWAS has adopted a protocol on the fight against Corruption the same year. The other RECs are working to put in place this kind of frameworks.

However, to date, only US$5 billion in stolen assets have been recovered. There is therefore a clear need for a more visible, tangible progress in forcefully prosecuting bribery cases, and systematic recovery of proceeds of corruption. However, recovering proceeds of corruption is complex. The process can be overwhelming for even the most experienced of practitioners. It is exceptionally difficult for those working in the context of fragile or failed states, widespread corruption, or with limited resources. Their efforts need to be supported, as they grapple with the strategic, organizational, investigative, and legal challenges of recovering stolen assets, whether through criminal confiscation, no conviction based confiscation, civil actions, or other alternatives.

Many countries have for decades lived in systems of institutionalized corruption under the control of ruling elites. By shaping policies, laws and procedures, kleptocrats and their foreign accomplices were able to enrich themselves without committing punishable acts of corruption. As a result, Several African Countries face many obstacles in their efforts to recover their assets, including difficulties in establishing predicate offences, the lack of the necessary legal frameworks, and limited institutional capacity and experience to trace and recover stolen assets. This lack of institutional capacity puts African countries at a disadvantage when faced with the legal complexity and advanced technical skills and knowledge required to co-operate effectively with financial centers in order to trace, freeze, confiscate and recover assets. In some countries, the lack of true judicial independence and the weakness of legislative bodies that can monitor governments’ behavior, also remain key challenges.
International cooperation in this effort is therefore essential. Corruption is a global problem that thrives on the globalized nature of today’s world. Stolen money can be moved between countries in seconds and hidden behind complex company and other legal structures. It is the responsibility of financial centers around the world to work with all the countries and all the actors – including NSAs - to trace these assets, return them to their rightful owners and take action to prevent future asset flight. Asset recovery is a fight against impunity. Alongside the return of assets to their rightful owners, national dignity is at stake. For this reason, it is imperative that government, Regional organizations, NSAs and the international community work together over the long-term to achieve progress in the return of stolen funds and to prevent future theft of national resources.

Figure 2: Actors in the Fight against Corruption and Illicit Financial Flows
III- Why and how to engage with Non States Actors in Anti-corruption and Asset Recovery?

I- Generally speaking, States need to lead the process of recovering stolen assets. However, NSAs can play a determining role in different stages that comprise the asset recovery process. Their importance in this process has been enshrined in UNCAC which states in its article 13 that States Parties should promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community based organizations, in the prevention of and the fight against corruption. This is because the prevention and the fight against corruption is a shared responsibility. The Conference of the States Parties (CoSP) to UNCAC, in its session held in Doha in 2009, highlighted that these individuals and groups outside the public sector contribute to a culture of integrity, and encourage the involvement of citizens in the prevention of corruption at the national level. More specifically in Africa, the article 12 of the African union Convention on Preventing and Combating Corruption provides provisions for the active participation of civil society in this process. Thus, since the establishment of the UNCAC there has been a strong impetus for NSAs and particularly CSOs to engage in the efforts of preventing and combating corruption. This Note outlines numerous ways in which NSAs can contribute actively to the asset recovery process, whilst acknowledging that their work can never substitute the activities that need to be undertaken by the states.

m- African NSAs have traditionally engaged in the asset recovery process through awareness raising, research and advocacy. Over time, they have also increasingly assisted states in managing frozen assets or helped with considerations related to the end-use of returned assets. Indeed in some cases NSAs may be well positioned to act as facilitator between the involved states and the victims of corruption-related offences. NSAs have also sometimes been the recipients of returned assets or involved in the monitoring of this end-use. More recently, NSAs have also assisted states in their enforcement efforts, whether by helping identify and investigate corruption-related offences, engaging with whistleblowers and acting as mediator between whistle-blowers and the judicial apparatus, or by initiating legal action where the legal framework permits such initiative. For instance, Article 35 of UNCAC on compensation for
damage offers an avenue for CSOs to initiate legal proceedings in order to obtain such compensation and this has provided the legal basis for some corruption cases. For NSAs to act effectively in these areas, they need to act with strategic vision. This includes to identify key partners within state institutions and to carefully assess the risks in the type of engagement they wish to pursue. CSOs should strive to coordinate their actions with other NSAs – within borders or at times across them – as well as cooperate with citizens, local communities and the media, in addition to strategic partners in foreign jurisdictions. Maybe most importantly, there is a need for NSAs to manage their own expectations and be realistic about their capacities. As has been mentioned previously, asset recovery is a complex and time-consuming exercise. It is thus necessary to understand its underlying complexities in each case scenario, and potential risks and pitfalls in the process. This will help NSAs to take appropriate decisions regarding the focus and timing of their advocacy and awareness raising strategies, and to understand and clearly communicate that while the ultimate goal is to return the stolen assets to their country of origin, this may take considerably more time than wished for, due to the legal intricacies and the need to respect the fundamental principles of the rule of law in concerned jurisdictions. Establishing such realistic outcomes of the activities that can be undertaken also strengthens reliability in the persons and institutions involved. Against this background, this Note presents not only areas of engagement but also strategic considerations regarding routes of engagement; highlights potential risks and challenges and how these may be mitigated, real life examples that help putting NSAs action in asset recovery in perspective and help with managing expectations.

3.1. Awareness raising and research

n- Awareness raising in the context of this Note refers to different campaigns that can be undertaken by NSAs with the purpose of:

- Raising awareness (across society, key institutions in the public sector and the private sector, including the financial sector and designated non-financial businesses and professions (DNFBPs) about the importance of asset recovery, its role in the fight against corruption and in development efforts;

- Generating demand (across society and key institutions) for asset recovery; and

- Raising awareness (across society and key institutions) about the roles and responsibilities of concerned actors, including NSAs.
Research refers to different projects NSAs can undertake with the aim of enhancing their capacities and other the ones of other actors in engaging with the practical asset recovery work and of enhancing the policy dialogue and general understanding about asset recovery. Often research and awareness are intrinsically linked – research projects uncover issues and formulate ideas backed by established evidence, and awareness campaigns deliver these ideas and issues to a wide audience. Article 13 of UNCAC seeks to promote the participation of CSOs in the prevention of and fight corruption, including by undertaking public information activities.

Awareness campaigns and research efforts should aim at informing citizens of new information on asset recovery, and enriching the information that the target audience may already be aware of. However it is important to remember that asset recovery-related awareness campaigns should be conducted with a level of caution. NSAs need to approach asset recovery awareness raising strategically to ensure sufficient pressure is on governments to act, whilst not raising expectations in society regarding the speed at which assets can be returned to an unrealistic level. Thus, the role of NSAs in this regard is delicate, and extremely critical in steering the entire asset recovery process in a proactive direction.

**Objective 1: Raise awareness about asset recovery**

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<th>Method of Engagement</th>
<th>Informing society about the importance of asset recovery and system weaknesses that cause assets to be lost/stolen</th>
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| Possible actions for engagement | - Use blogging and social media to disseminate messages  
- Conduct research and publish results, including in the local language(s)  
- Create and provide information about asset recovery on your website  
- Make announcements about your work and governmental actions regarding asset recovery  
- Maintain a journalist/media contact person database for your press releases |
| Best practices to increase success and mitigate risk | - Only use and disseminate information from credible and verifiable sources  
- Assess the accessibility of the media you use to disseminate information (i.e. assess whether the internet is widely accessible, or whether people are more likely to watch TV, listen to radio or... |
read newspapers, etc.)
- When applicable, involve the local community in research
- An awareness campaign, and particularly the dissemination of information, is expensive
- be aware of your cost limitations and target your efforts accordingly.
- If possible, use follow-up evaluations to determine what awareness raising techniques are successfully conveying messages to your target audience


| NSA example | Global Youth Anti-Corruption Network (GYAC)
GYAC is a global network of young leaders, journalists, artists and ICT experts from civil society who work to improve transparency and social accountability for better governance. Members share experiences, ideas and resources via an online social network, videoconferences, and face-to-face events. GYAC also works with musicians to create global songs against corruption and supports journalists in their fight for greater transparency and accountability. Since the Network’s launch in 2010, GYAC counts over 60 member NGOs from over 45 countries, and more than 1,500 members on its various web platforms. Their website offers various innovative anti-corruption toolkits on how to implement and measure projects as well as how to use Right to information acts.
Objective 2: Generate demand for asset recovery

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<tr>
<th>Method of Engagement</th>
<th>Helping NSAs and other key stakeholders better understand their roles and responsibilities in Asset Recovery</th>
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| Possible actions for engagement | - Hold targeted trainings, conferences and workshops  
- Work with or encourage government to publish (and regularly update) a practical guide to asset recovery in their jurisdiction (including information on key institutions, key legislation, key processes, and key information sources) |
| Best practices to increase success and mitigate risk | - Address expectation management and capacity requirements during NSA asset recovery trainings  
- Whenever possible link research to policy engagement to strengthen the vision, strategy and activities undertaken by NSAs. |

3.2. Advocacy

Advocacy in the context of this Note refers to NSAs working towards influencing political will, promoting public policy and public management reforms, strengthening government accountability with regards to asset recovery and related issues and demanding stronger prevention mechanisms, including from the private sector. Through advocacy, NSAs can substantially contribute to asset recovery efforts. They can contribute to the debate of public policy and public management reforms, including efforts towards strengthening systems to prevent future asset losses, and thereby enhance democratic legitimacy. As compared to awareness raising, advocacy strategies are more targeted. They have the ultimate aim of persuading certain public or private institutions to undertake specific actions. Consequently, when launching advocacy campaigns, NSAs should have a clearly defined, and a realistically achievable objective. The need for advocacy is likely to be applicable in requesting and requested states, and is often aimed at similar objectives in the two concerned jurisdictions. The reform of public policy on asset recovery specific issues, including the reform of legislation...
and institutions involved in the asset recovery process, will be a potential target in both countries, though the exact content of that advocacy campaign will likely differ. For example, in relation to prevention, NSAs in requested jurisdictions are likely to target the private sector, first and foremost the financial industry, and at enhanced regulatory action by public agencies to enhance supervision of these private sector institutions. On the other hand in requesting jurisdictions such efforts aimed at enhancing prevention would target gaps and loopholes in the public sector primarily, such as advocating for better conflict of interest regulations. In both requesting and requested states NSAs will be keen on ensuring a great degree of transparency and accountability in relation to the asset recovery process, and they will need a highly proactive attitude of local law enforcement in relation to investigating stolen assets, in requesting countries through a criminal investigation into the underlying crime, and in requested countries through an investigation into money laundering. Importantly, when it comes to the return of stolen assets, a close collaboration in advocacy work between NSAs in requesting and requested countries is actually recommended, as their interests are likely to converge. NSAs advocacy work in this area will aim at engaging an early dialogue on the potential end-use of returned assets, at a participatory process to determine this end-use, and at potential civil society participation in either the use of returned assets or the monitoring of this use. Close collaboration and coordination between NSAs from requesting and requested jurisdictions will help advance these issues constructively and could help overcome potential reluctance between requested and requesting jurisdictions to engage in a dialogue on this matter.

**Objective 1: Public Policy and Public Management Reforms**

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<th>Method of Engagement</th>
<th>Campaign and lobby government for asset recovery related legislative, institutional and policy reform.</th>
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| Possible actions for engagement | - Develop and maintain contact with stakeholders driving legislative, public policy and public management reforms processes, such as key ministries, members of parliament and members and leaders of concerned parliamentary sub-committees.  
- Lobby state institutions and semi-state organizations (e.g. professional associations representing enablers) on addressing system weaknesses that allow assets to be stolen.  
- Develop case based studies that draw out the underlying |
systems weaknesses that led to the assets to be lost, with a view to make the need for policy reform more easily accessible.
- Engage with media, academia and other CSOs to align reform demands generate a broad coalition and increase the number of advocacy channels.
- Capitalize on political changes for opportunities to affect policy changes.
- Actively following the concerned country's legislative reform schedule to conduct timely advocacy campaigns.
- Identify and partner with potential champions for legislative initiatives as an avenue to propose provisions dealing with the asset recovery process

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<th>Best practices to increase success and mitigate risk</th>
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<tr>
<td>- Identify specific expectations and goals to be achieved within your reach of capabilities.</td>
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<td>- Develop a core message of your work and adapt it to different audiences.</td>
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<td>- Present information and resources only from reliable sources to establish credibility.</td>
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<td>- Consider approaching third parties to independently assess the benefits of the proposed changes, in order to increase their appeal.</td>
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<td>- Identify the constraints in conveying your message to key decision makers (if you cannot lobby direct decision makers, lobby those who have influence over direct decision makers).</td>
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<table>
<thead>
<tr>
<th>Further resources</th>
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<tr>
<th>NSA example</th>
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<tr>
<td>The Tunisian Association for Financial Transparency (Association Tunisienne pour la Transparence Financière – ATTF)</td>
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ATTF was created with the aim of accelerating the judicial and administrative efforts to recuperate the assets stolen by the former Tunisian President Ben Ali and his entourage. ATTF specifically aims to:
- Put pressure on governments and financial institutions to accelerate asset recovery efforts and hold them accountable for progress in these efforts
- Assist the Tunisian Government in these efforts through targeted citizen actions and by mobilizing other NGOs to support asset recovery efforts
- Lobby government to enhance laws and strengthen institutions that allow to more effectively prevent corruption in Tunisia in the future
- Contribute to raising awareness and educating youth, who represent the future economic and social actors that will shape this democracy, about rule of law and integrity issues as well as the threat that corruption poses for the Tunisian society’s fundamental values.

Visit ATTF on Facebook: https://www.facebook.com/pages/Association-Tunisiennepour-la-TransparenceFinancière/443867492307877?fref=ts

Global Witness campaign on beneficial ownership
Global Witness, along with other groups, has been campaigning against hidden company ownership and advocating for a publicly available beneficial ownership registry for the purpose of identifying the true owner of a corporation. By engaging key stakeholders and governments, the campaign has successfully placed this issue on the political agenda of key international forums and governments, most notably at the G8 summit in Northern Ireland. GW commissioned a cost benefit analysis to examine the costs associated with establishing a public registry, which helped to persuade the UK government that such a register would not place undue burdens on business, nor would it be unduly expensive for the government.

http://www.globalwitness.org/campaigns/corruption/hiddencompany-ownership
Transparency International (National Integrity Systems)
Transparency International evaluates with their National Integrity Systems (NIS) Study key “pillars” in a country’s governance system and the general level of integrity. The NIS studies examine the anti-corruption efficacy sector by sector and are published as comprehensive national reports to build momentum, political will and civic pressure for relevant reform initiatives. More information at:
http://www.transparency.org/whatwedo/nis

**Objective 2: More and proactive tracing and recovery of stolen assets**

<table>
<thead>
<tr>
<th>Method of Engagement</th>
<th>Campaign and lobby government to pursue the recovery of stolen assets as a priority</th>
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</table>
| Possible actions for engagement | - Monitor law enforcement action  
- Monitor the institutions responsible for the asset recovery process  
- Coordinate and develop practical collaboration with CSOs in other countries concerned by cases to apply pressure in all concerned jurisdictions |
| Best practices to increase success and mitigate risk | - Review internal and external reports of the institutions responsible for the asset recovery process to monitor progress in cases and identify weaknesses in Policies or practices that require reform.  
- Maintain a network of potential partners in advocacy campaigns. |
| NSA example | Global Witness campaign – Equatorial Guinea  
As early as 2003 Global Witness helped to expose how the Obiang regime had stashed millions of dollars in accounts at the prestigious Riggs bank in Washington, DC. Since then, Global Witness has repeatedly raised questions about how Equatorial |
Guinea’s natural resource wealth is managed and about the relationship between the regime and its bankers. Global Witnesses’ investigations have exposed how the President’s son and then government minister (and currently Second Vice President), Teodorin Obiang, has spent millions of dollars on sustaining a playboy lifestyle in Europe and the US while reportedly earning a government salary of only a few thousand dollars a month. More information at: http://www.globalwitness.org/campaigns/corruption/oil-gas-and-mining/equatorial-guinea

3.3. Case studies and legal analysis

Case studies and legal analysis in the context of this Note refers to the activities that can be undertaken by NSAs in generating useful information and intelligence to be used by financial intelligence units, and investigative and prosecutorial authorities. They help identify and expose criminal assets acquired by corrupt officials and enablers (e.g., through the tracing of such assets though financial investigations or forensic auditing) and enable the initiation of investigations and prosecutions seeking to recover the stolen assets and bring perpetrators of corruption to justice. Furthermore, case studies and legal analysis may allow for NSAs to initiate legal proceedings in relation to stolen assets and those who have stolen them. This may be done through private litigation, provided the concerned jurisdictions grants NSAs legal standing to pursue such actions, or through exposing and revealing stolen assets through whistleblowers. Specific measures for whistle-blower protection are called for in Article 33 of UNCAC. Moreover, NSAs may assist in representing victims of economic crimes as well as providing legal assistance to local citizens to file complaints, where these may have legal standing to do so, for instance in accordance with Article 35 of UNCAC on compensation for damage. In order to undertake these activities, NSAs should make careful consideration and assess risks in relation to the costs of undertaking such proceedings. Especially when intending to contribute to and trigger law enforcement action, close co-ordination with concerned public institutions should be sought whenever possible as issues of evidentiary integrity etc. may be concerned. The activities carried out by NSAs should not amount to taking over the activities of the existing public law enforcement mechanism.
**Objective 1: Identification and exposure of stolen assets**

<table>
<thead>
<tr>
<th>Method of Engagement</th>
<th>Generating useful information and intelligence for law enforcement</th>
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| Possible actions for engagement | - To collect, verify and expose intelligence/information about the location and origins of potentially stolen assets  
  - To co-operate with investigative journalists in your country/region or in the concerned foreign jurisdiction to generate information. |
| Best practices to increase success and mitigate risk | - Use only verifiable and identifiable information  
  - Collaborate or coordinate with public law enforcement bodies if possible |
| Further resources | Angola-Russia Debt Deal (2011) – Corruption Watch and Associação Mãos Livres  
  Corruption Watch, Associação Mãos Livres and a group of Angolan anti-corruption campaigners are taking steps in Switzerland and Angola in relation to the laundering of proceeds of an alleged corrupt deal worth USD 700 million. This scheme allegedly involved Russian oligarch(s) and high-ranking Angolan public officials. Corruption Watch and Associação Mãos Livres have issued a report which revealed improper payments and exposed the alleged fraudulent multi-million dollar transaction in international Angola-Russia debt deal. Furthermore, they have worked with local communities and Angolan citizens to collect information and provided legal assistance to file legal complaints.  

**Method of Engagement** | Enabling safe whistleblowing in relation to asset recovery cases
| Possible actions for engagement | - Act as a spokesperson for/represent/facilitate the reporting by whistleblowers  
  - Raise public awareness through media and other communication channels when a whistleblower is, or is at risk of... |
<table>
<thead>
<tr>
<th>Best practices to increase success and mitigate risk</th>
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<tr>
<td>- Ensure you are familiar with the relevant legal framework on the protection rights guaranteed to whistleblowers</td>
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<td>- Verify the information provided by whistleblowers as best possible</td>
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<tr>
<td>- Establish a network of knowledgeable and trusted lawyers who can provide (pro bono) legal assistance to potential whistleblowers</td>
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<table>
<thead>
<tr>
<th>Further resources</th>
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<tbody>
<tr>
<td>- Basel Institute/ICAR – Tracing Stolen Assets:</td>
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<tr>
<td>- Online resources on obtaining evidence:</td>
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<tr>
<td><a href="https://exposingtheinvisible.org/resources/obtaining-evidence/">https://exposingtheinvisible.org/resources/obtaining-evidence/</a></td>
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<tr>
<th>NSA example</th>
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<tr>
<td>Sherpa</td>
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<td>Sherpa, one of the first NGO dealing with illicit financial flows and litigation against officials in their own countries, together with the French organisation Survie and the Federation of the Congolese Diaspora, filed in 2007 a case with the Public Prosecutor in Paris against the ruling families of Congo-Brazzaville, Equatorial Guinea and Gabon, alleging that their considerable fortunes, whether in real estate assets or bank accounts, could not have been accrued solely from their public salaries and fees. The main charge in the case is “concealment of misappropriation of public funds”, which is a crime under French Law if there are assets on French soil which have been acquired illegally. In order to overcome the Public Prosecutor's reluctance in opening an investigation, Transparency International (TI) France and a Gabonese citizen filed in 2008 a civil claim as part of criminal proceedings, with SHERPA’s legal support. The French Cour de Cassation finally ruled in 2010 that TI France’s civil claim could go ahead, and a judicial investigation was launched. As a result, the investigating magistrates ordered both a search of the Equatorial Guinean President's luxury mansion in Paris, as</td>
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well as the seizure of some fifteen sports cars belonging to his son. While the President has claimed immunity, the President's son has not appeared before French courts, and a subsequent arrest warrant has been issued in July 2012. More information at: http://www.asso-sherpa.org/

Government Accountability Project
The Government Accountability Project is a whistleblower protection and advocacy organization that promotes government and corporate accountability by advancing occupational free speech, defending whistleblowers and empowering citizen activists. The GAP studies current legislation and leads campaigns to enact whistleblower protection laws both domestically and internationally. One of their actions are the Know Your Rights Campaigns, which provide necessary education by establishing a number of resources, including a website, a hotline, pamphlets, and an entire handbook devoted to assisting financial workers questioning whether or not to blow the whistle. Similarly, the GAP informed offshore US oil workers of the protections available to them under federal and state whistleblower laws. More information at: http://www.whistleblower.org/action-center And http://www.whistleblower.org/program-areas

Objective 2: Assisting asset recovery related investigations and prosecutions

<table>
<thead>
<tr>
<th>Method of Engagement</th>
<th>Support legal action</th>
</tr>
</thead>
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| Possible actions for engagement | - Clarify legal standing of NSAs in applicable jurisdiction  
- Consider the added value and challenges associated with all avenues  
- Manage the expectations of all parties to a case  
- Assess cost and legal implications for all involved parties  
- Strictly follow legal and evidentiary requirements for evidence collection by NSAs. |
| Further resources | - Sherpa study on legal standing in G20 studies (forthcoming) |
### NSA examples

**APDHE vs Theodor Obiang (Equatorial Guinea / Spain)**

Asociación Pro Derechos Humanos de España (APHDE) filed a criminal complaint of money laundering upon various members of the Obiang family whom have benefitted from the transfer of money from EQ Guinea oil revenues into private accounts held in Spain. Spanish law grants jurisdiction to Spain in cases where money laundering has taken place in the country, regardless of where initial embezzlement occurred. More information at: [http://apdhe.org/](http://apdhe.org/)

**Open Society Justice Initiative vs Theodor Obiang (Equatorial Guinea / California)**

The Open Society Justice Initiative and EG Justice, a US based NGO that promotes human rights and the rule of law in Equatorial Guinea, have been able to draw on their deep knowledge of corruption and human rights abuses in Equatorial Guinea and links to Equatoguinean civil society advocates to provide important assistance to US Department of Justice prosecutors seeking to seize, as alleged corruption proceeds, real and other property belonging to Teodorin Nguema, the son of Equatorial Guinea’s president OBIANG. They have found that even while lacking certain coercive powers employed by governmental law enforcement, civil society organizations have, in some respects, important advantages, including mission flexibility, freedom to travel, deep, long-term region experience and expertise, access to evidentiary materials and potential witnesses or information sources, all of which furnish needed complement to the work of law enforcement investigators and prosecutors.

### 3.4. Return of confiscated assets

s- There is today universal agreement to the principle that confiscated funds originating from corruption should be returned, as enshrined in Article 51 of UNCAC. Specifically, UNCAC foresees that such assets are returned to their prior legitimate owner, which, in the case of corruption and misappropriation of state funds, would be the state from which such funds have
been stolen (after taking into account the rights of bona fide third parties and possibly the deduction of expenses incurred by the foreign jurisdiction). In addition, UNCAC foresees that where appropriate, countries involved in returning stolen assets may conclude agreements for the final disposal of confiscated property. Further, and in line with the UNCAC’s recognition of transparency as a fundamental prerequisite for good governance and combating corruption and the developmental proposition of UNCAC, there is also a great degree of convergence over the need to put returned, formerly stolen assets to good end-use and to ensure that they are not stolen again. Against this background, there are a number of roles that NSAs can play in the stages immediately before and during the return of confiscated assets originating from corruption and related crimes.

These include, notably, providing inputs to the decision-making process over end-use. NSAs are well placed to represent the voice of potential victims of those that were affected by the corruption; they can actively initiate and contribute towards a national dialogue on the potential end-uses of returned assets, although the ultimate decision on this will of course be with Government. Participation by NSAs in oversight and monitoring of the use of returned assets can be an effective way to ensuring an adequate level of transparency in the use of returned assets, which in turn should help ensure that confiscated assets are used for their intended purpose and in line with internal legal or otherwise agreed procedures. In turn, Governments increasingly understand that they have an interest in engaging with NSAs in these matters as such a partnership enhances public trust in the recovery effort.

**Objective 1: Targeted use of returned assets**

<table>
<thead>
<tr>
<th>Method of Engagement</th>
<th>Promoting appropriate legal procedures and arrangements for the management of assets</th>
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| Possible actions for engagement | - Identifying potential institutions, agencies and stakeholders responsible for the coordination and the management of repatriated assets  
- Identify legal mechanisms/ ways to compensate the determined victims of the crime with the confiscated assets.  
- Working concertedly with national asset management/asset recovery units on planning the treatment to, and allocation of confiscated assets  
- Propose wide consultation with stakeholders comprising |
| NSA example | Libera and FLARE Network - Italy  
Libera Terra is a non-profit organization whose mission is the fight against organized crime and mafia-type criminal organizations in Italy. They are involved in several initiatives to transform confiscated assets into social projects and to re-use confiscated assets for the local communities by creating jobs for young people or creating agricultural centers. In cooperation with FLARE Network they contributed to the establishment of a national Asset |
| --- | --- |
| Best practices to increase success and mitigate risk | - Liaise with CSOs in requested countries during the asset recovery process to request their assistance to lobby for a dialogue between requested and requesting countries on the use of repatriated assets.  
- Identify good practices in other jurisdictions  
- Minimize bias and conflict of interest when determining how to manage repatriated assets  
- Refer to national development plan objectives and similarly widely accepted development goals  
- Consider the long-term sustainability of projects funded through returned assets  
| | local authorities and NSAs, to define the use of returned assets.  
- Liaise with CSOs in requested countries during the asset recovery process to request their assistance to lobby for a dialogue between requested and requesting countries on the use of repatriated assets.  
- Identify good practices in other jurisdictions  
- Minimize bias and conflict of interest when determining how to manage repatriated assets  
- Refer to national development plan objectives and similarly widely accepted development goals  
- Consider the long-term sustainability of projects funded through returned assets  

Recovery Agency and shaped policy reform and legal procedures in the proper monitoring and management of confiscated assets. As a result more than 4500 real estate properties have been used for social purposes in Italy. 
More information at: http://www.libera.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina

**Objective 2: Transparent use of returned assets**

<table>
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<tr>
<th>Method of Engagement</th>
<th>Monitoring the management of assets</th>
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| **Possible actions for engagement** | - Ensuring that proper audit, reporting and oversight mechanisms on the management of confiscated assets are put in place by the authorities in charge of the repatriation effort;  
- Monitor and track the projects funded by repatriated assets, and collaborate with concerned (local) populations on this;  
- Audit financial statements and reports of repatriated assets to verify the accuracy of information about their use and ensure appropriate protocol was followed;  
- Try to formalize an official role or mandate for NSAs in the management of returned assets and/or the monitoring and oversight process;  
- Make publicly available information regarding the receipt of assets, the declaration of the intended use of assets, actual expenditures, and the results achieved. |
| **Best practices to increase success and mitigate risk** | - Ensure that you have the technical capacity available for managing and/or monitoring projects (e.g. financial accounting/audit expertise, engineering, etc., depending on project) |
| NSA example | Monitoring of Abacha funds to Nigeria In 2005, and based on an agreement on restitution modalities signed by Switzerland, Nigeria and the World Bank, USD 700 million of assets stolen by former Nigerian President Abacha were restituted from Switzerland into the Nigerian central budget. Nigeria agreed to use the repatriated funds for specific projects designed to alleviate poverty and to undertake a comprehensive Public Expenditure Management and Financial Accountability Review (PEMFAR), to be conducted by the World Bank. Following pressure from both Swiss and Nigerian CSOs, some civil society Participation in the monitoring of the expenditure of the restituted assets was also introduced. The Nigerian Civil Society Network on Stolen Assets, including Integrity and the Zero Corruption Coalition participated in the monitoring and implementation of the projects funded with the returned Abacha funds with a view to ensuring greater transparency and accountability of the returned assets. More information at: [http://www.evb.ch/cm_data/Report_Abacha.pdf](http://www.evb.ch/cm_data/Report_Abacha.pdf) |

u- To conclude, we can say that the involvement of NSAs in anti-corruption and asset Recovery is the best illustration of their role of drivers of change in developmental governance processes/.
Case Studies

№1: Case of Frederick Chiluba and His Associates

In 2002, a task force was established in Zambia to investigate corruption allegations against the former president Frederick Chiluba and his associates during the period 1991–2001, to assess whether criminal proceedings could be brought, and to determine the best options for recovering assets. In 2004, the attorney general of Zambia initiated a civil suit in the United Kingdom to recover funds transferred to London and across Europe between 1995 and 2001 to fund the former president’s expensive lifestyle—including a residence valued at more than 40 times his annual salary. These proceedings were launched in addition to ongoing criminal proceedings in Zambia. Three factors informed the decision to launch the civil action in addition to the criminal proceedings: First, most of the defendants were located in Europe, making domestic criminal prosecution and confiscation impossible in a number of cases. Second, most of the evidence and assets were located in Europe, which made a European venue a more favorable option. And, third, specifically with respect to the cases whereas domestic criminal prosecution and confiscation was possible, successful international cooperation through an MLA request was unlikely. Zambia lacked the bilateral or multilateral agreements, procedural safeguards, capacity, and experience necessary to collect evidence and enforce confiscation orders across Europe. Instead, court orders obtained in a European jurisdiction would be easier to enforce in jurisdictions that were parties to the Brussels Convention on recognition of foreign court decisions in Europe. London was chosen as the European venue because most of the funds diverted from Zambia had passed through two law firms and bank accounts in the United Kingdom, and the attorney general of Zambia was able to establish jurisdiction over defendants in jurisdictions that were parties to the Brussels Convention. Finally, it was anticipated that decisions obtained from courts in the United Kingdom would also be enforceable in Zambia when they were registered before the courts.

The High Court of London found sufficient evidence of a conspiracy to transfer approximately $52 million from Zambia to a bank account operated outside ordinary government business—the “Zamtrop account”—and held at the Zambia National Commercial...
Bank in London. Forensic experts traced the monies received in the Zamtrop account back to the ministry of finance. They also substantially traced the funds leaving the Zamtrop account, and they revealed that $25 million was misappropriated or misused. In addition, the High Court found no legitimate basis for payments of about $21 million made by Zambia pursuant to an alleged arms deal with Bulgaria and paid into accounts in Belgium and Switzerland.

The Court held that the defendants conspired to misappropriate $25 million from the Zamtrop account and $21 million from the arms deal payments. The Court also held that the defendants had broken the fiduciary duties they owed to the Zambian Republic or dishonestly assisted in such breaches. As a result, the defendants were held liable for the amounts and assets corresponding to misappropriated funds.

Nº2: Case of Diepreye Alamieyeseigha

In the case involving Diepreye Peter Solomon Alamieyeseigha, former governor of Bayelsa State, Nigeria, this jurisdiction was able to recover $17.7 million through domestic proceedings and through cooperation with authorities in South Africa and the United Kingdom. In September 2005, Alamieyeseigha was first arrested at Heathrow Airport by the London Metropolitan Police on suspicion of money laundering. An investigation revealed that Alamieyeseigha had $2.7 million stashed in bank accounts and in his home in London, as well as London real estate worth an estimated $15 million. Alamieyeseigha was released on bail and subsequently left the jurisdiction in November 2005, returning to Nigeria.

For assets in the United Kingdom, close cooperation between the Commission and the London Metropolitan Police’s Proceeds of Corruption Unit was crucial. The $1.5 million in cash seized from Alamieyeseigha’s London home was confiscated under the Proceeds of Crime Act on the basis of a court order that the assets represented proceeds of crime. In May 2006, the court ordered the funds repaid to Nigeria, and the transfer was made a few weeks later. For the bank accounts, the process was more challenging because assets
and evidence were located in the Bahamas, the British Virgin Islands, the Seychelles, South Africa, and the United Kingdom. Nigerian authorities recognized that requesting assistance from these jurisdictions could take considerable time and that orders from Nigerian courts would not necessarily be executed. In addition, the pursuit of legal proceedings in each of these jurisdictions was a daunting prospect because the Nigerian authorities had little evidence linking Alamieyeseigha to these assets and linking the assets to acts of corruption.

As a result, Nigerian authorities decided to bring civil proceedings in the United Kingdom and simultaneously pursue criminal proceedings in Nigeria. To secure evidence, the Nigerian authorities obtained a disclosure order for the evidence compiled by the Metropolitan Police in the course of its investigation. Nigeria was able to use this evidence together with Alamieyeseigha’s income and asset declaration to obtain a worldwide restraint order covering all assets owned directly or indirectly by Alamieyeseigha and a disclosure order for documents held at banks and by Alamieyeseigha’s associates. In parallel with those proceedings, the South African Asset Forfeiture Unit initiated NCB confiscation proceedings against Alamieyeseigha’s luxury penthouse. Funds were returned to Nigeria following the sale of the property in January 2007. Before a Nigerian high court in July 2007, Alamieyeseigha pleaded guilty to six charges of making false declaration of assets and caused his companies to plead guilty to 23 charges of money laundering. He was sentenced to two years in prison, and the court ordered the confiscation of assets in Nigeria. Alamieyeseigha’s guilty pleas effectively voided his defense in the civil proceedings in the London High Court; and, in December 2007, the Court issued a summary judgment confiscating property and a bank account in the United Kingdom. A judgment in July 2008 led to the confiscation of the remaining assets in Cyprus, Denmark, and the United Kingdom.
Table of Definitions

Accountability

**Definition**
The concept that individuals, agencies and organizations (public, private and civil society) are held responsible for executing their powers properly. In theory, there are three forms of accountability: diagonal, horizontal and vertical. The following examples apply to the public sector. Diagonal accountability is when citizens use government institutions to elicit better oversight of the state’s actions, and in the process engage in policy-making, budgeting, expenditure tracking and other activities. Horizontal accountability subjects public officials to restraint and oversight, or ‘checks and balances’ by other government agencies (i.e. courts, ombudsman, auditing agencies, and central banks) that can call into question, and eventually punish, an official for improper conduct. Vertical accountability holds a public official accountable to the electorate or citizenry through elections, a free press, an active civil society and other similar channels.

**Example in practice**
In Costa Rica, the existence of three branches of government, as well as two autonomous state authorities with equivalent responsibilities (electoral and auditory branches), has created horizontal accountability and allowed for a separation of powers among state agencies, which are constitutionally empowered to take action against one another when required.

Asset Recovery

**Definition**
The legal process of a country, government and/or its citizens to recover state resources stolen through corruption by current and past regimes, their families and political allies, or foreign actors.

**Example in practice**
In February 2009, the Swiss courts ruled that US$ 6 million in assets allegedly stolen by former Haitian President Jean-Claude Duvalier and held in Switzerland’s banks should be returned to the island nation after the account holders failed to prove that their funds were acquired legitimately’.

Audit

**Definition**
An internal or external examination of an organization’s accounts, processes, functions and performance to produce an independent and credible assessment of their compliance with applicable laws, regulations and audits.
Example in practice
Indonesia’s Supreme Audit Agency found US$ 40 million missing from post-Tsunami emergency funds and massive irregularities, including that the bulk of materials bought went unused and many purchases were made long after the emergency period was over. ‘Social’ or community’ audits, where local citizens tracked whether aid was delivered, were also conducted by recipient villages in Indonesia.

Civil Society
Definition
The arena, outside of the family, state and market where people associate to advance a common set of interests. Voluntary and community groups, non-governmental organizations (NGOs), trade unions and faith-based organizations commonly are included in this sphere, making the term broader than an NGO.

Example in practice
An assessment of Mali’s civil society has shown that at the grassroots level, there are numerous parents’ associations, community committees on health, women’s associations and other groups that have come together to advocate for their members’ interests vis-à-vis the government’s provision of services. National-level groups, such as those representing journalists, have also formed, including to pressure the government to better and more systematically address corruption and poverty.

Corruption
Definition
The abuse of entrusted power for private gain. Corruption can be classified as grand, petty and political, depending on the amounts of money lost and the sector where it occurs. Also see ‘grand corruption’, ‘petty corruption’ and ‘political corruption’.

Example in practice
According to a national survey in India, more than 70 percent of families that live below the poverty line have reportedly paid a bribe to law enforcement and local housing authorities.
REFERENCES

   See More

2. Southern African Development Community (SADC) Protocol against Corruption —
   See More

   See More

4. United Nations Convention against Corruption (UNCAC)
   See More