

Contribution of Just Access e.V.

Inputs on the question of the realization in all countries of economic, social and cultural rights, with a special focus on the mobilization of public resources to finance sustainable development - Human Rights Council resolution 58/9

Submitting organisation: Just Access e.V.



I. Introduction and scope

Just Access e.V. is an independent human rights organisation based in Heidelberg, Germany, specialising in public international law and access to justice. We provide pro bono legal assistance to victims of human rights violations before international, regional and domestic bodies, and pursue strategic litigation, legal research and advocacy aimed at securing effective remedies and structural change for people and communities in vulnerable circumstances.¹ Anti-corruption and asset recovery are a sustained focus of our work. Just Access is a partner of the UNCAC Coalition, engages with the Conference of States Parties' work on the recovery and return of stolen assets, and has submitted expert responses to the OHCHR consultation on corruption and human rights and to the European Union Anti-Corruption Strategy.

This submission addresses questions 1, 2, 5 and 6 of the call. It advances the argument that the recovery and return of the proceeds of corruption is one of the most under-used means available to States for mobilising the “maximum of available resources” required to finance the progressive realisation of economic, social and cultural rights (ESCR).² Based on Human Rights Council resolution 58/9, the International Covenant on Economic, Social and Cultural Rights (ICESCR), and Sustainable Development Goals 16 and 17, we argue that recovered assets should be treated, allocated and monitored as a rights-based resource, a form of redress owed to the populations harmed by corruption.

II. Recovered assets as “maximum available resources” (Question 2)

Corruption is one of the principal obstacles to the mobilisation of public resources for ESCR. As OHCHR has recognised, corruption and associated illicit financial flows divert public revenues and cripple the public budgets that should fund healthcare, housing, education and other essential services, undermining States' ability to meet their minimum core obligations and their duty to

¹ See <https://just-access.de/>

² Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 3 (1990): The Nature of States Parties' Obligations (art. 2, para. 1), E/1991/23, <https://www.refworld.org/legal/general/cescr/1990/129827>

maximise available resources under the Covenant.³ The World Bank-UNODC Stolen Asset Recovery (StAR) Initiative conservatively estimates that public officials in developing and transition countries receive bribes worth between US\$20 billion and US\$40 billion each year, a sum equivalent to 20 to 40 per cent of official development assistance.⁴ The Human Rights Council has repeatedly affirmed the negative impact of corruption on the enjoyment of human rights, most recently in resolution 59/6 (2025).⁵

It follows that recovering and returning these assets directly enlarges the pool of resources a State must, under Article 2(1) ICESCR, deploy towards the full realisation of ESCR. The World Bank has estimated that every US\$100 million recovered could fund full immunisation for four million children, or water connections for some 250,000 households.⁶ Recognising asset recovery as a pillar of domestic resource mobilisation is consistent with SDG target 16.4 (strengthening the recovery and return of stolen assets), SDG 17.1 (strengthening domestic resource mobilisation), and the Addis Ababa Action Agenda's call to develop good practices on asset return.⁷ The recovery and return of assets is, moreover, a "fundamental principle" of the UN Convention against Corruption (UNCAC), whose Chapter V requires States parties to restrain, confiscate and return the proceeds of corruption.⁸

³ OHCHR, Corruption and human rights, <https://www.ohchr.org/en/good-governance/corruption-and-human-rights>.

⁴ Stolen Asset Recovery (StAR) Initiative (World Bank/UNODC), Fact Sheet, https://www.unodc.org/pdf/Star_FactSheet.pdf; UN News, "New UN initiative launched to recover assets stolen by corrupt leaders" (17 September 2007), <https://news.un.org/en/story/2007/09/231532>

⁵ Human Rights Council resolution 59/6, The negative impact of corruption on the enjoyment of human rights, A/HRC/RES/59/6 (7 July 2025), <https://digitallibrary.un.org/record/4087080>

⁶ World Bank/UNODC, "World Bank and UNODC to pursue stolen asset recovery" (17 September 2007), <https://www.unodc.org/unodc/en/frontpage/world-bank-and-unodc-to-pursue-stolen-asset-recovery.html>

⁷ SDG target 16.4 and SDG 17.1, <https://sdgs.un.org/goals/goal16> and <https://sdgs.un.org/goals/goal17>; Addis Ababa Action Agenda, see UNODC, Asset Recovery, <https://www.unodc.org/unodc/en/corruption/asset-recovery.html>

⁸ United Nations Convention against Corruption (UNCAC), Chapter V, arts 51 and 57, <https://www.unodc.org/unodc/en/corruption/asset-recovery.html>

Where corruption has caused measurable retrogression in the enjoyment of ESCR (e.g., a closed clinic, an unbuilt school), the State's obligation is heightened. Under the Covenant, deliberately retrogressive outcomes require the most careful justification by reference to the full use of maximum available resources.⁹ A State that recovers looted assets but fails to channel them towards restoring the rights that corruption eroded has not, in our submission, discharged that obligation.

III. A human-rights-based approach to asset recovery (Questions 1, 2 and 6)

The dominant logic of asset recovery remains that of disgorgement, that is, depriving the wrongdoer of ill-gotten gains and returning funds to the treasury of the State of origin on ownership grounds. This is insufficient. It treats the State as the sole injured party and the recovered sum as fungible general revenue, leaving no guarantee that the money reaches the people whose rights were harmed and, where the original corruption was itself a governance failure, returning funds to a general budget without safeguards risks re-exposing them to capture.

A human-rights-based approach begins from the premise that the populations deprived of hospitals, schools, clean water and social protection by corruption are rights-holders entitled to an effective remedy. The right to an effective remedy is a foundational guarantee of the Universal Declaration of Human Rights (Article 8).¹⁰ UNCAC itself embeds a remedial logic, since Article 35 obliges States parties to ensure that those who have suffered damage as a result of corruption can obtain compensation, and Article 57 directs the return and disposal of confiscated assets with regard to prior ownership and the rights of victims.¹¹ Yet these provisions remain among the least

⁹ CESCR, General Comment No. 3 (1990), para. 9, <https://www.refworld.org/legal/general/cescr/1990/129827>

¹⁰ Universal Declaration of Human Rights (1948), art. 8, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

¹¹ UNCAC, arts 35 and 57, <https://www.unodc.org/unodc/en/corruption/asset-recovery.html>; on art. 35 see UNCAC Coalition, Asset Recovery, <https://uncaccoalition.org/learn-more/asset-recovery/>

implemented in the Convention. In the large majority of States parties, no person injured by corruption has ever been compensated.¹²

Reconceiving recovered assets as redress has practical consequences for allocation. A rights-based allocation would, so far as feasible:

1. identify the ESCR harms caused by the underlying corruption;
2. direct recovered funds towards remedying those harms and the communities that bore them; and
3. measure the contribution of the returned assets to the progressive realisation of the affected rights.

The GFAR Principles for the Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases (2017) already provide that recovered assets should, where possible, benefit the people of the nations harmed by the corrupt conduct (Principle 5) and advance UNCAC's objectives of repairing the damage done by corruption and achieving development goals (Principle 6).¹³

At the same time, tracing specific ESCR harms to specific acts of corruption is not always possible, particularly in cases of grand corruption or State capture spanning years. Where such tracing is not feasible, recovered funds should still be ring-fenced and deployed transparently for the general advancement of ESCR (for example through earmarked social spending).

IV. Participation, transparency and accountability in allocating recovered assets (Questions 5 and 6)

If recovered assets are a form of redress, the affected population must have a voice in how they are used, and the public must be able to verify that they were not lost twice. Two challenges recur.

¹² StAR Initiative, Victims of Corruption: Back for Payback (2023); UNCAC Coalition, Asset Recovery, <https://uncaccoalition.org/learn-more/asset-recovery/>

¹³ GFAR Principles for the Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases (2017), Principles 5 and 6, <https://star.worldbank.org/sites/star/files/the-gfar-principles.pdf>

The first is participation. Decisions on the disposition of recovered funds are typically taken between governments behind closed doors, excluding the communities with the strongest claim to be heard. The GFAR Principles respond directly, encouraging the inclusion of civil society, non-governmental and community-based organisations in the return process, including in identifying how harm can be remedied and in deciding on disposition (Principle 10).¹⁴ The BOTA Foundation in Kazakhstan illustrates what this can achieve. Between 2009 and 2014, more than US\$115 million in assets associated with corruption was returned through an independent foundation overseen by civil society and the World Bank to poor children and their families via cash transfers, scholarships and social services, reaching over 208,000 beneficiaries.¹⁵

The second challenge is accountability. Without monitoring, returned assets can be re-diverted. The GFAR Principles require transferring and receiving countries to guarantee transparency and accountability, with information on the transfer and administration of returned assets made public in both countries (Principle 4), and encourage case-specific agreements under UNCAC Article 57(5) to secure transparent use, administration and monitoring (Principle 8).¹⁶ The 2017 tripartite arrangement among Nigeria, Switzerland and the World Bank for the return of approximately US\$321 million in Abacha assets (conditioned on World Bank monitoring and use for targeted cash transfers) shows that such safeguards are workable in practice.¹⁷

V. Recommendations

Just Access respectfully recommends that the report, and through it States, should:

1. Recognise asset recovery and return as an integral component of domestic resource mobilisation for the realisation of ESCR, consistent with Article 2(1) ICESCR, UNCAC Chapter V and SDG targets 16.4 and 17.1.

¹⁴ GFAR Principles (2017), Principle 10, <https://star.worldbank.org/sites/star/files/the-gfar-principles.pdf>

¹⁵ World Bank StAR Initiative, Management of Stolen Assets, <https://star.worldbank.org/focus-area/management-stolen-assets>

¹⁶ GFAR Principles (2017), Principles 4 and 8, <https://star.worldbank.org/sites/star/files/the-gfar-principles.pdf>

¹⁷ World Bank StAR Initiative, Management of Stolen Assets, <https://star.worldbank.org/focus-area/management-stolen-assets>

2. Adopt legal frameworks for the disposition of recovered assets that prioritise victims and rights-based allocation, giving full effect to UNCAC Articles 35 and 57 and to the right to an effective remedy.
3. Ensure the participation of affected communities and civil society in decisions on the use of recovered assets, in line with GFAR Principle 10, including through inclusive consultation and independent oversight.
4. Guarantee transparency by publishing accessible information on the amounts recovered, their allocation and their end use, following GFAR Principle 4 and, where appropriate, Article 57(5) return agreements.
5. Establish mechanisms to monitor and evaluate whether recovered assets are contributing to the progressive realisation of ESCR, disaggregated by affected population groups, and report the results publicly.

Just Access e.V. would welcome the opportunity to provide further information.

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