

# Non-State Actors in Asset Recovery

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Thelesklaf D. / Gomes Pereira P. (eds)

## Non-State Actors in Asset Recovery

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**T**his is a timely book. Both ‘asset recovery’ and ‘non-state actors’ are relatively new concepts of law and politics. Asset recovery is an activity mandated by Chapter V of the UNCAC which today has 154 parties. Under the relevant provisions, state parties have to trace, freeze and seize proceeds of criminal corruption and to return property to prior legitimate owners. NSAs – tellingly – escape a positive definition. They are actors which are not states. Usually, they are divided into three types: Inter-governmental actors (international organisations, such as the World Bank), non-governmental and non-for profit actors (NGOs), and business actors (including banks and transnational corporations). These three types of actors represent three societal spheres: the governmental sphere, civil society, and the corporate sphere.

The adoption and entry into force of the UNCAC manifests that the international community realised corruption to be one of the most important obstacles to sustainable development and the rule of law. Combating corruption is therefore a high priority of global politics and governance, ultimately in the interest of global peace, the international rule of law, prosperity, and human well-being. In the past years, particularly corrupt regimes have broken down in various regions of the world. The current challenge is, however, to identify, trace, seize, and repatriate stolen money which has often been transferred to well-known financial centres such as Switzerland. The challenge is both practical and legal. It is not sufficient to identify accounts and to lay hands on money in a physical sense, but to respect the technicalities of the mutual legal assistance procedures, a due process, property rights, and possible good faith of the various institutions involved. Asset recovery must, put differently, be effective, legal, and legitimate.

The currently quite bleak progress in asset recovery suggests that the state and purely governmental authorities are not capable of conducting asset recovery processes on their own. So how can NSAs, ranging from inter-governmental bodies over specialised NGOs and the media to the banking sector, contribute to the effectiveness and legitimacy of asset recovery? A key word seems to be information. Most of the contributions of this book highlight the NSAs’ particular function of gathering and disseminating information. It is the specialist expertise concerning particular countries, the technicalities of financial transactions, and of legal procedures which the various NSAs furnish. However, the information they possess must also be processed, put together, and used reasonably. If NSAs can, through their contribution,

render asset recovery more effective, they might cause legitimacy problems. It is, for example, doubtful whether the monitoring of the spending of money recovered from an ousted dictator by the new government of a developing country can be legitimately entrusted to an NGO which does not enjoy formally democratic credentials.

The contributions in this book raise and explore these and further questions. The volume explores different aspects of the involvement of NSAs in asset recovery processes from different disciplinary perspectives, and the chapters are informed by the diverse practical experience of the contributors. The editors themselves are leaders of the Basel Institute on Governance, an independent, non-for-profit think tank affiliated to the University of Basel, which is, in one of its branches, specialised on asset recovery. Both editors have hands-on experience in asset recovery which guided their choices of topics and contributors. This book seeks not only to spearhead interdisciplinary research on the matter of asset recovery, but also to benefit law and policy makers through the sharing of insider-knowledge, and to inspire legal reform on various aspects of mutual legal assistance. 'Non State Actors in Asset Recovery' is hoped to contribute to making asset recovery a functioning and valuable tool of global governance.