

## ASSET RECOVERY

### *Repatriating Africa's looted billions*

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A recent European Commission report estimated that “stolen African assets equivalent to more than half of the continent’s external debt are held in foreign bank accounts”.<sup>1</sup> Following the international legal precedent set by the Holocaust Claims Commission in recovering assets stolen from the Jewish people by the Nazi regime, some African leaders have begun to focus on the repatriation of these looted African assets as an important element of anti-corruption efforts. Asset recovery is fraught with the complicity of the banks involved, the navigation of a costly international legal labyrinth and the fact that those most implicated in public looting usually have the most power and influence. This article addresses the history and context of asset recovery on the continent. It traces the experiences of two African states, Kenya and Nigeria, that have attempted to repatriate some of their lost wealth while facing significant obstacles at home and abroad.

#### Introduction

The recent dropping by the G8 of US\$40 billion in debt owed by 18 of the world’s poorest countries was widely hailed as a victory for Africa.<sup>2</sup> However, a European Commission report estimated that “stolen African assets equivalent to more than half of the continent’s external debt are held in foreign bank accounts”,<sup>3</sup> some of which are located in the same countries whose generosity was so widely applauded. Following the precedent set by the Holocaust Claims Commission in recovering assets stolen from the Jewish people by the Nazi regime, some African leaders have begun to focus on the repatriation of these looted African assets as an important element of anti-corruption efforts.

Asset recovery is not an easy task and is fraught with secrecy laws, the complicity of

the banks and governments involved, and the navigation of a costly international legal labyrinth. Additionally, recovery attempts are complicated within African countries themselves, because those who are most implicated in public looting are usually those with the most power and influence. Thus it is an unenviable task for any government, let alone one operating in an environment with few anti-corruption institutions and often limited state capacity. Yet the potential rewards, in the form of the repatriation of money into development-starved countries, make asset recovery an attractive undertaking.

Although asset recovery cannot be separated from the broader challenge of the battle against corruption, it does occupy a distinct place in anti-corruption activities with a specific set of problems and concerns. To address these issues this article will look at the experiences of two

African countries that have attempted to repatriate some of their lost wealth, and the practical challenges that they have faced.

## Contextualisation

To address the phenomenon of asset recovery it is necessary to contextualise the issue. There is a tendency to align grand corruption and public theft with post-colonial African regimes, yet it is a linear experience that has merely undergone metamorphoses in response to global changes. While asset recovery attempts are a fairly new phenomenon in anti-corruption efforts, the looting of African assets and their stashing in Northern financial institutions, museums, etc, is an entrenched African experience. Colonial governments extracted the raw materials for European industrial expansion through imperial force and decree, with minimal reinvestment in the countries they claimed to be administering. Much of the wealth of modern Europe was built on these colonial assets. The slave trade could also, albeit rather coldly, be classified as the looting of African assets in the form of human labour.

In post-colonial times, the extraction of African assets has continued through a variety of forms, often and unfortunately with the collaboration of the African elite.<sup>4</sup>

A significant element in the asset-looting matrix is foreign aid. In the African context, foreign aid during the Cold War was linked to support for either the Western or the Soviet bloc.<sup>5</sup> With global strategic interests at play, donor governments were often more than willing to overlook pillaging of aid and state coffers in return for continued support from despotic leaders, Mobutu Sese Seko being a classic case. During his three decades in power, he received an estimated amount of US\$2 billion in aid from the US alone: the “bulk [of which] wound up in his pocket, for private planes, European chateaux, shopping sprees, and other hallmarks of the high life”.<sup>6</sup>

Additionally, multinational companies, particularly those in the oil or construction industry, provide bribes to grease the wheels of government contracts; contracts which themselves are often bloated as a reciprocal back-

scratch.<sup>7</sup> Northern export credit agencies who provide funds to companies trading overseas as a means of promoting business expansion, are equally to blame for underwriting companies that use bribery as a standard means of business.<sup>8</sup> This situation was embarrassingly revealed in the prosecutions surrounding the now-infamous Lesotho Highlands Water Project,<sup>9</sup> and is now illegal under the 1999 Organisation for Economic Co-operation and Development (OECD) convention against the bribery of foreign public officials.<sup>10</sup> Northern financial institutions are also implicated in accepting blatantly suspicious funds. For example, red flags should be waved wildly when the 26-year-old son of a known African despot arrives at your bank to deposit US\$200 million, as occurred with the son of Sani Abacha at a private Swiss bank, which accepted the money virtually without question.<sup>11</sup> In October 2000, 12 of the world’s biggest banks committed themselves to various due diligence regulations through the Wolfsberg Principles;<sup>12</sup> yet it remains to be seen whether these will have a significant impact on banking practices.

Thus while it is tempting to view asset repatriation and the looting of public assets merely as the activities of a few delinquent African statesmen, these occur within a distinct historical context and with the complicity of major players in the global system. The point of introducing the actors who provide the bread and butter for corrupt rulers is not to absolve African despots themselves of the significant share of blame that they carry. Rather it should merely emphasise that the looting of African assets occurs in a very specific historical, material and moral global framework involving a variety of factors and actors — as opposed to the standard image of a single despot siphoning off vast quantities of funds.

## Asset recovery: Why now?

Having placed asset looting in its historical context, why should leaders attempt to reclaim their assets now? The answer is related to the broader battle against corruption. In the mid-1990s, the detrimental effects of corruption emerged as a chief concern among governments

and multilateral institutions around the globe, for a number of reasons, including the fall of the Soviet Union and the subsequent exposure of a high level of institutionalised corruption.<sup>13</sup> Asset recovery rose to the fore along with the broader trend of the rise in anti-corruption activities. More specifically relevant, but in a different context, the Holocaust Victims Asset Litigation against Swiss banks, begun in 1997, saw the repatriation of US\$269 million in Jewish assets looted by the Nazi regime and stored since World War II in Swiss banks, and set a groundbreaking legal precedent in terms of asset recovery.<sup>14</sup>

It was in this context of increased concern over the effects of corruption, along with the success of the Holocaust Claims Commission, that two key multilateral conventions against corruption were adopted, namely the 2003 United Nations Convention against Corruption and the 2003 African Union Convention on Preventing and Combating Corruption. Both include significant sections on asset recovery procedures and practices, giving the issue an institutional framework and multilateral backing for the first time. Peter Eigen, chairperson of Transparency International (TI), noted that: "The UN Convention is ground-breaking in including for the first time in an international legal instrument the concept, description and processes for international cooperation in the recovery of ... stolen assets."<sup>15</sup> From the civil society arena, the 2001 adoption of the Nyanga Declaration<sup>16</sup> on the Recovery and Repatriation of Africa's Wealth by the representatives of TI in 11 African countries focused additional attention on the issue.

Additionally, the global focus on terror has led to a related focus on terrorist funding, addressed through such recommendations as the Eight Special Recommendations on Terrorist Financing produced by the OECD's Financial Action Task Force.<sup>17</sup> This has had corollary benefits for anti-corruption campaigners by highlighting the ease with which significant amounts of money can be moved and introducing measures aimed at restricting and monitoring the transference of illicit wealth.

Thus various factors have brought the issue of contemporary asset recovery to the table,

and in Africa repatriation efforts have been spearheaded by Nigeria and Kenya, whose campaigns will now be examined in more detail.

## CASE STUDIES

The following two case studies document the differing fortunes of two African states that have attempted much-publicised asset recovery campaigns. Nigeria achieved what I will call a qualified success, recovering a significant amount of money, but not without having to make a somewhat unsatisfactory deal. Kenya, on the other hand, seemed to be on a productive track before an apparent implosion of political will left the asset recovery campaign floundering. In both case studies I outline the situations and mechanisms that have led to such vast looting; the political contexts in which asset recovery has occurred; and the methods employed by the governments to try to recover these funds. Corruption on such a scale that it has macroeconomic implications – in the form of bank closures, inflation rate hikes and similar economic phenomena – is categorised as looting. The incidences of corruption examined next are in reality incidences of looting.

### Abacha and corruption in Nigeria

The figurehead of looting in Nigeria is General Sani Abacha. He took control of the country in a coup in 1993 and during the next five years drove Nigeria into the ground. By the time of his death – which some called his 'one signal service for Nigeria'<sup>18</sup> – in June 1998, Nigeria was diplomatically isolated, had been ousted from the Commonwealth, and was struggling under sanctions – all the result of human rights abuses committed under the Abacha regime, including the imprisonment and murder of human rights activists such as Ken Saro-Wiwa.<sup>19</sup>

Olusegun Obasanjo, a retired general and a political prisoner under the Abacha regime, was elected president, ending 16 years of military rule. Upon his inauguration as president, Obasanjo

announced that combating corruption would be the centrepiece of his administration: "For corruption, Transparency International awarded us the World Cup ... I'm aiming to put an end to corruption in Nigeria – and there will be no sacred cows."<sup>20</sup> This was not an easy route to choose. The entrenched nature of corruption in the populous country, and the fact that many of the most powerful and influential Nigerians were also the most corrupt, made his task exceptionally difficult, and, as one commentator dryly put it, 'not risk-free'.<sup>21</sup> The National Assembly degenerated into a running battle of allegations and counter-allegations between ministers, paralysing attempts to pass effective anti-corruption legislation and making reform grindingly slow.<sup>22</sup>

Although investigating public officials within Nigeria proved exceptionally difficult, delving into the past despotic Abacha regime and shifting the focus of investigations to institutions outside Nigeria proved far more successful. Abacha – discredited, despised and dead – was a useful target against which all Nigeria could unite, even those threatened by domestic anti-corruption campaigns. The redressing of past wrongs through reclaiming looted Nigerian money transcended the ethnic and religious rivalries that constitute a significant portion of Nigerian politics and contributed to shoring up Obasanjo's support. Viewed in this light, asset recovery can be as much a political tool as an economic one.

### ***The investigation***

As the investigation into Abacha's dealings continued, the full extent of his looting emerged. Obasanjo publicly estimated that Abacha had "siphoned \$2.3 billion from the Treasury, awarded contracts worth \$1 billion to front companies and [taken] \$1 billion in bribes from foreign contractors".<sup>23</sup> Obasanjo's national security adviser assumed the role of forensic auditor and travelled around the globe, from Europe to America, from Kuwait to Lebanon,<sup>24</sup> following the trail left by Abacha's money. Abacha was found to have accounts in Luxemburg, Liechtenstein and Jersey, in the Channel Islands,<sup>25</sup> in America,<sup>26</sup>

and over 140 accounts in Switzerland.<sup>27</sup> While relatively few funds were found in Britain, the electronic footprints of more than US\$1.3 billion were unearthed.<sup>28</sup> Indeed, a Swiss investigating committee discovered that more than half of the money in Swiss accounts had been laundered through Britain and a further third through the United States, both countries that pay extensive lip-service to condemning the scourge of money laundering.<sup>29</sup> On hearing this, Obasanjo launched a scathing attack on the complicity with which the banks had aided and abetted the looting of Nigeria: "It is morally reprehensible, unjust, unfair and against all established human values to engage in actions that actually encourage corruption in poor nations to fatten your own country ... The thief and the receiver of stolen items are guilty of the same offence."<sup>30</sup>

In response to this criticism, the Swiss authorities seem to have been eager to get their banks to cooperate. Indeed, the notorious 'gnomes of Zurich'<sup>31</sup> proved surprisingly willing to assist. This was undoubtedly under pressure from their government, which stated: "The mere fact that significant assets of dubious origin, from people close to former Nigerian President Sani Abacha, were deposited at Swiss banks is highly unsatisfactory and damages the image of Switzerland as a financial centre."<sup>32</sup> They were still smarting from embarrassing disclosures of their lax banking regulations in 1998 when it emerged that Swiss banks had handled accounts belonging to Slobodan Milosevic, Jean-Claude 'Baby Doc' Duvalier and Mobutu Sese Seko<sup>33</sup> – not to mention the major damage their reputation suffered as a result of the Holocaust claims.

In return for assurances that the human rights of the Abacha family would not be compromised,<sup>34</sup> Swiss authorities agreed to cooperate fully, freezing all assets linked to Abacha and "temporarily [lifting] the lid on the country's banking secrecy [and handing] over bank documents concerning relatives of the former dictator".<sup>35</sup>

Indeed, the relevant governments seem to have been extremely cooperative: along with the Swiss, Obasanjo received 'pledges of support'<sup>36</sup> from US President Bill Clinton and various European governments; the Federal

Bureau of Investigation (FBI) and the US Attorney General's Office opened their own investigations; and a London judge prevented Citibank from closing Abacha's accounts – essentially washing their hands of their dealings with him – and forced them instead to freeze all his British assets.<sup>37</sup> Thus the problems in this particular case did not come from intergovernmental cooperation – in fact the fiercest opposition to Obasanjo's plans came from the Abacha family themselves.

### ***The deal***

Although a significant portion of their known assets had been frozen, the family was well enough resourced to execute and finance a crippling legal battle against the Obasanjo government, bogging down attempts at swift and efficient asset recovery through legal arguments and appeals.<sup>38</sup> Fearing the fate of the Philippines government, which was paralysed by similar battles brought against it by the Marcos family and consequently saw “lawyers’ fees [eat] up a good portion of whatever the Filipinos had hoped they would eventually get”,<sup>39</sup> the Nigerian government cut a deal.

The out-of-court settlement between the Nigerian government and the Abacha family allowed the family to keep \$100 million. This sum left them with an overall asset value of US\$300 million,<sup>40</sup> a tidy figure in a country with an annual per capita income of \$1,000.<sup>41</sup> In return for this generous golden parachute, the Abacha family agreed to return \$1 billion to Nigeria, equivalent to nearly 9 per cent of Nigeria's 2004 national budget.<sup>42</sup> Accordingly, \$535 million was released from Swiss banks, \$200 million from banks in Britain, and \$300 million from banks in Luxembourg and Liechtenstein.<sup>43</sup>

While the government probably made a smart move by avoiding a long drawn-out and essentially counter-productive trial process, that the Abachas were “allowed to profit from looting the treasury is obviously going to haunt President Obasanjo”.<sup>44</sup> What became of the rest of the money looted from the treasury remains a mystery, and thus Nigeria's asset recovery campaign can at best be considered a qualified

success. However, when viewed next to the experience of Kenya, the Nigerian case seems to be a beacon for African asset recovery, in that at the very least a significant portion of the funds were returned.

### **The Kenyan experience**

The Kenyan case shares many of the hallmarks of the Nigerian case: a ruler who enriched himself on the back of his country's poverty; a new leader promising an end to corruption, and a widely popular drive to retrieve the funds stolen by the previous regime, most notably looted in the infamous Goldenberg Affair. Yet the Kenyan case differs in a number of key areas, the most significant being the way that the campaign ran out of political steam before any funds were recovered. Having chosen to pursue justice and opting not to attempt any deals, to date Kenya has found itself bogged down in stalled inquiries and legal procedures.

### ***Corruption in Kenya and Moi***

When the country received independence from the British in 1963, Kenya's future looked bright. Kenya was a well-resourced state and under liberation leader Jomo Kenyatta maintained a GDP growth of around 8 per cent<sup>45</sup> throughout the 1960s. Although Kenyatta is credited with introducing the seeds of rot into Kenyan institutions, it was only after his death in 1978 that Kenya began to materially and noticeably deteriorate. Daniel arap Moi came to power and, as respected Kenyan anti-corruption expert John Githongo puts it, oversaw “the systematic destruction of our institutions”.<sup>46</sup> By 2001 Kenya was losing around US\$1 billion a year to corruption,<sup>47</sup> the economy had stagnated and was shrinking at a rate of 3 per cent a year,<sup>48</sup> and unemployment was at 70 per cent. Additionally, international aid had been cease, owing to rampant corruption.<sup>49</sup>

Moi himself, like Abacha in Nigeria, had amassed a massive fortune while his country deteriorated: with seven palatial dwellings in Kenya and known associations with thirty Kenyan business firms, his personal wealth has been described simply as ‘fabulous’.<sup>50</sup> Of

the amount looted during Moi's presidency, Kenya's anti-corruption commission estimates that US\$3 billion is still hidden in overseas bank accounts<sup>51</sup> – an amount equal to almost 9 per cent of Kenya's 2004 GDP.<sup>52</sup>

### ***Kibaki and asset recovery***

Moi hung onto power resolutely and without any serious challengers, even after he allowed nominally multi-party elections to resume in 1992.<sup>53</sup> But this all changed in 2003. Mwai Kibaki was voted into office in a landslide,<sup>54</sup> under the banner of the National Rainbow Coalition (NARC). In the euphoric post-Moi mood – encapsulated by the NARC slogan 'Everything is possible without Moi'<sup>55</sup> – Kibaki, like Obasanjo in Nigeria, made rooting out corruption a cornerstone of his administration. Kibaki set about revamping the 'toothless watchdogs'<sup>56</sup> that had sufficed as anti-corruption agencies under Moi and passed two graft-busting bills.<sup>57</sup> In one fell swoop he fired 6 of the 12 – man Appeal Court, 17 of 44 High Court judges and 82 of the country's 254 magistrates.<sup>58</sup> Impressed, donors resumed aid and the World Bank, International Monetary Fund (IMF) and TI pledged their support to help him root out corruption.<sup>59</sup>

As a government official would later comment, "The Narc Government undertook to deal with [corruption in] the past and with it came ... asset recovery."<sup>60</sup> Early investigations into corruption during the Moi regime revealed indications of widescale looting of the public treasury, and recovery of this money came to feature prominently in anti-corruption efforts.

In an attempt to track down some of the country's lost wealth, Kenyan anti-corruption officials hired Kroll Associates, a US-based business investigation and risk consultancy company.<sup>61</sup> Kroll has a history that includes tracing the illicit accounts of Saddam Hussein and other dictators, and is currently tracking down the terrorist funds of Osama bin Laden.<sup>62</sup> Within a few months of its employment Kroll had disclosed "illegal transactions by state officials worth more than US\$1 billion, almost one tenth of GDP".<sup>63</sup> The focus of their investigation was the Goldenberg Affair, a giant

scandal that emerged in the early 'nineties and led to severe macroeconomic distortions.

### ***The Goldenberg Affair***

The Goldenberg Affair and its related schemes rippled out in broadening circles of increasing complexity, spawning scams and 'insidious rip-offs'<sup>64</sup> that led to the 'near-collapse'<sup>65</sup> of the Kenyan economy. The core scheme began in the early 'nineties, while the government was running an export compensation scheme to promote export diversification and gain much-needed foreign exchange.<sup>66</sup> During this time, a relatively unknown Kenyan businessman named Kamlesh Pattni presented the government with a scheme to provide the country with much-needed foreign revenue.<sup>67</sup> In return for a monopoly on gold and diamond exports and government compensation of 35 per cent – 15 per cent higher than the capped norm – on his exports, he maintained that he would remit \$50 million annually to the Central Bank of Kenya.<sup>68</sup> This was a strange proposal considering that the legitimate gold industry in Kenya is tiny and informal, and small alluvial deposits in a few areas in the west of the country produce no more than 100 kg of gold a year.<sup>69</sup>

However, the proposal was accepted, and what then transpired was an audacious scam that would be farcical, had it not been so effective. Without examining the bureaucratic and financial elements of the scam, suffice it to say that Pattni submitted export compensation documents for exports that did not exist to companies abroad that did not exist, who 'paid' with fictional forex. Indeed, the only thing that seems to have existed was the vast amount of money Pattni received in export compensation.<sup>70</sup> Yet for all their obvious falsity, each time concerns arose, they appear to have been steamrollered from above, and the compensation claims were honoured. Thus Pattni – and complicit government officials – made a fortune out of the scheme.

Kroll was able to trace US\$1 billion worth of foreign assets directly linked to Goldenberg. This included shares in London hotels and funds generated through foreign exchange transactions

at leading international banks, including Citibank and Union Bancaire Privée in Switzerland – both of which were also implicated in the laundering of Nigerian public funds looted by Abacha.<sup>71</sup>

### ***The inquiry***

Rather than go directly after the money, as Obasanjo had, Kibaki ordered an inquiry into the affair. Kibaki aimed to unravel the scandal and have its findings serve as groundwork for future prosecutions against the individuals involved. During the commission, Moi himself was consistently the elephant in the courtroom.<sup>72</sup> Pattni implicated Moi in no uncertain terms, claiming to have taken money to him in a briefcase.<sup>73</sup> Additionally, Moi's son Gideon and stepdaughter June were implicated.<sup>74</sup> Moi denied these allegations – yet refused to testify to the commission.<sup>75</sup> The Kenyan High Court ordered Moi and other influential Kenya African National Union (KANU) ministers who were implicated to testify to the commission, yet this was overturned by the Court of Appeal, amid allegations that the Court of Appeal judges were not entirely impartial.<sup>76</sup> The commission “adjourned indefinitely ... to decide on the way forward”.<sup>77</sup> When it resumed, its credibility was dented and the message that certain people were still untouchable had already been sent.

The commission's report has not yet been finalised and is due to be released sometime in 2005. It has been delayed numerous times already, owing to apparent “attempts by interested parties in both past and present governments to influence the findings of the Goldenberg Commission”.<sup>78</sup> With allegations of tampering even before the report has been released, it would appear that little will be gained from it, least of all the recovery of some of the stolen assets.

### ***Loss of political will***

Indeed, the apparent failure of the Goldenberg Commission was part of a collapsing of the euphoric anti-corruption motivation that surrounded Kibaki's election victory. In the same week in February 2005 that the Goldenberg Commission was wrapping up its

inquiry, John Githongo, the man appointed to lead the anti-corruption battle, resigned.

Githongo was head of TI-Kenya and a member of the TI International Board before being appointed the first Permanent Secretary for Governance and Ethics in the President's Office and leading the campaign to stamp out corruption.<sup>79</sup> Githongo tendered his resignation by fax from London, giving no official reasons for his resignation – which was accepted almost immediately – other than stating that he “was no longer able to continue serving the government of Kenya”.<sup>80</sup> Gladwell Otieno, who had taken over TI-Kenya when Githongo left, added that Githongo was in “in great personal danger”<sup>81</sup> at the time of his resignation.

Githongo's resignation came on the back of renewed criticism by the British High Commissioner, Edward Clay, who the year before had famously accused Kenyan officials of ‘vomiting on the shoes’<sup>82</sup> of donors. The week before Githongo's resignation, Clay handed Kibaki a dossier with information on twenty corruption scandals that had occurred since the NARC government came to power.<sup>83</sup> Adding to the furore, Kenyan academic Peter Kagwanja of the International Crisis Group alleged that grand corruption had not only not diminished, but had increased since Kibaki had come to power.<sup>84</sup> He added that “Githongo was seen as the best person to root out corruption. His exit signifies the government's abject failure to do so”.<sup>85</sup>

Although the NARC government made some attempts at damage control, it was clear that their credibility was irreparably tarnished. While the anti-corruption campaign has continued in name in Kenya, it seems that in reality it has failed, and with it all hopes of repatriating Kenya's looted wealth have currently evaporated. As more time passes, it is less likely that money will be traced and funds returned, making the reform and restitution of the Kenyan asset recovery campaign an urgent undertaking.

### **Comparison**

It may seem strange to have chosen Kenya as a case study of asset recovery, since it seems unlikely that it will repatriate any of its assets.

Kenya located missing funds, set up a commission to unravel the scandals and bring to justice those responsible, obtained the assistance of the international community and the services of a crack investigative unit, yet was still unable to repatriate a single cent. Despite the existence of multilateral conventions to help and guide it, it was at home and within its own judiciary that Kenya was faced with most resistance. Those implicated were still powerful enough to stall investigations, influence commission reports and threaten lives.

Nigeria avoided this through forgoing justice and making a deal. While unsatisfactory, it was successful in terms of pure monetary gain. Taking the Kenyan approach in an environment where corruption is endemic, the judicial system is tainted, and the web of those implicated is so wide is possibly doomed to failure. A commission involving the sheer number of people that the Goldenberg Commission involved – including 102 witnesses and 55 lawyers<sup>86</sup> – is bound to be open to manipulation and is a poor starting point for asset recovery campaigns. Furthermore, the Kenyan emphasis on how the money was taken and the in-depth bureaucratic approach are again open to manipulation and could see cases dragging on for years, costing millions in taxpayers' money.

Thus from the experience of Kenya and Nigeria, and other non-African states such as the Philippines, it would seem that countries embarking on asset recovery campaigns face a decision between making deals and pursuing justice. Simply put, states should not have to choose between justice and monetary gain. Offering golden parachutes to corrupt individuals as a means of retrieving funds is tantamount to rewarding criminal actions. Likewise, judicial efforts should not preclude financial gain. The challenge for external actors is to assist states in their repatriation efforts to help close the gap between justice and repatriation of funds.

## Conclusion

In terms of African asset recovery, the continent needs to learn from previous experiences in order to have success in future repatriation efforts. The experiences of Kenya and Nigeria

demonstrate the difficulties likely to be faced by countries embarking on similar campaigns. Therefore these and any subsequent cases need to be fully documented and publicised to allow other states to benefit, a role suited to civil society groups. Sustained and increasing pressure needs to be placed on corrupt leaders through asset recovery campaigns that see both money being reclaimed and justice being done. Leaders need to be made aware that they will be made accountable financially and legally – even if it is only at some point in the future.

Additionally, governments that attract looted funds must ensure effective oversight of their own financial institutions to make sure that their banks exercise increased caution when handling monies belonging to so-called politically exposed persons (PEPs) – senior political figures and their families. Government oversight and PEP scrutiny are provided for by the UN Convention against Corruption, thus an emphasis should be placed on enforcing this.

Ultimately, the major obstacles to asset recovery campaigns will come from internal state capacity, political will and funding constraints. While it is difficult for external actors to initiate an asset recovery campaign, where the will exists, states should be assisted through capacity building and funding. In terms of these two issues, the continent could benefit from the multilateral framework provided by the African Union (AU). An asset recovery advice bureau under the auspices of the AU could offer skilled assistance on how to manage and direct a repatriation campaign. Both Kenya and Nigeria suffered from a lack of technical and legal expertise during their campaigns, and both were forced to outsource various aspects of their investigations to skilled and costly international personnel.<sup>87</sup> A small group of trained AU personnel could facilitate interaction between countries' legal systems, assist with forensic auditing, and recommend ways of retrieving funds. A state that wanted to pursue stolen assets could approach the unit for guidance and case management, enabling a more efficient and cost-effective campaign. An AU unit with cumulative knowledge built up through asset recovery campaigns in

states around the continent would be immensely valuable to the AU and to the continent as a whole.

## Notes

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