

AJIL

# American Journal of International Law

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### **Flexible Institution Building in the International Anti-corruption Regime: Proposing a Transnational Asset Recovery Mechanism**

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Asset recovery is a fundamental principle of anti-corruption law, without which the financial damage from corruption cannot be repaired. Yet recovering assets is notoriously difficult and time-consuming, and the United Nations Convention Against Corruption provides little technical or institutional support to facilitate such returns. To remedy this, we propose the creation of a transnational asset recovery mechanism that could provide myriad services to states on upon request, including gathering and publishing information, providing technical assistance and capacity-building, helping to conclude agreements on asset return, and monitoring returned funds. Theoretically, we introduce the concepts of customizability and selectability to explain why a flexible transnational asset recovery mechanism has advantages over more formal international institutions, such as an international anti-corruption court. These benefits include lower financial and political costs, enhanced adaptability, and a greater likelihood of enhancing interstate cooperation regarding asset returns.

### **Revisiting Coercion as an Element of Prohibited Intervention in International Law**

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International law prohibits states from intervening in the internal and external affairs of other states, but only if the method of intervention is coercive. This Article argues that coercion can be understood in two different ways or models. First, as coercion-as-extortion, a demand coupled with a threat of harm or the infliction of harm, done to extract some kind of concession from the victim state—in other words, an act targeting the victim state's will or decision-making calculus. Second, as coercion-as-control, an action materially depriving the victim state of its ability to control its sovereign choices. This may be done even through acts like cyber operations that the victim state is entirely unaware of. The Article argues that many of the difficulties surrounding the notion of coercion arise as a consequence of failing to distinguish between these two different models.

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