

# **HUMAN RIGHTS LAW AND VICTIM-CENTERED REMEDIES FOR KLEPTOCRACY**

Richard Messick

Geneva, February 2018

# Kleptocrats

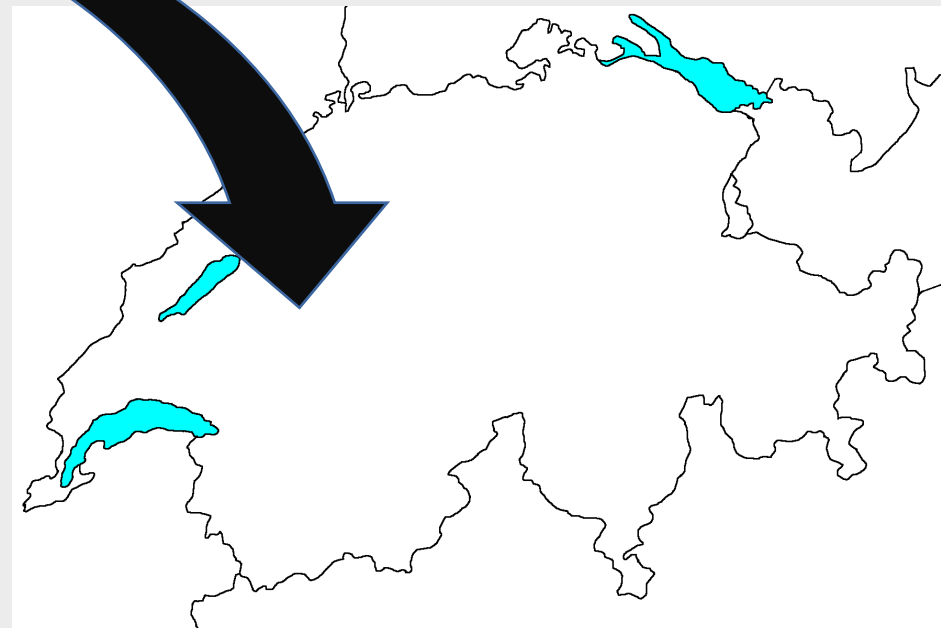


# Kleptocracy: How it Works

Kleptocrat



Haven State



Victim State



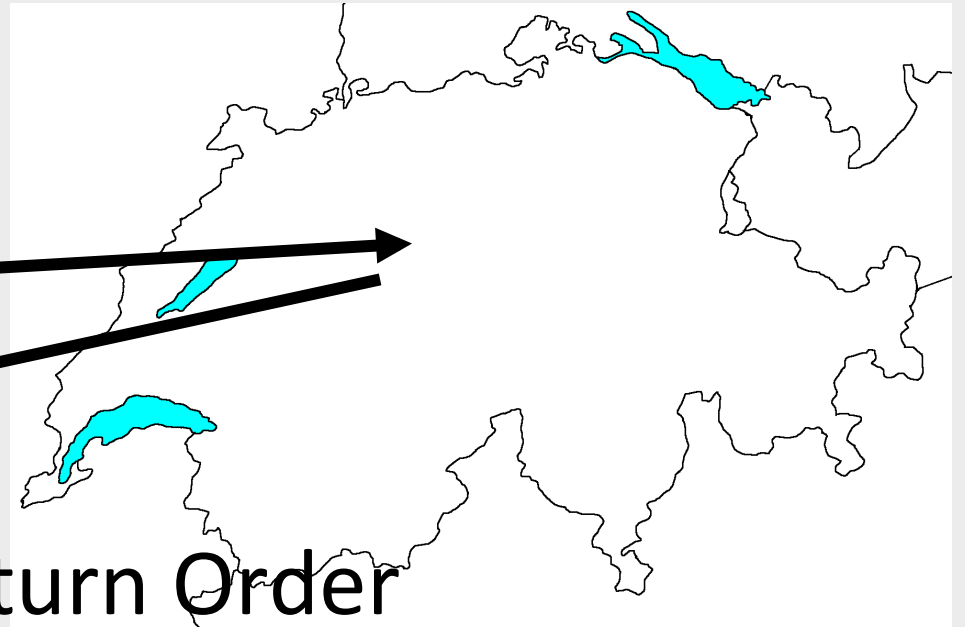
# UNCAC Asset Recovery: Vision

New Ruler



Confiscation Order

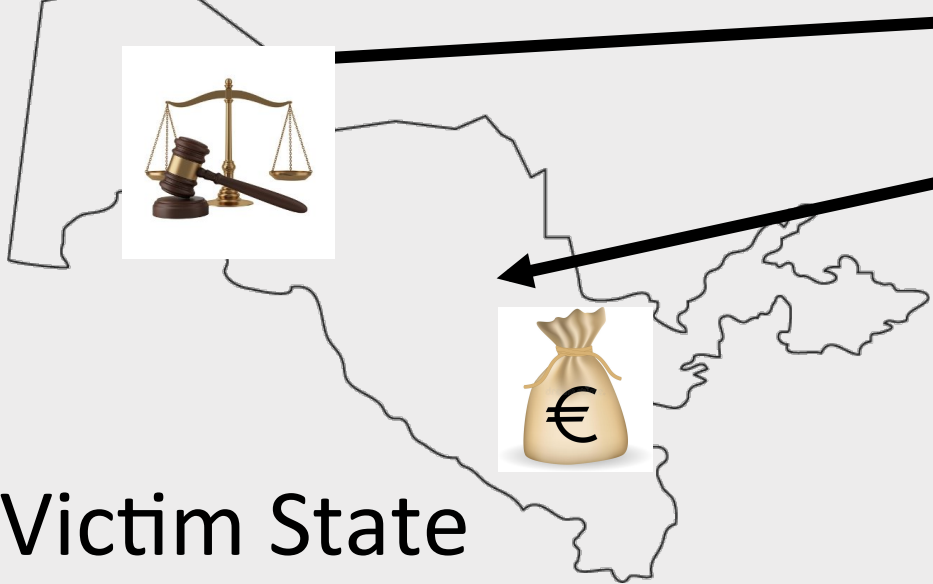
Haven State



Return Order  
Article 54



Victim State



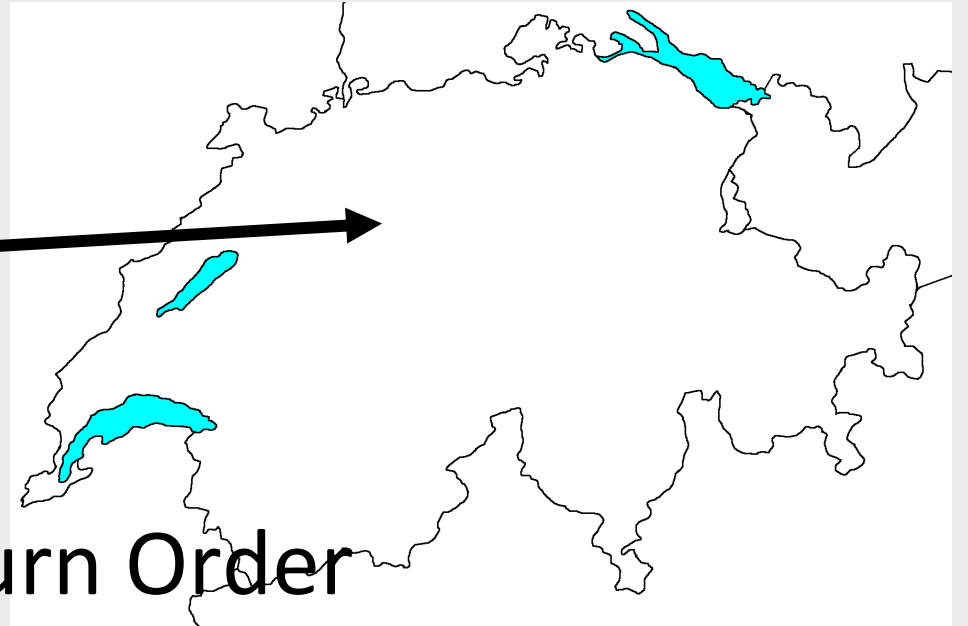
# UNCAC Asset Recovery: Real

New Ruler



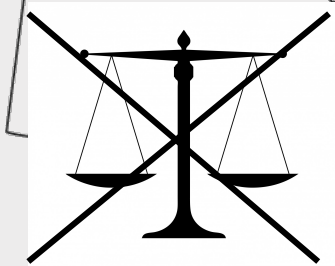
Confiscation Order  
Article 14 violation

Haven State



?  
Return Order

Victim State





# Gulnara Karimova



# Some of Gulnara Karimova's Properties





# Other Assets of Kulnara's





**Should the Four  
Return the Assets?**

## ICCPR Article 14

In the determination of any criminal charge ... everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

L'ENTRAIDE PÉNALE  
INTERNATIONALE EN SUISSE, EN  
BELGIQUE ET AU GRAND-DUCHÉ  
DE LUXEMBOURG

Frédéric Lugentz  
Jacques Rayroud  
Michel Turk

Droit pénal



**larcier**

**Who Has a Claim on  
the Assets?**



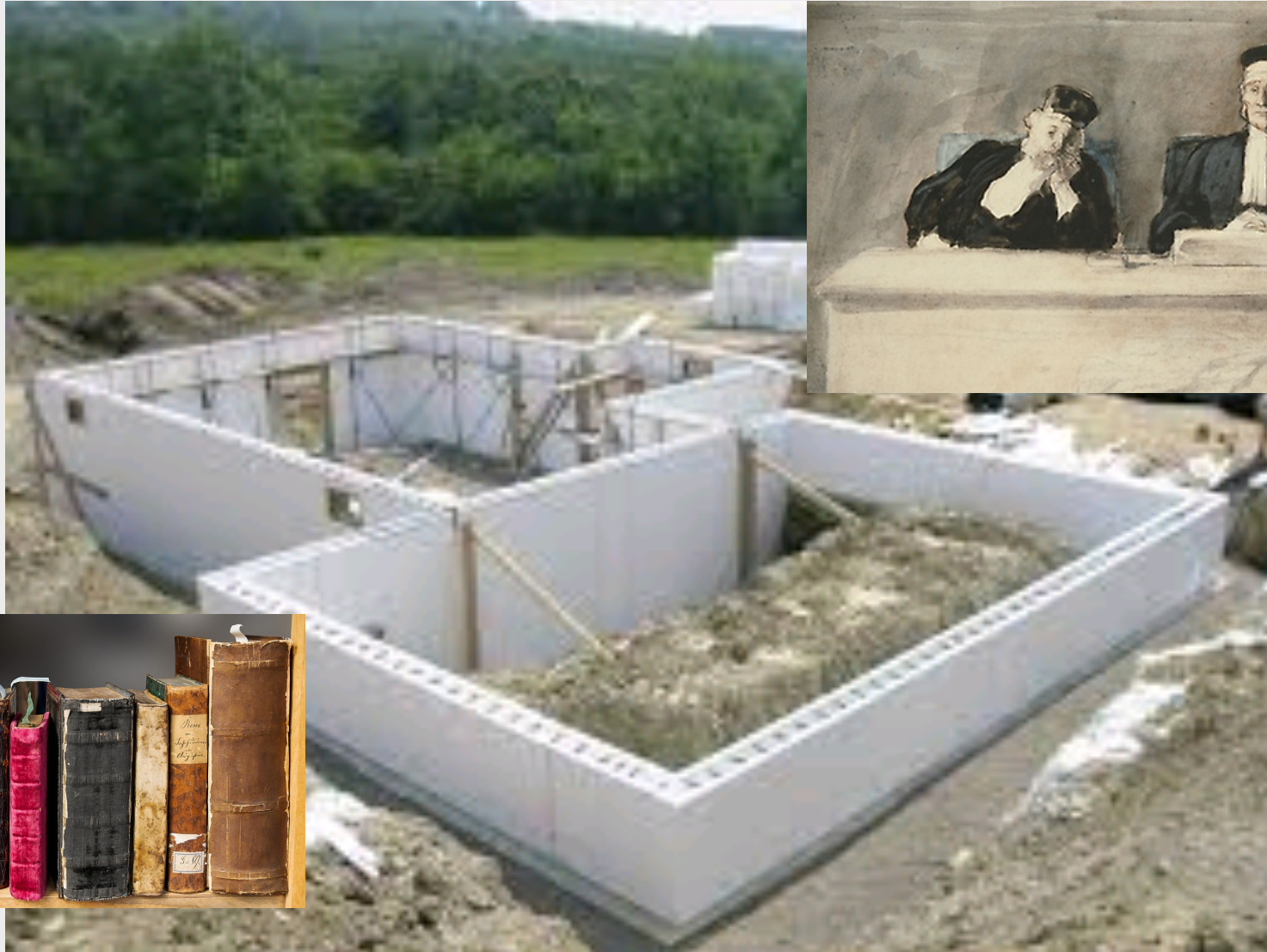
# U.S. Confiscation Action

## NATURE OF THE ACTION

1. This is an action *in rem* to forfeit approximately \$300 million in assets; and any property traceable thereto, involved in an international conspiracy to launder corrupt payments made to GOVERNMENT OFFICIAL A, a relative of the President of Uzbekistan and a government official at all times relevant to the facts alleged. This action seeks forfeiture of property located in Belgium, Ireland, and Luxembourg that was derived from violations of U.S. law pursuant to 18 U.S.C. § 981(a)(1)(C), and property involved in a money laundering offense in violation of 18 U.S.C. §§ 1956 and 1957 pursuant to 18 U.S.C. § 981(a)(1)(A).

**What is the Most  
Just Answer?**

# What Is Needed





OFFICE OF THE HIGH COMMISSIONER  
FOR HUMAN RIGHTS



**CESCR General Comment No. 3: The Nature of States Parties' Obligations  
(Art. 2, Para. 1, of the Covenant)**

*Adopted at the Fifth Session of the Committee on Economic,  
Social and Cultural Rights, on 14 December 1990  
(Contained in Document E/1991/23)*



# Learned Commentary on ESCR


“States must adequately implement measures to combat corruption.”

Manisuli Ssenyonjo,

*Economic, Social and Cultural Rights in International Law*

2<sup>nd</sup> ed. Oxford: Hart Publishing, p. 98



	United Nations	A/HRC/25/31
	General Assembly	Distr.: General 19 December 2013  Original: English

## **Twenty-fifth session**

Agenda items 2 and 3

**Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General**

**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

**Report of the Secretary-General on the question of the realization in all countries of economic, social and cultural rights**

# ECOWAS Jurisprudence

IN THE COMMUNITY COURT OF JUSTICE OF THE ECONOMIC COMMUNITY OF  
WEST AFRICAN STATES (ECOWAS)

HOLDEN AT ABUJA, NIGERIA

*This 30<sup>th</sup> day of November, 2010*

corruption in education can be a violation of the right to education if state does not attempt to prosecute corrupt officials and recover funds stolen

# ESCR Committee Report Uzbekistan

“The Committee recommends that the State party set up a comprehensive policy and mechanism to combat and prevent petty and systemic corruption, including by ...

- adoption of the draft anti-corruption law...
- codes of conduct for public institutions...
- investigation into corruption cases ...
- awareness-raising campaigns.”