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Methodology for recovering embezzled funds smuggled abroad in the Algerian experience: The Accomplished and the Prospective

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Abstract

The issue of recovering embezzled and smuggled funds abroad is one of the core pillars for strengthening the effectiveness of anti-corruption law and reinforcing the principle of legal deterrence. In light of the complex challenges surrounding this process, comparative experiences offer valuable insights, highlighting both successes and failures. This places Algeria before the responsibility of charting a systematic course characterised by precision and realism.

This study aims to shed light on the mechanisms and methodologies adopted in Algeria to recover illicitly transferred funds. It does so through a critical approach grounded in 'analysis, diagnosis and foresight'. The research paper also evaluates the Algerian experience against international standards and comparative expertise to inform the development of an effective national strategy based on alternative approaches to ensure the recovery of embezzled funds and enhance the protection of the national economy.

Keywords: Repatriation of Funds, the Algerian Experience, Comparative Experiences, Pathway/Trajectory, Present Reality and Future Prospects.

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Introduction

The international and national anti-corruption framework has progressed beyond the stage of mere legal recognition to incorporate 'the recovery of proceeds of corruption' as a fundamental component of the strategy to combat corruption. Despite the importance of prevention and deterrence, there is now a broad consensus that these measures remain incomplete unless they are coupled with the deprivation of corrupt individuals' proceeds from criminal activities. This is based on the well-established Latin legal maxim: "Nemo ex delicto consequatur emolumentum", which translates as "no person is entitled to benefit from a crime".

Accordingly, Article 51 of the United Nations Convention against Corruption (2003) sets out the principle that eliminating the scourge of corruption necessarily requires the restoration of rights to their rightful owners and the return of embezzled wealth to the people from whom it was taken. The Algerian legislature has endorsed this approach in the 2006 Anti-Corruption Law, where Article 2 provides for the obligation to pursue and trace criminal proceeds. By doing so, the law takes a stringent approach aimed at drying up the sources of corruption and nullifying the effects of illicit gains.

In theory, the Algerian legal system provides a legislative arsenal capable of meeting the requirements for recovering embezzled funds. However, in practice, a clear and substantial gap emerges. In practice, the effectiveness of asset recovery is largely confined to assets located within the state's territorial jurisdiction. The fate of property and assets transferred abroad, however, continues to raise fundamental questions.

Against this backdrop, the Algerian authorities have, since 2019, embarked on an exceptionally complex judicial and diplomatic process to recover these wealth holdings, mobilising all available mechanisms. Current efforts are framed within an evaluative approach aimed at addressing shortcomings and developing recovery tools. This will be achieved by drawing on comparative international experiences, learning from them, building on strengths and avoiding setbacks that could hinder this national endeavour.

The issue of recovering embezzled funds raises renewed legal concerns that go beyond the procedural dimension to affect the public economic order. On the one hand, this recovery process is a response to the imperatives of public interest, namely protecting the state's financial integrity by compensating for the harm caused to the public treasury by corrupt practices. On the other hand, it embodies the fundamental punitive principle of depriving the offender of the fruits of the crime, thereby thwarting the perpetrators' objectives and denying them the ability to enjoy the illicit proceeds of their actions.

Accordingly, a scientific approach to this subject is more necessary than ever, particularly given the scarcity of specialised legal studies that address the contemporary national landscape. Research in this field is still in its infancy, meaning that much of what is written on the subject takes the form of journalistic or political debate rather than rigorous legal analysis based on doctrinal rules and the philosophy of legislation.

As for the subject of asset recovery, which remains a source of enduring legal concern, this issue first addresses a long-neglected public demand of anti-corruption policy. Essentially, it restores to the public treasury the wealth from which it was deprived. Additionally, recovery thwarts the perpetrators' aims by preventing them from enjoying the fruits of their corruption. This study is all the more urgent when we realise that legal research in this area is still in its infancy: in most cases, it is addressed by the writings of journalists and politicians, while specialised legal studies either warn about the issue or are absent altogether.

This study aims to answer a central research question: What steps has Algeria taken to recover the proceeds of corruption lodged abroad, and what has been achieved? What remains to be done in future to recover the embezzled funds transferred abroad?

To address this, we propose structuring the research around two main axes. The first axis examines the lessons learned from comparative experiences that served as the basis for Algeria's national framework for recovering the proceeds of corruption located abroad. The second axis focuses on the process of recovering embezzled funds transferred abroad in Algeria: what has been achieved and what remains to be done.

I. The Successes of Comparative Experiences as a Foundation for Developing the National System for Recovering Assets Smuggled Abroad

Understanding the other's history—its successes, its failures, and the corrective paths it has taken—offers a useful and illuminating method for designing an alternative methodology for asset recovery in the Algerian case. Accordingly, we sought to examine certain cumulative instances from international experience. We examined their lessons learned closely, and we identified certain aspects of their shortcomings, hoping that these may guide and inform our insight when presenting alternative approaches for the Algerian situation.

First: A review of some inspirational experiences

At the African level, Equatorial Guinea stands out as one of the most prominent cases due to its novelty and successes. At the Arab level, we chose to focus on the experiences of Egypt, Tunisia and Saudi Arabia, in order to identify the unconventional mechanisms that led to the successful recovery of embezzled funds.

A. Case review: The Republic of Guinea-Bissau

The embezzled funds from Guinea-Bissau were estimated at approximately 150 million. The state began a highly intense struggle to recover these funds from the countries that hosted them, particularly Spain and France, in 2016[1].

Distinctive in this experience is the way civil society organisations were mobilised, specifically three French associations which played a pivotal role in calling on international bodies to pressure France to accelerate the return of the illicit funds held in its banks. These efforts culminated in a French Court of Cassation decision on 28 July 2021, which convicted the Vice President of Equatorial Guinea of misappropriating public funds[2]. This was followed by a French government decision to transfer €6 million to a special fund for Guinea-Bissau[3].

B. Case review: Egypt

According to a World Bank report, the volume of funds embezzled from Egypt exceeds 143 billion USD. It is said that these funds are located in various jurisdictions, including Riyadh, Doha, Dubai, London, Madrid, Panama and Switzerland[4].

To recover these funds, Egypt has issued multiple pieces of legislation and introduced several amendments to align with international instruments. This process began with the establishment of the National Committee for the Recovery of Funds, Assets, and Holdings Abroad, created by Law No. 28 of 2015.

Egypt has also resorted to settlement/conciliation (reconciliation) as an asset recovery mechanism[5]. The rationale behind this approach is based on considerations relating to the interests of the state, society and individuals. The aim is to accelerate the recovery of embezzled funds and avoid the financial burden on the state during recovery procedures[6].

Within the same framework, Egypt established the Egyptian Group for the Recovery of Egypt's Wealth in 2011[7]. Egypt's efforts in this regard contributed to the European Union issuing a decision to freeze embezzled assets linked to corruption, pending adjudication of the relevant cases. Subsequently, in 2011, Switzerland froze assets belonging to Egypt amounting to 700 million USD, and in 2012, the United Kingdom froze assets totalling approximately 85 million pounds sterling. Politically, Egypt's delegation to the United Nations secured the adoption of a resolution by the UN Human Rights Council on 24 March 2021, calling for the return of embezzled funds to their countries of origin[8].

C. Case review: Tunisia

The Tunisian Financial Transparency Organisation estimates that the value of embezzled funds reached approximately USD 32 billion. Tunisia has taken significant steps towards recovering these funds, beginning with the establishment of the National Committee for the Recovery of Funds Abroad and Acquired Illegally. In this context, Tunisia benefited from the intervention of the United Nations, which, through its Center for the Rule of Law, covered the costs of recovering Tunisian funds from Lebanon. Tunisia also received support from the StAR programme and financial backing from the African Development Bank, which was aimed at providing legal expertise.

Tunisia's recovery strategy began to yield results in 2011, when Switzerland and the European Union, based on Tunisian judicial rulings, ordered the freezing of assets belonging to 48 Tunisian citizens who were covered by a confiscation decree. Subsequently, other states also responded to requests to freeze assets, such as Canada in 2011[9].

In 2013, Tunisia recovered 28.8 million dinars from the Central Bank of Lebanon, as well as additional funds and properties in European countries[10].

D. Case review: Saudi Arabia

The value of embezzled funds in Saudi Arabia, reportedly siphoned off by businessmen, has been estimated at around USD 100 billion[11]. This case is notable for its focus on amicable settlements with those who embezzled the funds. The process provides those involved with two options: either acknowledge the wrongdoing and return the funds, or have their case referred to the courts for adjudication.

Several such amicable settlements were conducted under the supervision of the Supreme Committee for Combating Corruption in a case known as 'Riyadh Bribes'. In this case, certain businessmen sought in corruption cases were detained in this hotel until the sums recorded against them were paid[12].

Secondly, there are operational obstacles to recovering the proceeds of corruption.

A. Legal impediments and political complications

The primary obstacle facing the asset-recovery process is identifying the location of embezzled funds. Even once this has been established, recovery is hindered by a range of obstacles, including legal, political and technical issues embedded in the financial system itself[13].

Asset recovery may remain an unattainable goal due to numerous practical difficulties, including those related to the legislation of the state in which the funds are located and those arising from a lack of cooperation by host states regarding information sharing and follow-up procedures. Furthermore, challenges arise from the skills and methods required to track and identify safe havens for embezzled funds[14].

For example, a request for assistance may be accepted by states hosting the embezzled funds, yet the procedure can take 17 years to conclude, as was the case with the funds of the Philippine president Ferdinand Marcos in Switzerland. The judges who signed the "Geneva Appeal" in 1996 stated: 'Borders no longer exist for dirty money, but they exist for justice.[15]'

B. The continued existence of safe judicial and tax havens

In some states, it becomes exceedingly difficult to locate stolen funds. This is because banking secrecy and various legal instruments, such as trusts, companies and other entities, enable the concealment of the true owner of the funds and facilitate the circulation of stolen money within their economies, thereby contributing to money laundering.

Investigations have also repeatedly highlighted the presence of certain states mentioned in corruption-related reports, particularly Les Caïmans (Cayman Islands), Monaco, Liechtenstein, Jersey and Switzerland, which have facilitated money laundering and concealed illicit wealth. This is largely due to their banking and judicial regulations, which provide a safe environment for funds obtained unlawfully, making the recovery of misappropriated assets particularly difficult[16].

A major paradox is that these tax and judicial havens do not exist by accident; they are the result of policies adopted by major states with strong financial centres, such as the United Kingdom, the United States of America and France, which sometimes turn a blind eye to their presence and may even benefit from them in certain circumstances[17].

C. Divergence in legal systems

Judicial cooperation in recovering the proceeds of corruption is hindered by the differences between the legal systems of the requesting state and the state in whose territory the funds are located. While it is generally accepted that there are differences between the two well-known legal traditions — the Roman (civil law) system and the Anglo-American common law system — these differences also exist within each tradition. One prominent example is the requirement of double criminality. The offence of illicit enrichment is criminalised by certain civil law states, but is often approached with reservations or not recognised in the same way in Anglo-American jurisdictions[18].

D. Insufficient cooperation by states

France is one of the clearest examples, having been reluctant to facilitate the recovery of embezzled Iraqi funds — primarily due to prioritising political considerations arising from pressure exerted by the defence and industrial lobbies. At the time, Iraq represented a market valued at approximately six to nine billion euros during the eight years of the war[19].

Researchers in this field are also aware that some states, such as the Caribbean islands, the Maldives and the Bahamas, do not recognise money laundering as a crime and may even welcome it. In such cases, funds are transferred to these jurisdictions via the Arab International Bank, first to a bank in the Gulf or Europe and then to banks in these states. The danger lies in the fact that these countries have not signed any agreements, meaning they are not bound to comply with the repatriation of funds held within their territories[20].

H. Limitations of alternative methodologies

Investigative authorities responsible for financial investigations often encounter difficulties in achieving effective cooperation with foreign authorities and in preventing the smuggling of funds. It has also been observed that most requests submitted by the Algerian authorities to identify and freeze the location of proceeds were made through formal requests for judicial cooperation at a late stage in the proceedings. By contrast, countries that have achieved satisfactory results in asset recovery often rely on informal communication channels[21].

Thirdly—Some Lessons Learned

- The lessons drawn from the accumulation of comparative experiences indicate that the process of recovering embezzled funds is highly complex. Accordingly, relying solely on legal texts is not sufficient to recover such funds; rather, political and economic considerations must be taken into account when negotiating the recovery of these monies.

- Although the recovery of embezzled funds originating from corruption crimes does not raise any significant problems within national territory—since states can proceed through confiscation—its recovery abroad requires considerable time and effort, along with compliance with rules and obligations imposed on States Parties, as set forth in international agreements[22].

Approaches that rely primarily on domestic law (i.e. the judicial route) often lead to failure. It is essential to document financial and administrative corruption crimes and collect evidence regarding cases of illicit enrichment in an adequate manner, with a view to building comprehensive case files in this area[23].

Civil society can be used as an additional means of putting pressure on states and international bodies to speed up the recovery of embezzled funds. A clear example of this is Transparency International's pivotal role in the case of the State of Guinea-Bissau.

II. Effectiveness of national approaches in the prosecution and recovery of corruption proceeds from abroad

The national endeavour to recover embezzled funds transferred abroad begins by building upon the comparative experiences reviewed above. This involves national legal, political and diplomatic creativity in order to establish a local course of action. The Algerian experience, which has evolved over five years and encompasses both strengths and shortcomings, has led to an outcome (first). While this outcome may not currently be fully satisfactory given the shortcomings that have arisen, it does not extinguish hopes for promising prospects.

First: The Algerian approach to dealing with the issue

Starting in 2019, the Algerian government designed a roadmap aimed at the moralisation of public life. Recovering embezzled funds was placed at the forefront of the priorities of the highest authority it established, based on comparative experiences in this field. An ambitious five-year plan was created (2023–2027)[24].

Algeria immediately recognized the difficulty of the task, given the magnitude of the assets and funds transferred abroad. Those who embezzled them have chosen scattered safe havens, while the procedures adopted to recover the funds are complex, compounded by the lack of cooperation—visible in some of the states where the corrupt individuals placed their assets.

In this context, Algeria began by relying on its bilateral and multilateral agreements with certain states.

Then-Minister of Justice, Hâfiz al-Khattam, initiated this approach by emphasizing the activation of the judicial assistance clause in the recovery of embezzled funds deposited in those countries, through intensive visits. Pursuant to this, the Algerian judicial authorities began sending 255 judicial letters rogatory and 775 requests for inquiries into bank accounts. This, in turn, required the establishment of 220 joint committees in 30 countries. In addition, France alone was requested to conduct 80 investigations into former officials. It is also worth noting the bilateral political discussions between the leaders of those states and President Abdelmadjid Tebboune, focusing on the urgency and vitality of this issue[25].

The European Union and its Commission led the negotiations carried out by Algeria in this regard. Consequently, France and Spain obtained the lion's share of the benefits derived from this alignment. Encouraged by the Commission's leadership, the Algerian authorities accelerated and intensified the negotiations in order to achieve tangible outcomes, particularly given that the process had already produced significant results in freezing certain proceeds of corruption crimes from that period. These results were achieved thanks to cooperation between the two partners in 2013[26].

Furthermore, many Algerian experts emphasise the importance of negotiating with individuals who have stolen public funds, provided they cooperate and agree to transfer all funds to the public treasury[27]. They consider this to be the safest and most necessary path for Algeria as a political option that could enable the proceeds to be recycled within the national economy[28]. Furthermore, some argue that it may be possible to keep those funds in their places of origin while treating them as the property of the Algerian authorities, so that Algeria can benefit from them in development projects[29].

In many cases, Algeria has also activated judicial mechanisms by relying on the final and conclusive rulings of domestic courts that have convicted the relevant individuals. In other instances, it has authorised lawyers to assert its rights in national courts in states where the funds are located[30], or even in international judicial and arbitral bodies — particularly following the landmark judgments delivered by the French Court of Cassation in 2021 concerning Equatorial Guinea. These rulings included the confiscation of assets belonging to the former vice president of Equatorial Guinea, as well as certain assets belonging to the late President Saddam Hussein and Syrian President Bashar al-Assad.

Furthermore, Algeria has sought to increase its reliance on international agreements, particularly the 2007 World Bank and United Nations initiative, 'StAR', which limits the ability of money smugglers to hide behind political and parliamentary immunity, thereby helping to prevent the laundering and 'whitening' of their illicit funds[31].

Unfortunately, the overall outcome of these avenues remains weak, and it will take considerable time before they yield results. Information about these mechanisms tends to be based on informal or non-academic assertions rather than findings from scientific or institutional bodies that can be relied upon. Algeria is no exception to this general pattern. Indeed, all developing countries aiming to recover their assets are in a similar situation to Algeria and face obstacles preventing them from returning all assets to their original source. They are often subjected to political manoeuvres by the states in which these funds are located, and they also fall victim to the stalling and procrastination of those states' authorities[32]. In some cases, the situation escalates into shameful bargaining despite those states' international and regional commitments to cooperate and provide assistance to the countries from which the funds were stolen.

However, portraying this reality in an unfavourable light does not extinguish hope for a better future regarding the fate of recovered embezzled funds transferred abroad. On the contrary, it is possible to achieve more than is currently the case.

Second: Prospects for Recovering Embezzled Funds

Despite efforts at the international, regional and national levels to repatriate embezzled funds to their countries of origin, the recovery process remains challenging. This intensifies the suffering of peoples deprived of development, due to the transfer of national resources. This situation requires the development and acceleration of confiscation, seizure and payment mechanisms within innovative and effective legal frameworks that would restore hope for the full return of all assets to the treasuries of affected peoples. Such a trajectory may also present real opportunities for Algerian authorities to finalise their long-term efforts to track corrupt individuals and embezzled funds (b).

A. Comparative legislative amendments as an entry point for adopting incentive-centred alternative approaches

There is a growing awareness at international, regional and national levels that efforts to pursue embezzled funds are well-intentioned and merit acknowledgement. However, they do not provide a remedy. The looting process has not ceased and only a negligible portion of assets has been returned to the requesting countries, as demonstrated by the limited number of cases that have been successfully resolved[33].

Rather than merely identifying the causes, international experts and public policymakers have devoted themselves to rethinking and updating the safest and most effective legal mechanisms and frameworks. This reassessment is driven by the failure of existing legal systems and the political manoeuvring of Western leaders, which has dashed hopes of enforcing international agreements. In this context, it is necessary to change direction towards alternative approaches that, despite what are considered to be established principles of domestic and international law (such as confiscation without a final judicial ruling and amicable settlement), sometimes go beyond such constraints[34].

More broadly, the international community has been mobilised by an emerging humanitarian impulse to show solidarity with those deprived of their economic and developmental rights. As a result, non-governmental associations and civil society actors have been activated for the first time, shifting the focus of the discourse from the countries from which funds were stolen to the people affected. This has shifted the central focus of the process towards the interests of the affected populations. This mobilisation is linked to both the French Development Agency (AFD) and the United Nations' Agenda for Sustainable Development for 2030[35].

Alongside this international shift, new opportunities are emerging in European legal systems, which have historically been a safe haven for Algerian funds. The legislative momentum currently experienced in these countries is widely recognised today. In 2017, Germany amended its legislation in accordance with the concept of recovery without trial. Meanwhile, Italy linked its laws to the idea of repatriating embezzled funds directly to victims[36]. Switzerland made asset recovery conditional upon the existence of a clear development project. This approach was further reinforced by the introduction of French Law No. 2021-1031, which introduced a novel mechanism for the recovery of embezzled funds[37].

In France, this law is regarded as a mechanism for returning these funds to those who were deprived of them, through cooperative and development-oriented activities, to complement existing procedures. It blends political, legal and social considerations. This combination is driven by necessity and is required by the reality on the ground following the demonstration of shortcomings in the general rules of criminal liability under provisions 706 and 164 of the French Code of Criminal Procedure[38]. These shortcomings revealed limitations and ultimately failed to meet the envisaged objectives under these rules. Accordingly, this law represents a milestone in terms of ethical and humanitarian awareness, acknowledging the role of the international and national communities in supporting those who have been condemned by circumstances to become victims of the looting of their resources, namely the peoples of the Global South.

It is indeed curious that French parliamentarians and the government found no alternative but to base this legislative 'revolution' on the principles of international and humanitarian solidarity. We do not know whether this was a coincidence or not. On 28 July 2021, the day before the aforementioned law was adopted, the French Court of Cassation confirmed the conviction of Teodoro Obiang, son of the Vice President of Equatorial Guinea, for embezzling public funds.

As a result of the law, 6 million euros were deposited into a special account dedicated to compensating victims of embezzlement in Equatorial Guinea[39]. Meanwhile, the remaining proceeds are caught up in an ongoing political and legal dispute between the French and Equatoguinean governments. Notably, this case has become a reference model in France for the boldness of its rulings and for French judicial justice.

Is this simply a coincidence? Or does the chronology present a valuable opportunity for the Algerian authorities to take advantage of developments concerning the recovery of embezzled funds? These developments encourage new approaches inspired by past failures while taking into account future considerations.

B. The recovery process in the Algerian experience

Between 2021 and 2022, the Algerian authorities accelerated the process of retrieving embezzled and smuggled assets abroad. Through Ordinance No. 21–07, they set up a special fund for confiscated or recovered funds and properties in corruption cases[40]. However, the lack of coordination among the supervisory bodies overseeing it quickly led to the creation of the National Agency for the Inventory and Recovery of Seized Properties and Assets in corruption-related cases. In this way, the final links of the recovery system in Algeria were tightened[41].

This development may be viewed as a positive indicator of a promising new trajectory. What should we do in future? In other words, what needs to be corrected and refined in the Algerian authorities' methodology to achieve their intended objective?

It must be acknowledged that this expected course is not linked to a standard model that can be borrowed from the experience of other countries. While drawing on the success and failures of such experiences is required, the success of the undertaking in the Algerian case depends on specific considerations and requirements.

Accordingly, public officers responsible for recovering these funds must precisely determine the information map concerning the embezzled and transferred funds and assets. They must collect data, statements and reliable evidence to prevent it being erased.

In some cases, it is not useful to rely on the enforcement of domestic law and the effectiveness of implementing international agreements because understanding the options made available by foreign law in the countries where the embezzled funds are located is better and more practical[42]. Seeking informal assistance from associations, journalists and human rights advocates in countries where these funds are held may also facilitate the process for the Algerian claimant.

In many cases of recovering money, these funds were seized or restrained through legal mechanisms and forms that are neither conventional nor familiar in Algerian legislation, as in the examples of Egypt and Saudi Arabia. These approaches avoided the rigidity of the wording of the punitive legal text, instead opting for a settlement that favoured the recovery of funds. The priority was placed on recovering the embezzled funds rather than securing signatures to impose punishment on the perpetrators[43].

It is difficult to replicate this approach in multiple cases. Experience in this field suggests that it would be more appropriate to deal with each situation on an ad hoc basis, ensuring the achievement of public interest and consistency with the proportionality of procedural and substantive law to the circumstances of the case[44].

In both respects, the option of political manoeuvring remains highly relevant, as the objective of recovering a single set of funds can be achieved through multiple means. Algeria can invest its political and diplomatic capital skilfully. It also has economic leverage that can be activated with international investors and economic actors in international tenders and public auctions. Furthermore, Algeria's oil and gas capacity can be leveraged. Furthermore, these leverage-based conditions could be applied during the renewal of negotiations with the European partner, which are due to take place soon.

However, a missing link in the Algerian experience remains: the need to genuinely activate the involvement of civil society associations, national and international media, and pressure groups in this endeavour[45]. The case of Guinea-Bissau shows that such mobilisation can be effective: the Global Witness organisation used it to pressure the French government into expediting the recovery of €6 million and ordering the confiscation of numerous properties belonging to the Deputy President of Guinea-Bissau.

Conclusion:

There is no doubt that the process of recovering embezzled assets transferred abroad is a serious challenge that takes place over a long period of time. Indeed, comparative experiences in this field are fraught with difficulties and outcomes that continue to cause concern, particularly given the ongoing transfer of illicit funds and the subordination of people's right to recover their wealth to an expectation that may be prolonged.

The issue of recovery has clearly evolved into a heated, multidimensional dispute, politically, legally and in terms of rights, reconfiguring the map of conflict between countries in the Global South whose resources have been plundered and countries in the Global North that host those assets.

In this context, the Algerian experience is notable, having begun with difficulties and structural challenges, but now progressing at an accelerating pace. Nevertheless, there is still a long way to go to complete this process and improve its outcomes. This task requires more than legal expertise; it demands a well-crafted strategy combining diplomatic finesse, political skill and the ability to harness international cooperation mechanisms to ensure the intended objective is attained.

Overall, positive indicators are emerging, as legislative developments and international human rights pressures increasingly align with Algerian efforts to restore its national capabilities. Ultimately, time will shape the outcomes of these procedural pathways. We therefore hope that future research studies will focus on this issue, deepening these insights, correcting their course and developing our theses in a manner that keeps pace with future developments.

If we were to make any recommendations, the following would be appropriate:

- Enhance the role of civil society associations and constituencies in the process of recovering embezzled funds transferred abroad.
- Paying attention to alternative approaches that deviate from the procedural frameworks with which we are familiar when pursuing ordinary crimes (e.g. discontinuing proceedings, reaching a settlement, and administrative confiscation without a judicial ruling).
- Giving greater importance to accelerating the recovery process through effective political and diplomatic negotiation methods.
- Leveraging digitisation and artificial intelligence capabilities in data and evidence collection to build an information system capable of tracking those funds.
- Proposing updated anti-corruption training programmes focusing on mechanisms for recovering the proceeds of corruption both domestically and abroad.

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[4]- Meanwhile, the Egyptian newspaper Al-Ahram reported that the value of these funds amounts to 225 billion.

[5]- Le journal égyptien al-Ahram a déclaré que la valeur de ces fonds s'élevait à 225 milliards. En vertu de la loi n^o 16 de 2015, modifiant certaines dispositions du Code de procédure pénale, il est notamment permis de conclure des accords à l'amiable pour les infractions relatives aux fonds publics.

[6]- Ahmed Abu al-Ayyen, « The Egyptian Experience in Recovering Embezzled Funds Corruption: Settlement as One Mechanism for Recovering Embezzled Funds Corruption », The Arab Researcher Journal, Arab Center for Legal and Judicial Research, Ligue des États arabes, vol. 02, n^o 03, 2021, p. 131.

[7]- Une association civile nationale œuvrant pour la récupération des fonds égyptiens détournés avant la révolution de janvier 2011.

[8]- Mostafa Mahmoud Sayid Mohamad, « Expériences et pratiques des États dans le domaine de la récupération des fonds détournés par la corruption », The Arab Researcher Journal, Arab Center for Legal and Judicial Research, Ligue des États arabes, vol. 02, n^o 03, 2021, p. 226.

[9]- Mostafa Mahmoud Sayyid Mohammad, op. cit., p. 229.

[10]- Par exemple, en 2015, des yachts italiens ont été retrouvés et, en 2017, une somme de 3,5 millions d'euros a été récupérée en Suisse. Pour plus de détails, voir : Mostafa Mahmoud Sayyid Muhammad, « Expériences et pratiques des États en matière de récupération des fonds détournés par la corruption », The Arab Researcher Journal, Arab Center for Legal and Judicial Research, Ligue des États arabes, vol. 02, n^o 03, 2021.

[11]- Selon une déclaration du ministre saoudien des Affaires étrangères, Adel al-Jubeir, publiée sur le site d'Argaam le 20 novembre 2017 et consultée le 19 septembre 2024 à 16 h 20 via l'adresse URL suivante: https://www.argaam.com/ar/article/articledetail/id/515609, et dans l'ouvrage

[12]- Akram Abd al-Razzaq al-Mashhadhani, « Recovering Embezzled Funds : Method, Procedures, Difficulties, and Available Means », Arab Center for Legal and Judicial Research, Beyrouth, Liban, 2020, p. 181.

[13]- Jurey (ou « Jeryou ») Mohammad al-Amin, « Recovering Funds Derived from Corruption Funds », Journal of Real Estate Law and Environment, université de Mustaghanem, vol. 2, 2022, p. 393.

[14]- Rachid Khachana, « Legal Complexities and Political Obstacles to the Recovery of Arab Funds », présente les résultats du premier forum qui s'est tenu à Doha, sous le titre « Sessions of the Arab Forum for the Recovery of Funds », du 11 au 13 septembre 2012.

[15]- Antoine Dulin et Jean Merckaert, Biens mal acquis, à qui profite le crime ?, CCFD-Terre Solidaire, Paris, 2009, p. 9.

[16]- En Suisse, par exemple, deux milliards de dollars provenant des fonds de l'ancien président malien, Moussa Traoré, étaient censés se trouver quelque part ; toutefois, seuls 2,4 millions de dollars ont été récupérés.

[17]- Antoine Dulin et Jean Merckaert, Biens mal acquis, à qui profite le crime ?, CCFD-Terre Solidaire, Paris, 2009, p. 10.

[18]- Ahmed Abu al-Ayyen, « Issues Relating to the Recovery of Embezzled Funds from Corruption », The Arab Researcher Journal, Arab Center for Legal and Judicial Research, Ligue des États arabes, vol. 2, n^o 3, 2021, p. 40.

[19]- Sidi al-Mahdi, directeur des fonds irakiens en France dans les années 1980, a été assassiné parce qu'il parlait de cette affaire.

[20]- Alaa al-Najjar, « Le cadre juridique de la récupération des fonds détournés à la lumière de la législation nationale et des instruments régionaux et internationaux : l'Égypte comme modèle », Journal of the South Valley International University for Legal Studies (Égypte), vol. 6, 2021, p. 96.

[21]- Mokhtari al-Akhḍari, The National System in the Field of Asset Recovery: Proceeds of Corruption", a study published on the website of the National Office for the Prevention of Corruption (OCRC), dated 02 June 2021**, `https://www.ocrc.gov.dz`, accessed on 27/09/2024 at 19:42

[22]- In line with the United Nations Convention against Corruption (UNCAC), signed in 2003 and entering into force in 2005, which constitutes the first international instrument in the fight against corruption encompassing 71 articles, including provisions relating to providing effective legal mechanisms for asset recovery and technical assistance, see: Amna Abu Salah al-Hasnawi, 'The importance of the principle of asset/funds recovery in combating corruption', The Arab Researcher Journal, special issue, 2021, p. 662.

[23]- Al-Hadi Ali Bouhmoura, 'Recovering Embezzled Funds (An Attempt to Consider Alternative or Parallel Approaches)', Journal of Legal Studies, University of Misurata (Libya), issue 12, 2020, p. 3.

[24]- 'Algeria Requests International Assistance to Recover Its Embezzled Funds', an article published in the

newspaper Al Sharq al-Awsat on 15/07/2023, accessed on 25/09/2024 at 20:15.

[25]- This is in line with the document published by Josep Borrell, the High Representative for the European Union's Foreign Affairs and Security Policy, in March 2023, when he revealed during his visit to Algeria that negotiations with the EU's Criminal Justice Cooperation Unit and the European Police were accelerating in order to recover Algeria's unlawfully transferred funds; Al Sharq al-Awsat, previous reference.

[26]- Samia Abd al-Lawi, 'Recovering Embezzled Funds from Corruption Crimes: Reading the Algerian Experience", The Arab Researcher Journal, Arab Center for Legal and Judicial Research, League of Arab States, Vol. 2, No. 03, 2021, p. 65.

[27]- Paradoxically, it seems that the Algerian authorities have retreated from proposing an amicable settlement mechanism for the recovery of embezzled funds after the Council of Ministers confirmed the exclusivity of the judiciary in adjudicating corruption cases on 11 September 2022.

[28]- Notably, two Arab experiences produced results in this regard: the Egyptian and Saudi experiences.

[29]- Ayline Bentaleb , biens mal acquis de l'ère bouteflika cachés à l'étranger : quelles solutions ?, jeune afrique, Publié le 7 février 2024, voir le 20/09/2024(18h00), lien https://www.jeuneafrique.com/1533350/politique/biens-mal-acquis-en-algerie-un-juriste-propose-des-solutions/.

[30]- In line with the extradition request submitted by Algeria to France for the extradition of former Minister of Industry Abd al-Salam Bouhourb, who was awaiting review by the French judiciary in October, five judgments were issued against him. See the article published in Al Quds Al Arabi on 20 September 2024, titled: 'The French Judiciary Requests Guarantees from Algeria Before Reviewing the Extradition of Former Minister Abd al-Salam Bouhourb', accessed on 20/09/2024 at 20:30.

[31]- The Star Initiative, established in 2007 in a partnership between the World Bank and the UN Office on Drugs and Crime, has come to play a crucial role in recovering embezzled funds. See: Muhammad Hattaḥati, 'The Impact of the Star Initiative in Improving the Legal and Technical Frameworks for Recovering Embezzled Funds', The Arab Researcher Journal, Arab Center for Legal and Judicial Research, League of Arab States, Vol. 2, No. 03, 2021.

[32]- Among the notorious cases is the following example: France has required some requesting states to obtain a 50% share of the returned funds — something referenced by the Deputy Minister for European Affairs, Amélie Montchalin, during the discussion of Law 2021-1031, related to the solidarity development programme and combating human inequality.

[33]- Multiple estimates indicate that the amount of funds recovered by requesting countries did not exceed USD 5 billion over a period of 15 years, despite the fact that most states have adopted/ratified the anti-corruption agreement which provides an international framework for recovery requests. For more detail: Mohammad hattahati, previous reference, p. 290.

[34]- The year 2009 constituted an important historical and legal turning point in the fight against corruption in France and Spain, paving the way for officials to be held accountable, even if they are in senior positions. States are no longer the only entities entitled to file lawsuits; associations can also do so. Both the French and Spanish judiciaries accepted complaints against African heads of state accused of corruption. The most prominent examples are the trials of Teodoro Obiang Nguema in Equatorial Guinea and Umar Bongo in Gabon, as well as that of Denis Sassou Nguesso in Congo-Brazzaville. For more detail: Antoine Dulin and Jean Merckaert, Biens mal acquis : à qui profite le crime?, CCFD-Terre Solidaire, Paris, France, 2009, p. 9.

[35]- Emmanuel Bourdoncle and Vincent Filhol, 'Ad hoc restitution mechanism for "biens mal acquis" and the territory's attractiveness scheme: contributions of the law of 4 August 2021 on programming relating to solidarity development and combating global inequalities', Annuaire français de droit international, vol. 67, 2021, p. 814.

[36]- Emmanuel Bourdoncle and Vincent Filhol, op. cit., p. 815.

[37]- Law No. 2021-1031 of 4 August 2021 on the programming of solidarity development and the combating of global inequalities.

[38]- Emmanuel Bourdoncle and Vincent Filhol, op. cit., p. 821.

[39]- Reports estimated that the value of the funds embezzled from French banks exceeds 150 million euros.

[40]- Under Article 43 of Order No. 21-07 dated 7 August 2021, the Supplementary Finance Law for 2021 is included and published in Official Gazette (J.O.) No. 44 dated 7 August 2021.

[41]- It is also an ongoing process of correction and amendment initiated by the legislator in 2019, and it seems that the results will take some time to consolidate.

[42]- Al-Hadi Ali Bohmoura, 'Recovering Embezzled Funds: An Attempt to Consider Alternative or Parallel Approaches', previous reference, p. 3.

[43]- Al-Hadi Ali Bohmoura, ibid., p. 4.
[44]- Al-Hadi Ali Bohmoura, ibid., p. 4.
[45]- Al-Hadi Ali Bohmoura, ibid., p. 5.
Ahmad Alqahtani, La lutte contre la corruption à l'épreuve des principes fondamentaux. Comparative study of French and Kuwaiti law', PhD thesis, Faculty of Law and Social Sciences, University of Poitiers, France, 2018, p. 392.