

A large, stylized illustration of a person's face and hand dominates the background. The face is rendered in a dark, almost black, silhouette-like style with sharp, angular features. The eyes are a bright, solid blue color. The hand, positioned near the face, is also in a dark silhouette style with blue outlines. The background is a solid, vibrant blue.

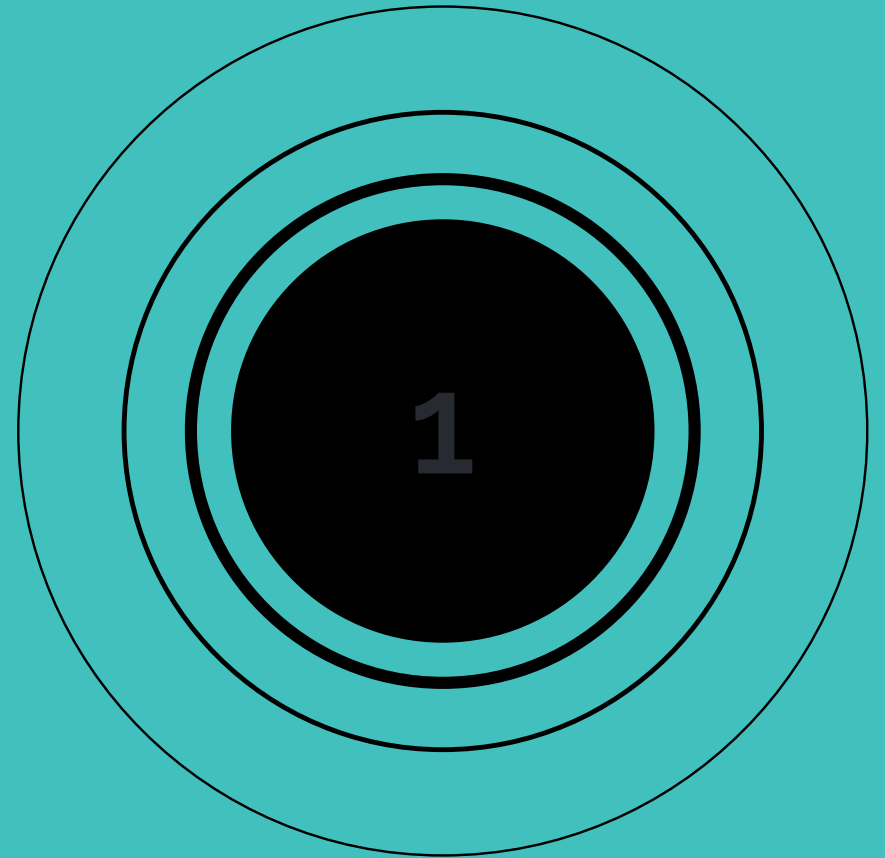
CIVIL SOCIETY ORGANISATIONS & ASSET RECOVERY

A MANUAL FOR ACTION

CONTENTS

1	INTRODUCTION	1	6	IDEAS FOR CSO ENGAGEMENT	26
2	WHY ASSET RECOVERY & WHY CSO ENGAGEMENT MATTERS	5	7	CONCLUSIONS	34
3	GETTING STARTED WITH ASSET RECOVERY	9	8	NOTES: SPACE FOR YOUR IDEAS	36
4	UNDERSTANDING BARRIERS TO EFFECTIVE ASSET RECOVERY	15	9	REFERENCES	42
5	CASE STUDIES OF CSO ENGAGEMENT & RECOMMENDED APPROACHES	19			

INTRODUCTION



International asset recovery refers to the process by which the proceeds of corruption transferred abroad are recovered and repatriated to the country from which they were stolen. Domestic asset recovery refers to proceeds recovered internally, within the same country from where public money was stolen.

Although asset recovery has to date not been the most prominent part of the anti-corruption agenda, it has received growing in public attention in recent years. This has notably been evident after 2015, when journalists and media outlets from different countries started reporting cases of vast amounts of money attributed to politicians and celebrities stashed in the so-called 'tax havens'.

Based on leaked documents, such news stories, including the Panama Papers, Paradise Papers, Luanda Leaks, Open Lux, Pandora Papers¹ unveiled, for the first time, details about the complex international machinery that enables the secret transfer of money. It has been clearly documented that criminals involved in grand corruption cases frequently use these complex and opaque structures and procedures to launder money.

National governments have also been engaging more in this issue in recent years. According to StAR (Stolen Asset Recovery Initiative), a joint United Nations Office on Drugs and Crime (UNODC) and World Bank initiative, the number of countries pursuing cross-border asset recovery cases involving corruption proceeds is growing rapidly: 61 states reported involvement in at least one cross-border asset freeze, confiscation, or completed return of corruption proceeds between 2010 and 2021.²

Anti-corruption campaigners worldwide have for many years been calling attention to the multiple impacts of corruption in the lives of



people, an argument that has been recognised by various international actors. In this line, in March 2021 the United Nations Human Rights Council adopted Resolution 46/11 on the negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights.³

After the grand corruption and money laundering scandals of recent years, there is sufficient evidence that funds that could have been used to substantially improve lives, particularly in the so-called Global South, now lie in bank accounts abroad or have been used to buy mansions, jewellery, and luxury goods. Only a small portion of the tangible and intangible products of corruption have been identified, seized, and confiscated and only a smaller part still has been repatriated.

The StAR report identifies that USD 4.1 billion⁴ in confiscated assets and funds were returned to countries of origin between 2010 and 2021. While this seems to represent a large sum of money, it is not much considering the size of the global economy. It is noteworthy that in more than a decade the total amount of all reportedly completed asset

recovery processes globally is smaller than the average annual GDP of many countries in one year. For example, in 2019 alone, 42 out of the 54 African states had GDPs higher than USD 4.1 billion.⁵

This is a sign that exponentially high sums of money stolen from countries through corruption, mainly from the Global South, are yet to be returned. Funds that can be used to compensate for damages caused by corrupt practices and for broader social purposes. Civil society has a strong role to play in this process and this manual aims to be a reference point to support these efforts.

With this manual, civil society organisations (CSOs) willing to start working in the asset recovery field or strengthen current work will find concrete tips and ideas identified from interviews generously provided by CSO representatives and other experts familiar with asset recovery and from previous reference publications.

Given the pragmatic approach in building this manual, an important aspect of the manual is to take local realities into full consideration, particularly in terms of the size of **civic space in each given country**. In general, the more open a specific country, the more prone their national authorities are to see CSO representatives, journalists, and other civil society actors as legitimate interlocutors in asset recovery, seriously considering their inputs. On the other hand, the more restricted a country's civil society space, the less possibilities exist to pursue dialogue with the national authorities. Therefore, one of the aspects of this manual, in Section 5 in particular, is to differentiate national-based CSOs based on the size of the civic space they operate in.⁶ Nevertheless, national realities should be borne in mind, and CSOs seeking to engage in asset recovery should start their work on asset recovery with an assessment of the willingness of authorities to cooperate with civil

society on asset recovery and the risks involved in beginning this kind of work.

Another key variable is the **stage of the asset recovery process**. Asset recovery processes are frequently time consuming and, in some respects, highly technical. In that sense, the manual adopts a framework that is intended to guide CSOs in their efforts to strategically prioritize their work at specific stage(s) in the process:

1. The pre-judicial phase: before concrete corruption cases reach the courts or where investigations by authorities are not ongoing.
2. The judicial phase: as soon as cases reach the court system, including for example in initial freezing orders, and up until confiscation.
3. The return phase: starting from a court final decision and including negotiations on the return of funds, in international cases, and the transparent management of recovered assets.

That is not to say that possible interventions are limited to this analysis, and it may be that activities would take place under all three areas at once. Rather, this approach is intended to provide some guiding ideas.

This manual was developed from a range of sources. Data was collected through interviews and case research. Eleven CSOs representatives from Central Asia, Eastern Africa, Eastern Europe, Northern Africa, South America, South-Eastern Asia, Southern Europe, Western Africa and Western Europe were interviewed either via Zoom call or via e-mail between the 8th and 22nd of February 2022. A researcher based in Europe, an expert involved in a returned asset management case, and a former civil servant who was the Head of the Asset Recovery and International

Cooperation Unit of a Ministry of Justice were consulted in the same period.⁷ Additionally, an online session with StAR representatives took place, to collect information and insights from experts working closely with asset recovery and in constant dialogue and interaction with authorities. Research by various UN bodies was also considered. From these consultations and from the analysis of concrete cases, best practices and lessons learned have been identified and are set out throughout.

This manual was prepared by Fabiano Angélico, Jean-Patrick Villeneuve and Lisa Andrews, Università della Svizzera italiana, and reviewed by Jackson Oldfield, CiFAR. All photographs and pictures used in this report are either owned by CiFAR or provided by Pixabay under a Pixabay licence.

This manual was developed with the support of German Cooperation, implemented by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH through the Global Program *Combating Illicit Financial Flows*, which is co-funded by the Norwegian Ministry of Foreign Affairs.

Supported by the:



Norwegian Ministry
of Foreign Affairs

WHY ASSET RECOVERY AND WHY CSO ENGAGEMENT MATTERS



Outlined in this section are some ideas - and arguments - as to why asset recovery is an important topic today and why it is vital that civil society organisations (CSOs) and non-governmental actors in general, are included in the asset recovery process. This section should not however be taken alone, and you will find further discussion on both of these points throughout the manual.

WHY ASSET RECOVERY IS IMPORTANT

--> the financial argument

According to the OECD (Organisation for Economic Co-operation and Development), tax authorities worldwide identified in 2019 more than 80 million financial accounts held offshore by their residents, "covering total assets of EUR 10 trillion".⁸ Moreover, considering that the world has seen a rise in the number of billionaires during the Covid-19 pandemic, one can reasonably hypothesize that the total assets in tax havens post-pandemic are even higher.

Not all these funds are illegally acquired. This consideration is an important starting point for any serious work on anti-corruption asset recovery. Some of these funds may be legally acquired, taxed and stored offshore for legal reasons, such as privacy. Some may be part of schemes to avoid taxation, which means that national tax authorities need strategies to identify, sanction, and eventually tax those negligent taxpayers. Important for those working in the anti-corruption field however, is that **some may also be the results of money illicitly obtained, including through corruption**. Action is therefore needed to sanction the criminals who stole the money and bring these amounts back to the countries of origin.

Not all corrupt practices are equal. In recent years researchers and practitioners have created categories to differentiate the various

manifestations of corruption. One of the most common distinctions is between petty corruption and grand corruption.

- Petty corruption typically involves street-level and mid-level bureaucrats as the bribe-takers, while the bribe payers are ordinary citizens and small or medium enterprise owners. In petty corruption, the goal of the illicit payment is usually to accelerate the provision of public services.
- Grand corruption involves politicians and bureaucrats of the highest echelons. This can include funds obtained by big interests paying vast sums of money to gain privileged access to high-level decision-making processes within governments. It can also include cases of direct embezzlement of large sums of money or where contracts have been illegally awarded to close associates and family members. In some cases, these sums of money stay within one country, in others they will cross national borders, either the bribery is already paid abroad or the official removes the money overseas.

These large sums of corruptly acquired money need to go through complex transnational machinery to be later reinserted into the formal economy — that is money laundering. These large sums of money, when identified and linked to corrupt practices, need to be prosecuted, confiscated and returned to public funds — this is asset recovery.⁹

Asset recovery is a topic of growing attention in the development sector and has become **particularly recurrent in debates on the financing of development activities**. Some countries have formally agreed that recovering stolen assets is part of their efforts to finance the 2030 United Nations agenda. Such an agreement is established in the Addis

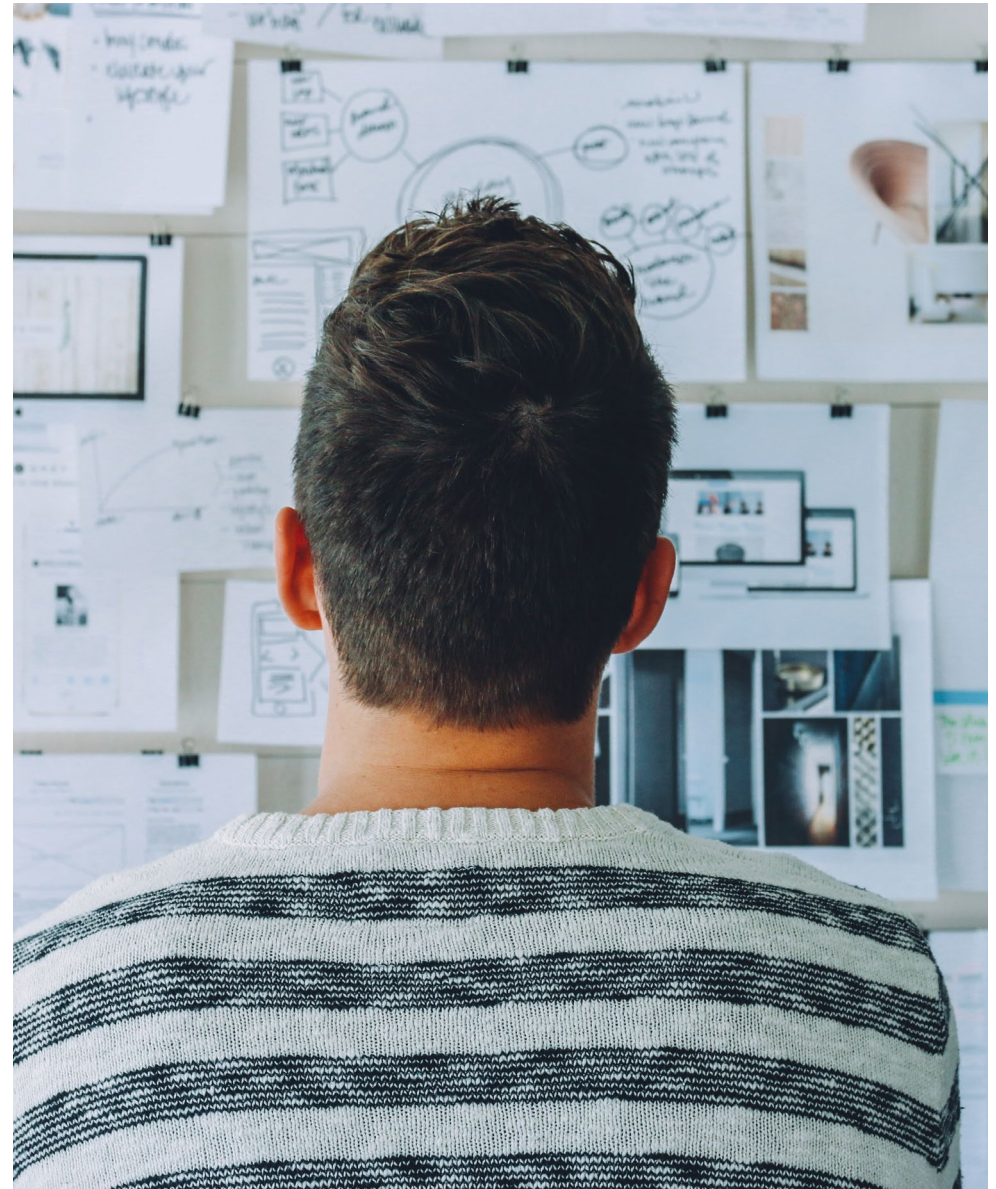
Ababa Action Agenda,¹⁰ which provides a global framework for financing sustainable development. This Agenda was endorsed by the United Nations General Assembly in 2015.

--> the moral and legal argument

Asset recovery is not only a question of finances, but also a question of justice for those who have suffered as a victim. Persons involved in grand corruption in particular have often diverted resources away from those who need them, on a large scale, or have subverted democratic structures. Asset recovery is part of a process of both punishing those who have stolen funds from the people and in ensuring those funds are transparently and accountably returned to those who otherwise would have had access to those funds and to those who have suffered as a result of corruption.

In this regard, the UN Office of the High Commissioner for Human Rights (OHCHR) in its *Recommended Principles on Human Rights and Asset Recovery* has outlined that,

Stolen assets and corruption more broadly are human rights issues because acts of corruption have a negative impact on the realization of human rights. Corruption undermines States' ability to meet their minimum core obligations and to mobilise the maximum available resources for the progressive realization of human rights, including the right to development. Corruption is a human rights issue also because anti-corruption and asset recovery processes can themselves infringe on the enjoyment of human rights. States have obligations to take anti-corruption measures, and to do so in a manner that is consistent with their human rights obligations. Furthermore, upholding human rights is critical for preventing and suppressing corruption and money laundering.¹¹



States then have human rights obligations to enter into anti-corruption efforts and to seek the recovery of stolen assets. They further should undertake asset recovery in a way that is in line with their human rights obligations.

States that are parties to the United Nations Convention Against Corruption (UNCAC) - which is most states - also have obligations to both address corruption, including grand corruption, and to seek and cooperate in asset recovery.

WHY CSOs SHOULD BE ENGAGED IN ASSET RECOVERY

Article 13 of the UNCAC establishes that each signatory country should “promote the **active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations**, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption” (emphasis added). This is a legal basis that you can use to explain why CSOs should be engaged in asset recovery.

This is emphasised in the OHCHR Recommended Principles on Human Rights and Asset Recovery, which give importance to the role of CSO participation in ensuring accountability and transparency in the asset recovery process, under Principle 2.

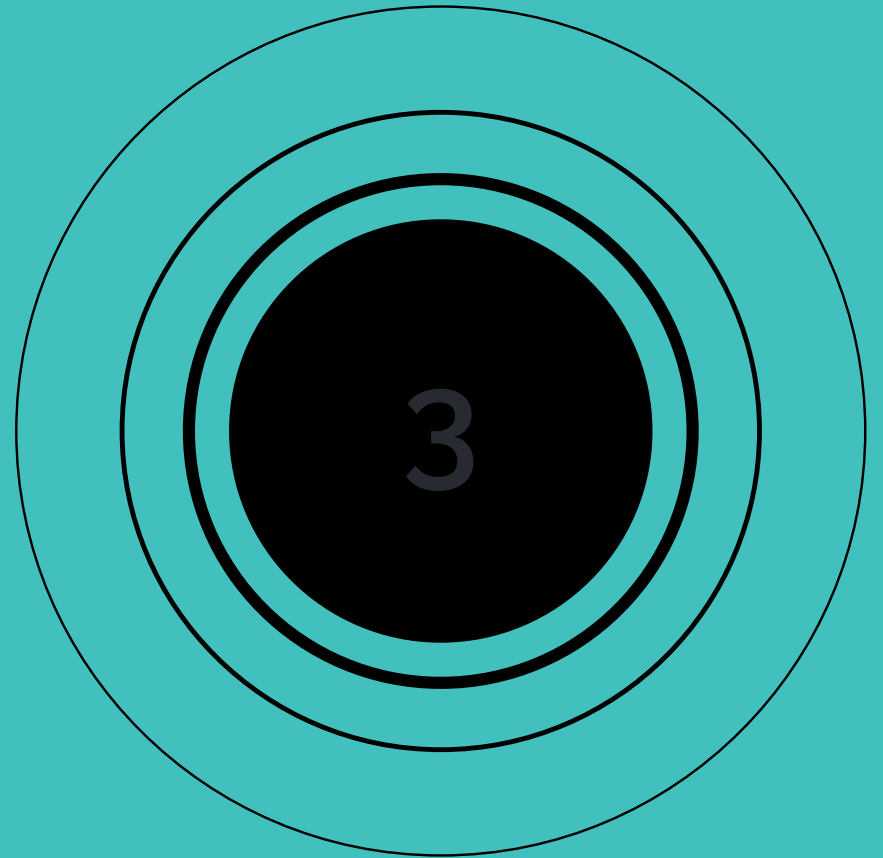
In this respect, CSOs have been **active and prominent partners in asset recovery cases across the world and for several years**. This has included a range of roles, several of which are discussed below. In short though, this includes in:

- Developing policy and legal tools to assist in asset recovery efforts

- Bringing cases to the attention of authorities and to the courts
- Monitoring the recovery of stolen assets
- Supporting the management of recovered and frozen assets
- Investigating and exposing new cases
- Public engagement to explain cases.

Overall, there are very few areas, besides limitations on case-work and in state-to-state negotiations where civil society has not been involved and has not been a useful ally to anti-corruption and asset recovery efforts.

GETTING
STARTED WITH
ASSET RECOVERY



Before beginning to work on asset recovery, it is important to consider a few important issues that will help you to work effectively on the topic. The first of these is ensuring that you have a solid understanding of asset recovery as an issue: what it covers and what not, how it tends to work and how it has worked in your country. Second, think about who is involved: which actors nationally and internationally are involved and what are they currently doing with respect to ongoing cases. Finally, but importantly, what are the security and risk considerations in working on this topic.

1) UNDERSTANDING THE ISSUE AND UNDERSTANDING THE CASES IN YOUR COUNTRY

Asset recovery is a complicated topic that has several stages. It is important to first understand what is and what is not asset recovery, as well as what should happen at various stages in the asset recovery process. It is also important to understand how your country is engaging with asset recovery. Key questions that you will first want to consider include:

- Is there a focus on one big case or are authorities widely engaging on asset recovery or not at all?
- Who is being targeted in these cases? Are there political considerations in prosecutions?
- Is the focus on domestic or international recoveries or both?
- If international, which other countries are involved?
- Do institutions use criminal proceedings, or do you have and are institutions using non-conviction-based forfeiture?

Related to this, at the very start, it is important to understand the

legislative and policy framework around asset recovery in your country, as well as the progress made in ongoing cases. These will be key aspects in any engagement strategy. Tips specifically on how to do this are found in the next section.

Resources to help you understand asset recovery and identify progress in your cases include:

- Tools and Support / CiFAR: <https://cifar.eu/what-is-asset-recovery>
- Country Profiles / CiFAR: <https://cifar.eu/country-profiles>
- Basel LEARN / ICAR (Basel Institute): <https://baselgovernance.org/basel-learn>
- Stolen Asset Recovery Initiative / World Bank and UNODC: <https://star.worldbank.org>
- Corruptionary / Transparency International: <https://www.transparency.org/en/corruptionary>
- Basel AML Index / Basel Institute: <https://baselgovernance.org/basel-aml-index>
- Financial Secrecy Index / Tax Justice Network: <https://fsi.taxjustice.net/en>

2) IDENTIFYING RELEVANT ACTORS

It is important when starting out in asset recovery work to identify who is involved in the case being addressed and in asset recovery more generally. There are frequently several authorities involved, some of which may have overlapping mandates, as well as civil society partners who could support your work.

Key questions to ask when considering relevant national government actors include:

- Who in your country is the lead governmental actor for investigating cases of (grand) corruption?
- Is this actor - or a different actor - responsible for prosecuting corruption?
- Is this actor - or a different actor - responsible for communicating with other jurisdictions on cross-border cases?
- Who is responsible for coordinating on the recovery of stolen assets?
- Is there a dedicated asset recovery office?
- Is data collected on asset recovery? Is it published?
- Are there any coordination bodies established for high profile cases?
- Is there a mechanism established for managing frozen assets and receiving confiscated and returned assets?

Key questions to consider about international actors include:

- Are other jurisdictions involved in the case?
- If yes, what departments are responsible for collaboration on the investigation and prosecution stages?
- Which departments are responsible for discussions around the return of funds?
- Is the government cooperating with a regional asset recovery working group?

- Has the government engaged StAR in the case?

Key questions for civil society engagement include:

- Could other CSOs nationally working on anti-corruption collaborate with you on asset recovery?
- Are there CSOs who work on social issues who could consider collaboration on asset recovery?
- Are journalists or research centres working on this topic?
- Are there CSOs, journalists or research centres working on this topic from the countries of destination or internationally?

It is often worth mapping these elements through an exercise with other CSOs, both nationally and internationally, to get a solid understanding of who is doing what and opportunities that exist for engaging with these actors.

3) RISK AWARENESS AND PLANNING

Although UNCAC recommends that countries should not only recognise civil society work in anti-corruption but promote active participation, organisations working in the anti-corruption field are not always supported by and can face resistance from government authorities. This happens globally.

While in some countries, CSOs and the media are able to freely engage on asset recovery work, this does not mean that their inputs are always seriously considered, for example, in policy design and implementation. Personal and organisational risks can also be present, particularly for those investigating cases of corruption involving powerful individuals or those work on issues that may impact the lives of powerful individuals. In other countries, there is relative freedom of the press, and CSOs are

allowed develop their activities, even if they face pressure and criticism. In other contexts, actively working to fight corruption is extremely difficult due to serious personal and physical risks.

CSOs working in the specific field of asset recovery potentially face even more challenging circumstances than anti-corruption work in general. Once they begin to advocate for sanctions on powerful people, and most importantly, to prevent them from using the most desired outcomes of financial crimes – mansions, yachts, shopping sprees —, anti-corruption professionals should develop and follow cautionary measures – these are summarized and referenced below. As a note, this section is largely based on materials from Front Line Defenders¹² and the Committee to Protect Journalists (CPJ)¹³ and more information can be found there. Indeed, in general, it is strongly advisable that CSOs dig deeper in the materials and manuals referenced below and that activists are encouraged to acquire these protective skills before moving forward with asset recovery advocacy work in their countries. These materials should also be regularly consulted, particularly as digital tool use changes with time and experience.

Planning and context awareness

Prior to engaging in asset recovery activities as an activist or an organisation, it is critical to use foresight and planning in order to effectively mitigate both personal and organisational security threats and risks. Some of the most important starting points to consider as part of the planning stage are the context and legal environment in which you operate, assessing and analysing risks and threats, producing security plans and implementing and reviewing those plans on a regular basis.

There are many safety and security guides available online which address more global or generic needs. However, it is imperative to

consider local laws, freedoms and protections offered in the country of operation, as well as the context in practice. This is especially important when it comes to human rights and the country's track record for perpetuating impunity or not convicting those who threaten CSOs and their workers. Since work in asset recovery can entail tracing transactions across borders, it would also be important to have a solid understanding of the countries that you are investigating. A general understanding of their laws, in addition to their track records on how they deal with human rights violations could be useful. For example, in most countries, especially those practicing common law, SLAPPs (Strategic Lawsuits Against Public Participation) can be used to hinder public participation through the threat of defamation law suits. In addition to understanding the justice system, it would also be wise to plan a list of local or global contacts and organisations that offer legal assistance in matters regarding human rights and freedom of speech, such as those offered to journalists or through international coalitions or agencies. In some countries, digital security methods such as encryption are in fact considered illegal or suspicious.

In addition to global and national level legal support, preparing and identifying legal frameworks and cooperative efforts is also important at the organisational level. CSOs should have a set of policies and protocols for safety and security for all staff and update them regularly given the changing context in which they work. It should be made clear to staff what level of protection can be offered by the organization in terms of not only personal data protection, but also that of the information collected during investigations and the protection of confidential sources. Depending on the country in question, there could be laws stipulating the obligation of the organisation to hand over journalistic notes, confidential sources and collected information to the country's

authorities.

In the age of digital communication and online research, digital security is an important part of safety and security concerns. As such, the risk assessment and planning should focus on ways to practice and maintain safer use of digital technologies in order to combat online threats. More information on this is found in the following part.

At a more personal level, it is important to consider self-preservation, home security and the protection of personal contacts such as family, friends and colleagues. Each individual's circumstance is different and should be assessed with regards to the level of the case being investigated or worked on. For example, the corresponding risk associated with the level of power and resources that the subject of investigation could use against the CSO or employee such as surveillance or blackmail. Research on the target of the investigation, or person of interest, and what resources, such as money, technological capacity or authority they have may help with mitigation strategies for personal security. It is also advisable to ensure adequate insurance coverage, either personal or through the CSO. Having regular check-ins and lists of updated contacts are also important for keeping team members and colleagues informed and safe.

As a side note to risk, it is also important to manage the mental stress that comes with working in asset recovery, particularly on higher risk cases or in higher risk work. Resources for both journalists and human rights defenders often highlight the importance of mental health risks such as burnout associated with stress and danger involved in this line of work.

Assessing the risk vs. the reward

While planning for security is often based on procedures, they will only

be effective insofar as they align with risks in a given circumstance. In other words, identifying all potential risks are imperative to planning how to mitigate these risks. More importantly, having situational awareness is necessary to adapt to a changing environment and to keep procedures and security relevant and up to date. It is also important to consider the risk versus reward assessment at various levels. This should include:

- the organisational level;
- evaluating how publishing information could pose a threat to the CSO itself;
- assessing public interest versus safety when publishing high level claims; and,
- assessing personal security and safety of the individual or colleagues, and of their (confidential) sources.

Risks for team members should also be considered at a very personal level depending on the environment: religious affiliation, sexual orientation or gender. Female sources and journalists often face greater physical risks. For example, in the case of gender-based abuse and differing cultural norms in a given country they might rely more on digital communications as a means to work or to provide information. Depending on the laws in the country, there is the possibility that some team members may receive less protection from the law or be at higher risk for blackmail relating to their personal lives when working on asset recovery.

In their Workbook for on Security, Frontline Defenders includes a chapter dedicated to risk assessment including examples and activities for activists at risk. While risks vary depending on the culture and context of the country, they identify that this may include a spectrum of severity

ranging from things such as: stigmatisation as “anti-state” or “agents of Western powers”; blackmail, physical or sexual abuse; attacks on likelihood or property; abduction or in the worst case, murder.

In addition to having a documented risk assessment, it is also advisable to give a copy to someone in your organisation. In case something does go wrong, others will be aware of it and will be able to trace back possible leads or motives as to what may have happened.

Digital safety

Today, digital safety and security are vital to mitigate risks for CSOs and those working in the field of asset recovery. While the internet has been instrumental in the collection of data and creating safe and efficient ways to communicate online, it has also opened the door to threats such as mass surveillance, hacking, spyware, identity theft, doxing, harassment and exposure of personal information. Such online threats can also lead directly to physical threats for those working with sensitive information dealing with asset recovery.

Many organisations in the fields of journalism, human rights, activism and other grass-roots initiatives provide collective information and tips on current best practice when it comes to digital security. There are also a number of non-profit organisations and experts in the field of digital security that offer pro-bono courses, software programs and one-on-one advice online to activists and journalists. Below is a non-exhaustive list of some of the most basic and highly recommended steps to protect individuals as well as sensitive or confidential information in the digital realm.

Digital security planning – Electronic Frontier Foundation (EFF)

- Conduct a digital risk assessment or hire a professional to help with setting up digital security procedures for each situation:
 - List what you want or need to protect
 - Who are you protecting it from?
 - How bad are the consequences if you fail?
 - How likely is it that you will need to protect it?
 - How much trouble am I willing to go through to try and prevent potential consequences?
- Take online courses on digital security regularly to stay up to date and familiar with tools and services to keep information, sources and personnel safe
 - “Know your trolls”
 - “Keep it private”
 - “One-on-one Safety Consultation”

Beyond all the above, recommendations on how to safely research potential sources, how to communicate with whistle-blowers and meet them in a safe way, as well as how to manage documents and to publish content, are available online, particularly in materials from the Committee to Protect Journalists (CPJ).¹⁴ Although journalists are the primary beneficiaries of such recommendations, these could be applicable to CSOs in specific cases.

UNDERSTANDING BARRIERS TO EFFECTIVE ASSET RECOVERY



As well as understanding how to manage risk and protect staff, civil society organisations or networks and coalitions willing to work on asset recovery should start their work by **identifying gaps and challenges** highlighted by the national authorities themselves. This section will go into more detail on tips for how to do that.

Countries that have ratified the UN Convention Against Corruption undertake a review mechanism process to assess their progress in implementing its provisions. Currently (as of the first quarter of 2022), one of the themes under review is asset recovery, which is the topic of chapter V of the UNCAC.

A thematic report by UNODC published in 2021 presented a compilation of the most relevant information on the barriers and successes found in 53 country review reports concerning asset recovery.¹⁵ Country reviews are a three-step evaluation: firstly, each country self-evaluates its legal and institutional framework vis-à-vis the topic; this is followed by a peer-review phase, in which two other countries provide experts to form an expert review team, who will review the self-assessment checklist; finally, with the assistance of UNODC, the expert review team prepares a country review report (80–300 pages) and an executive summary of this report (7–12 pages), which is only published in full with the agreement of the country under review.

Although it is not possible to identify which countries are included in the thematic report, the list of the main challenges and barriers for an effective asset recovery has been provided by each national government. Hence, it is useful strategic information for civil society organisations to consider in relation to their national context. By knowing about such challenges, CSOs are able to better engage with

government officials and best position the debate in the public arena.

According to the compilation made by UNODC from the various country evaluations, the two most relevant challenges for implementing asset recovery are related to the pre-judicial phase (article 52 of the UNCAC, on prevention and detection) and the return phase (article 57, on return and disposal) of the asset recovery process.

Article of the Convention	# of countries	Challenges
Art. 52 - Prevention and detection of transfers of proceeds of crime	51	<ul style="list-style-type: none"> ● Identification of foreign and domestic politically exposed persons and beneficial owners. ● Reporting of foreign interests. ● Inadequate issuance of advisories. ● Ineffective financial disclosure system. ● prohibition of shell banks¹⁷. ● lack of resources of competent authorities
Article 57. Return and disposal of assets	40	<ul style="list-style-type: none"> ● Insufficient legislative or other measures for the return of proceeds to requesting States. ● No regulation of costs or means of deducting expenses in the course of mutual legal assistance proceedings. ● No protection of the rights of bona fide third parties in return proceedings.

Source: UNODC thematic report (2021), adapted by the author

As noted in the table above, around 95% of all countries evaluated (51 out of 53) received recommendations on preventing and detecting transfers of stolen assets. Moreover, almost 80% of the countries reviewed (40 out of 53) present implementation gaps in terms of asset return and disposal.

In general, the expression “requesting state” or “country of origin” refers to countries from the so-called Global South, whereas “requested state” or “country of asset location” refers to Global North countries.

In that sense, it is noteworthy that recommendations on prevention and detection (Article 52) seem to refer generally to Global South countries. In contrast, the other set of recommendations, asset return (article 57), apparently is addressed mainly towards Global North countries.

Also noticeable, from the specificities of the gaps spotted (see the “challenges” column of the table above) in country reviews, is the relevance of the beneficial ownership transparency agenda, policies related to asset, income and interest declarations, and PEPs (politically exposed persons) — elements present in recommendations about prevention and detection (Art 52).

On the challenges about asset return, the urgency for legislation to regulate the return of assets to countries of origin reinforces the importance of laws such as the one passed in France in August 2021 on responsible asset repatriation.¹⁶

INTERNATIONAL COOPERATION, LEGAL AND INSTITUTIONAL FRAMEWORK AND DIRECT RECOVERY

According to the 2021 UNODC thematic report, the third most relevant challenge on asset recovery noted in country review reports relates to the recovery through international cooperation (articles 54[19] and 55[20]). Around 60% of the country reports include recommendations on

those aspects.

Most of the countries reviewed (51%) also face challenges in two other aspects: inadequate legal and institutional framework as well as ineffective inter-agency coordination (Article 51), and lack of measures for direct recovery of property (Article 53).

Based on the above, in terms of advocacy, **CSOs should assess whether the country has sufficient laws and procedures to effectively conduct asset recovery** in the following areas, in order of relevance:

Pre-judicial phase

1. Prevention: risk assessment, relevant data publication and collection (beneficial ownership, politically exposed persons, asset declaration)
2. Detection of transfer of stolen assets
3. Legal and institutional framework, including domestic interagency coordination

Recovery phase

1. Legislation and other measures for the return of proceeds to requesting States.
2. Regulation of costs or means of deducting expenses
3. Protection of the rights of bona fide third parties in return proceedings

Judicial phase

1. Procedures for the confiscation of assets
2. Direct recovery of property: mechanisms or legal basis for to establish ownership of property, be awarded compensation or

be recognized as the legitimate owner of property

3. Mechanisms for the transparent and accountable management of recovered assets

BEYOND FORMAL INSTITUTIONS AND MECHANISMS

These elements are centred on formal institutions and mechanisms. Besides these technical and institutional challenges related to the asset recovery field, the broader agenda on compensation for damages related to corruption cases is also likely to be an important object of work for civil society organisations. The UNCAC mentions, in article 35, “that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation”.

Robust arguments in favour of the agenda on compensation have been accumulating recently. One example is the debate on the “right to remediation”.

According to a 2022 publication by the UN Human Rights Council, “[r]emedy is at the core of human rights and ensures that rights have real meaning in practice. If a human right is breached, the rights holder should be able to seek remedies from those responsible”.¹⁷

CSOs should therefore consider how the money is to be returned and whether there is adequate recognition of victims. In relation to this, and broader questions of accountability and transparency, it may also be worth considering the Civil Society Principles for Accountable Asset Return.¹⁸

CIVIL SOCIETY PRINCIPLES FOR ACCOUNTABLE ASSET RETURN

1. Asset recovery cases, including settlements, reconciliation agreements and negotiated agreements, should be conducted transparently and accountably from start to end, to the extent compatible with rules on confidentiality of investigation.
2. All recovered assets must be traceable by the general public at all stages of the process of asset recovery, from the confiscation, seizure and sale of assets through to the return and disbursement of assets.
3. Independent civil society organisations, including victims' groups/representatives, should be able and enabled to participate in the asset recovery process.
4. Multilateral, bilateral and case-specific agreements or arrangements should be made public in a timely fashion and accessible manner, including when recovery is part of reconciliation arrangements, and should involve independent civil society representatives.
5. In no cases should the disposition of the recovered assets benefit directly or indirectly natural or legal persons involved in the commission of the original or on-going offence(s).
6. A process should be in place to monitor the disbursement of funds that includes an independent complaints mechanism.
7. Anti-corruption, rule of law and accountability mechanisms should be in place to provide oversight of recovered assets.
8. Victims should be provided access to justice in domestic and international cases of illicit activities including bribery and money laundering.
9. Without prejudice to the restitution of identified victims and with the understanding that the recovered assets remain the property of the people of the country from which they were stolen, recovered assets should be used to benefit the people of the country from which the assets were stolen.
10. A wide range of stakeholders, including a broad base of representative, independent civil society organizations should be involved in determining how recovered assets should be used to best repair the harm caused and to benefit the people of the country.

CASE STUDIES OF CSO ENGAGEMENT & RECOMMENDED APPROACHES



This section presents and discusses recent activities performed by civil society organisations, researchers, and activists working in the asset recovery field, highlighting success stories and lessons learned. Organisations consulted operate in different settings and contexts: Western European countries, Latin America, Sub-Saharan Africa, Asia-Pacific, Eastern Europe – or work from abroad, focusing on specific countries where such work would be impossible due to high risks.

The purpose of this section is not to provide a template for how you should work on asset recovery – this will very much depend on your national context. Rather, it is aimed to give examples which can be reflected on to see to what extent these might work and how they worked, which can help you to reflect on your own strategy.

ASSET RECOVERY JUDICIAL ADVOCACY: CSOS AND THE CONFISCATION OF OBIANG ASSETS IN FRANCE¹⁹

Fifteen years ago, several French society organisations filed criminal complaints against foreign leaders and their family suspected of having laundered public funds in France. The aim, with these criminal complaints, was to illustrate the cost of corruption and to give an image: to embody money laundering in Western countries for further reform.

The most prominent of these cases involved Teodorin Obiang, who had been suspected of having assets in France obtained through the proceeds of corruption. As a sitting member of the executive of Equatorial Guinea and the son of the president, no request for investigation or asset recovery had come on the part of officials from Equatorial Guinea. Nor had French authorities initiated their own investigation into the assets.

Two French CSOs – Sherpa and Transparency International France – used

a provision of France's legislation to require the opening of a judicial investigation into the alleged misdoing of 3 foreign heads of state, including Teodorin Obiang. Despite resistance from authorities, the associations were able to convince the Superior Court of Appeals that civil society could bring such a case.²⁰ This right was then enshrined in legislation in 2013.²¹

French authorities were able to launch their own investigation due a provision of the French criminal code that allowed for the presumption of money laundering, reversing the burden of proof and requiring suspected perpetrators to prove the licit origin of his funds and goods. In cases such as the Obiang case in France, where international cooperation was not possible, these kinds of provisions can really have a decisive impact, according to a French CSO representative.

Ultimately, the money was found to be illicit and EUR 150 million was confiscated in 2021.²² The question in the meantime of course came to how this money could be repatriated to Equatorial Guinea, given that the defendant and his family remained in power. In parallel to the judicial proceedings, these civil society organisations therefore conducted active advocacy towards the adoption of a responsible repatriation law. Such a law was adopted in August 2021 and enshrines different principles of transparency and accountability in asset return.

Three lessons emerge from this case, according to a CSO representative in France with direct involvement:

1. **CSOs can indeed make a difference in the fight against corruption**, as this French case was triggered by civil society. This can happen whenever context allows – such as adequate legal and institutional framework, allowing for civic legal standings, for example, or for presumption of money laundering,

press freedom and, of course, CSOs that use those advantages strategically. From no action before 2007 against foreign leaders, now, 15 years later, there are about 20 ongoing cases against foreign leaders from Africa, Asia and Europe.

2. **It is possible to fight kleptocracy and corruption even when the country of origin does not help** if the country of asset location has the adequate tools.
3. **Holding trials and public hearings can be a symbol of justice** in corruption cases. During the 15 years of proceedings, criticism was levied by the defence of racist and neo-colonial justice. In this context, a fair and equitable trial was seen as the best response to those criticisms. It was a long process, but it strengthened the legitimacy of Obiang's conviction, and it contributed to depoliticize the whole process.

A further lesson to learn from this is that focussing on single cases can lead to more substantive reform. Using the Obiang case, French civil society was able to advocate for much more substantive reform to the legislative framework, enabling future recoveries to also be returned in line with principles set out in the new law.

USING RESEARCH ON THE COSTS INVOLVED TO MOTIVATE INVESTIGATIONS: MOZAMBIQUE'S HIDDEN DEBT CASE

The "hidden debt scandal" was a grand corruption case involving Mozambique's public money. In 2013, bankers based in Europe, businesspeople based in the Middle East, and senior politicians and public servants in Mozambique are alleged to have conspired to organise a USD 2 billion loan to Mozambique – this represents some 12% of the Gross Domestic Product of one of the economically poorest countries

in the world. The loan was kept hidden, and there were no services or products of benefit to the Mozambican people. It was alleged that the majority of this loan was stolen by those involved.²³

A report published in 2021,²⁴ written by Mozambican CSO members and a Norwegian think tank set out the huge costs and consequences of the hidden debt scandal – measuring them in numbers where possible and tracing the chain of harmful events and consequences resulting from it. The impacts were identified as economic (direct costs and damages), social (reducing welfare), and institutional (worsening politico-institutional environment).

This report influenced Mozambique public debate and has informed Mozambique's government official position before courts in judicial proceedings in different countries, according to a CSO representative consulted.²⁵

COORDINATED ACTION ACROSS COUNTRIES OF ORIGIN AND DESTINATION: ANGOLA'S DOS SANTOS CASE

The Dos Santos case originates out of Angola and involves allegations that the family of the former president of Angola, José Eduardo dos Santos, corruptly obtained billions of US dollars from various State budgets during his tenure. The case involves both José Filomeno dos Santos, the ex-governor of Angola's national bank and sovereign wealth fund and son of the former president, and Isabel dos Santos, former the head of Sonangol, the state oil company, and daughter of the former president.²⁶

A large part of the alleged illicitly acquired wealth is in Portugal and longstanding cooperation between Lusophone civil society anti-corruption activists has been instrumental in moving the case forward.

NGOs and activists have jointly worked in Angola and Portugal on this case, particularly since the Luanda Leaks.²⁷ The actions against Isabel dos Santos and other alleged participants in corrupt schemes, initiated in Portugal and Angola, and more recently the sanctions applied by the United States, have been identified as particularly important contributions of this joint work.

“Over the years, we have been strengthening synergies with investigative journalists and civil society organisations from Portuguese-speaking countries, given that we only get involved in cases with a direct connection to Portugal, i.e., which have Portugal as the destination of funds illicit or pivotal for money laundering”, informed a CSO representative from Portugal.²⁸ Written statements and other materials have been co-produced by activists and organisations from different countries with Portuguese as official language.

A FOCUS ON THE PRE-JUDICIAL PHASE: TUNISIA

A Tunisian NGO advocated for the adoption of the asset declaration and anti-money laundering laws, which eventually passed in 2017 and made efforts to create a knowledge-sharing platform.

A CSO representative from Tunisia shared that the decision to prioritise work in the pre-judicial phase, to make it harder to steal money in the first place, was taken due to shortfalls in the legal framework, as well as due to the expertise of civil society and media in this field. They also felt that civil society in Tunisia would be able to achieve a bigger and more concrete impact at this phase.

The representative added that international and national conferences on asset recovery have been organised as an attempt to create a platform to share knowledge and expertise between national officials and

international experts working on asset recovery and that these initiatives and many others had a positive impact on the work of the different stakeholders on the asset recovery portfolio in Tunisia.²⁹

A WIDE COALITION OF ACTORS WORKING OUTSIDE THE COUNTRY: UZBEKISTAN'S KARIMOVA CASE

The Karimova case is an ongoing asset recovery process relating to corrupt practices conducted by the daughter of the former president of Uzbekistan. The case has been ongoing across multiple jurisdictions for several years, with prosecutions of both companies involved in the case and asset recovery relating to Karimova herself. The most recent, large sum, as of 2022, involves USD 131 million to be returned from Switzerland.³⁰

The challenge in this case is that the civic space in Uzbekistan remains extremely challenging and civil society organisations, particularly those working on human rights and corruption,³¹ face extensive challenges in working to advocate around or monitor returned funds in the country.

Activists have overcome some of these challenges through the establishment of a wide coalition of CSOs and academics based outside of Uzbekistan, with support from Uzbek activists in country and exiled – the Uzbek Asset Return Network. This network is able to advocate for accountability, transparency and participation in the returns without the limitations and risks that actors purely based in Uzbekistan would face and with the advantage of also monitoring their own governments. Their actions have included monitoring the recovery processes, proactively petitioning the relevant governments for information, and advocating for a rigorous and inclusive return process.³²

TARGETING BARRIERS TO RECOVERY: PERU

A Peruvian NGO was able to successfully advocate for regulatory changes that led to the adoption of a corporate leniency agreement. Peru has had a law on individual plea agreements since 2001, but in 2017, thanks in part to advocacy work by CSOs,³³ the South American country adopted a corporate leniency agreement. This agreement works the same for as for plea bargains, with companies able to bargain in exchange for reduced fines.³⁴

The new law allowed for agreements between Peruvian law enforcement authorities and the Brazilian construction company Odebrecht which will see Peru receive millions of dollars in fines, with some sources estimating it to be as large as USD 200 million.³⁵ The Odebrecht case involves a Brazilian construction company, that has been implicated in a scheme of bribes for contracts across several countries in the Americas.³⁶

KEY RECOMMENDATIONS FROM CSO EXPERIENCE:

Based on the case studies above and several others considered for the purposes of this manual, a few important recommendations can be made to assist in formulating your asset recovery work:

- **Asset recovery overall strategy:** ensure that you create an overall strategy for working on asset recovery and try to avoid working on a case-by-case basis. Lessons from civil society working on asset recovery indicate that without a comprehensive strategy, there is a risk of too much improvisation, leading to opportunities being lost; for example, through a lack of dialogue with CSOs from other countries, particularly neighbouring ones. This strategy should identify drivers and barriers, and find allies in the public sector.
- **Consistency:** CSOs should maintain solid work on asset recovery over time. As asset recovery processes are usually time and energy consuming and require technical expertise, occasional activities in this field will probably not bring substantive results.
- **Technical knowledge:** While a whole team of experts is not needed, CSOs should understand grand corruption and financial crimes in some detail so as to better adapt their activities. A more technical person in the team and a network of expert collaborators, who could be pro bono professionals, could be an option to address this.
- **CSO funding and asset recovery:** CSOs may consider raising the question whether a fraction of fines levelled against corporations fuelling corruption or of recovered assets should be reserved in a fund to support civil society working on the asset recovery. This move must be carefully assessed, though, because such a call could be used against civil society, as arguments could be made that CSOs are only working in the asset recovery field because of their own self-interest.
- **Partnerships.** As asset recovery is a challenging field, it is not a one-person or one-organisation endeavour. CSOs should seek like-minded people and organisations, particularly organisations of their linguistic community, as there could be laundering money activities between criminals and professionals speaking the same language both in the country of origin and the country of asset location, and in their region.
- **Civic space:** In challenging times for civil society, it is strategic to protect civic space. One recommended option is to actively participate in coalitions or umbrella organisations to be able to

better defend CSOs, for example, against governmental abuses on anti-money laundering provisions targeting civil society organisations.³⁷

- **Strategic liaison** with governments of countries of asset location: Particularly relevant is dialogue with governmental agencies of countries of asset location. Specifically, it is important to assess how and when to use more direct public action versus more discrete behind the scenes activity. One activist consulted stressed the following: “when it comes to asset return, you see some governments that are proactive and open, and some governments that are totally closed and inactive”.³⁸ When a country is more open, it is easier to identify flaws in their policy; in a more restrictive one, there is tendency to overlook the fact that other governments blemishes also exist and can be criticised.
- **Domestic asset recovery:** Domestic recovery is sometimes quicker and more fruitful than complex international cases, despite international cases often leading to more substantial change. CSOs must not overlook that, in some contexts, domestic asset recovery might be as relevant as international asset recovery.
- **Victim compensation:** It is often not easy to identify direct harm in asset recovery cases. Therefore, debates on civil reparations, to repair the damage directly or indirectly caused to victims of corruption can be challenging. Strategies that seek to engage on this should consequently be carefully assessed in line with national rules on compensation. On the other hand, there has been growing attention and support for this frame of remediation. CSOs should ensure they have the adequate partners and use the adequate angle, argument and language.
- **Involvement in legal proceedings:** working directly on cases, for example through bringing actions, should be carefully assessed as, while it can bring large benefits, it can be challenging and costly. CSOs have reported undesirable outcomes after attempting to become civic parties in legal cases. On the other hand, this direct involvement is also regarded as a critical aspect in success cases, such as in France. CSOs should then assess how feasible it is to follow this avenue in their contexts. Elements to consider is the feasibility of strategic litigation to obtain legal standing status or the plausibility of a reform in the legislation.
- **Strategic litigation** can be challenging: due to the lack of solid institutional framework in some contexts, it is not easy to use this in the context of asset recovery, despite the potential this has for progressing in cases. CSOs should carefully assess the chances of success in building good cases, for example the resources they have in terms of legal professionals and the jurisprudence in their contexts.
- **Build a link** between legal cases and accountability: it is important to consider how legal cases, either against individuals or to obtain documents, will translate into greater accountability. Make sure that strategies bridge the link between cases, and advocacy and campaigning.
- **Audience and engagement:** CSOs should not stop doing one of the things they do at best when working on asset recovery – reaching out to a wide public. In terms of asset recovery,

this means finding your audience, collecting support from and engaging with citizens and the media.

- **Asking the important questions:** asking the difficult but important questions in asset recovery cases is often one of the most important roles. This includes asking for transparency, accountability and inclusiveness in the management and use of returned assets, how expenditures will be audited, progress in cases, and decisions to prosecute or not.

IDEAS FOR CSO ENGAGEMENT



The abovementioned recommendations are general ideas that should be followed by civil society organisations that decide to develop activities around stolen asset recovery. However, more specific context-bound tips and ideas also emerge from consultations with experts and CSOs as well as when looking at concrete cases.

This section presents actionable ideas and tips for each phase — the investigative/pre-judicial phase, the judicial phase, and the asset return phase — in different contexts.

GENERAL OVERVIEW

In general, activities undertaken by Civil Society Organisations can be classified³⁹ as follows:

- **Awareness raising:** Activities such as petitions, open letters and social media posts and videos aimed at reaching a wider audience and producing messages on the importance of asset recovery, its role in the fight against corruption and in development efforts and/or raising awareness across society and key institutions about the roles and responsibilities of concerned actors. Investigative journalism also plays a role in raising awareness about grand corruption and asset recovery in the public sphere.

As noted from the examples presented in the previous section, awareness raising activities, both in general terms and related to specific grand corruption scandals, can be successful in different contexts. In contexts where media is not excessively restricted, CSOs can work with journalists who report on grand corruption cases. International and regional conferences and events have also been reported as success stories related to

awareness raising, positioning the issue of asset recovery on the agenda.

- **Research and advocacy:** Differently from awareness raising activities, advocacy activities are more targeted and have the aim of persuading certain public or private institutions to undertake specific actions. Research studies and analyses are many times critical for effective engagement.

In terms of research and advocacy, evidence-based advocacy is among the most successful stories CSOs shared, reporting their experience in influencing their governments' action on asset recovery based on knowledge and empirical data. Another successful advocacy activity has been strategic dialogue with international partners. CSOs with experience in repressive environments stress that liaison with government agencies of countries of asset location is crucial. In other contexts, other types of international dialogue are central. For example, CSOs operating in countries where assets are typically hidden mention the importance of coordination with actors from countries where corruption cases generally occur. Another advocacy activity that may lead to success stories is strategic policy dialogue with authorities. This has happened in France, where civil society cultivated a key relationship with members of the Senate and National Assembly.

- **Casework and legal analysis:** Undertaking work on cases and providing legal analysis may be an effective way for CSOs to work. This can include CSOs initiating legal procedures, provided that is allowed by law, as well as providing analysis of current and proposed legal developments.

CSOs consulted for this manual have in general reported challenges related to casework and legal analysis, particularly when trying to stand before courts and when trying to use court documents to advance asset recovery processes. The French case was positive but is somewhat exceptional, in that in other contexts CSOs have been denied similar levels of standing. For CSOs facing difficulties in actively participating in legal cases, one alternative is to advocate for reforms in the legal and institutional framework. Work done by CSOs and journalists has successfully triggered legal cases, particularly from combined work around investigations.

- **Return of confiscated assets:** CSOs can be active in the stages immediately before and during the return of confiscated assets originating from corruption. For example, by monitoring the government-to-government dialogue that takes place after a final court decision or by initiating and contributing towards a national dialogue on the potential end-uses of returned assets.⁴⁰

The monitoring of recovered assets and engaging the public on the use of these assets, both from domestic and international recoveries, has been an important area of work for several CSO. While there are limited successful examples of structured engagement in return mechanisms, there appears to be more appetite for including civil society as a formal partner in both monitoring returns and in discussing the modalities for returns. CSOs and journalists have more extensively played an important oversight role outside of formal inclusion in returns structures, in monitoring returns and discussing their successes and failures.

SPECIFIC IDEAS FOR CSO ENGAGEMENT

For a CSO to be effective in its work, as outlined above, the first crucial assessment is the space for CSOs to work on asset recovery and the resultant risks that would entail from engaging on the topic. The ability for civil society to carry out work on asset recovery will depend highly on these two dynamics.

Reflective of this, ideas for CSO engagement in this part are distributed into two categories: ideas for CSOs operating in environments with less open civic space or where they have identified high reputational or personal risk from working on asset recovery, and ideas for CSOs operating in environments with more open civic space or where risks for working on asset recovery, or specific cases, are lower. This is not to say that ideas from one category cannot be used in different circumstances, rather it is intended to be a useful way to think about the scope of activities under two differing scenarios. In particular, work that could be carried out in a higher risk or more closed civic space setting can naturally be carried out in a lesser risk or more open civic space setting.

Working in more restrictive environments⁴⁰

Individuals and groups working in countries with less space for civil society to operate or where working on asset recovery is particularly sensitive should, in addition to the preparations listed above, give particular weight to stakeholder and context analysis, ensure comprehensive risk assessments, and consider mutualising risk through working in national and international coalitions on asset recovery.

Stakeholder mapping consists of identifying potential partners and opponents. Context analysis will demonstrate what are the drivers and barriers, the forces against effective asset recovery policies and forces that might be in favour, depending on the circumstances.

Mutualising risk through working with partners means that when you are undertaking your work, you consider reaching out to other groups and institutions who can support your work and provide you with needed capacity support or who can advocate and engage on your behalf, creating one layer of separation between your organization and the government or actors that may cause a security risk. This includes:

- Working with international civil society organizations and coalitions of organisations.
- Engaging with international networks of journalists
- Connecting to international researchers and experts, or international organizations, such as UNODC, World Bank, International Monetary Fund
- Reaching out to diplomatic missions of supportive countries, including governmental agencies of countries typically involved in asset recovery cases, such as Switzerland (for example, the FDFA – Federal Department of Foreign Affairs), United Kingdom (e. g. FCDO – Foreign, Commonwealth & Development Office), and the United States (e. g. DoJ – Department of Justice)

Besides these international actors, depending on the context, specific national actors and individuals could be partners. Those include champions and reformers from the public sector, for example members of parliament, prosecutors, and judges, individuals from the non-profit and media sector, including journalists and humanitarian NGOs, and professionals from the private sector, for example members of bar associations, corporate leaders, and lawyers.

Building alliances are crucial in more challenging settings not only in terms of resources, but also in relation to safety and security. As one

experienced CSO leader mentioned,⁴¹ when a group is working in asset recovery it is less risky that one specific person or group becomes the target.

Pre-judicial phase

Work in the pre-judicial phase, particularly investigative work, should be carefully considered in light of the political and security situation. It may be possible to work on more general reforms with the government, relating to the general situation and not to specific cases, particularly if these reforms are framed in the way of assistance in meeting commitments made under the UNCAC or in response to a FATF evaluation. CSOs could, for example, build upon the UNODC thematic report, stressing the need for improvements in terms of risk assessment, relevant data publication and collection of data on beneficial ownership, politically exposed persons, and asset declaration; detection of the transfer of stolen assets; and the importance of building or improving legal and institutional frameworks. Alternatively, they could engage the government in work around UNCAC country review reports.

It may also be possible to link asset recovery reforms to messaging around topics governments are more comfortable with, and which are therefore safer to work on. Issues such as procedural human rights standards or the linking of asset recovery to development, for example, may be a way to work in a safer way or one that would better engage governmental actors. Cultural manifestations can help with awareness-raising and agenda-setting in more restricted contexts, for example,⁴² using music⁴³ and other creative content to give voice to citizen's concerns and help to spread asset recovery messages.

Working with CSOs in other countries on your case may also be a way to work on asset recovery with lesser risk. Open letters, articles,

petitions, and video messages can have a positive impact in terms of raising awareness and for added security, these can be on international platforms, have multiple signatories and messages could be in English.⁴⁴

Working with international networks of journalists to identify cases of assets located abroad might also be a way to bring asset recovery as a topic onto the political agenda. When assets are located in countries with transparency practices relatively well implemented, access to information requests may be filed so as to obtain additional information.

In not-so-restricted contexts, events and conferences may be useful to help identify partners and sustain a network of interested individuals and groups.

Judicial phase

The judicial phase is the most technical part of the whole asset recovery process and, in general, the most challenging for CSOs to engage in. If you are in a more restrictive environment, it may be challenging to get directly involved in court cases, either as a party or as a litigant.

One idea⁴⁵ would be to monitor the status of the legal proceedings, if the security situation allows. This could include reporting on the case as it progresses or providing assessments on the length, challenges and failings of proceedings or the investment made in terms of resources to the recovery.

An important aspect of this for CSOs in more restrictive contexts is to do this kind of work with partners in the country of asset location, where the case is international. If it would be challenging to follow the court case domestically, it may be possible for them to follow and advocate on the case from other end of the chain, as well as pass information to you on the case from information they are able to obtain.

Another important area of work at this stage can be provision and contextualisation of information to the public on the case. Cases often receive substantial media attention and expectations are high. Engaging, when possible, with the public to explain and to provide updates on the case can be a useful tool to maintain pressure to conclude the case.

In terms of overall advocacy work at this stage, CSOs may build strategies on the findings presented in the UNODC thematic report mentioned above, focusing, for example, on international cooperation and direct recovery. A platform recently launched by UNODC, the GlobE Network,⁴⁶ may be interesting in this regard. The Global Operational Network of Anti-Corruption Law Enforcement Authorities (GlobE) offers a platform for information exchange between frontline anti-corruption law enforcement practitioners in all countries across the globe. Their webpage presents a list of countries with representatives. In December 2021, UNODC signatory countries agreed on a resolution⁴⁷ on international cooperation calling on all States parties to actively participate in the GlobE Network and benefit from its resources.

Related to this, another possible angle for CSOs is to identify and advocate for their country's participation in these global networks that facilitate asset recovery and to, where possible, argue for civil society participation and the inclusion of important principles at events of these networks. For example, CSOs have been effective in arguing for global reform from a range of countries at forums such as the Conference of State Parties to the UNCAC and regional meetings on asset recovery.

Return phase

At the return phase, there is scope for a lot of civil society action outside of court proceedings. CSOs can advocate for transparency and accountability, questioning the mechanisms governments put in place to

manage and disburse recovered assets, and, in international returns, can reach out to government agencies from the country of asset location and try to establish dialogue from the very beginning of the process.

As a researcher⁴⁸ notes,

"[t]he leverage for CSOs operating in extremely repressive environment is generally going to be the state party where the assets have been stored. Key financial centres such as the US, UK, and Switzerland, have adopted policies that support the inclusion of civil society in international asset return processes. These state parties though will often lack acute awareness of independent NGOs on the ground in the victim country, with an interest in asset return. So, reaching out to the relevant foreign state agencies, building relationships with them is a key conduit for CSO influence."

In terms of transparent and accountable asset return, there are interesting reference points that you can use in this work, this includes:

- The Civil Society Principles for Accountable Asset Return,⁴⁹ were developed through a consultative, 18-month process involving civil society organisations from across the globe, as minimum framework standards that can be used and adopted to your context
- The United Kingdom's 2022 Framework for transparent and accountable asset return,⁵⁰ which sets out the UK's new policy for returning assets and can be used as a tool of engagement.

One actionable idea is to advocate for specific uses of the assets returned, with a victim's perspective in mind. In Peru, for instance, an NGO⁵¹ instituted an Integrity Pact in a tender for uniforms for the national police — the money for this acquisition had come from the Special Fund

for the Administration of Illicitly Obtained Money, created to manage the money detected and repatriated from Vladimiro Montesinos, Fujimori's former adviser, and his network. The police were one of the entities hardest hit by corruption in the 1990s.⁵²

Working in a less restrictive environment⁵³

If you are working in a less restrictive environment, either because civic space is more open or because there is greater civic space to particularly work on asset recovery, there is the potential to take further actions to advocate for accountable, transparent and participatory asset recovery. These should be seen as additions to the possible activities outlined above.

Even in these situations however, it is still important to undertake a careful risk assessment. While there may be freedom to work on this issue nationally, if you are engaging in work that implicates powerful actors, there could nevertheless be a risk of personal and professional harm in working on your case.

Pre-judicial phase

It may be possible when working with lesser restrictions to use both public space in the media and institutional fora, including strategic litigation, to advance the asset recovery agenda in the pre-judicial phase.

In some countries, as discussed above in France, it may be possible to gain legal standing to trigger investigations into case. It may also be possible if there are cross-border cases in your country to work with civil society from other countries to assist them with their cases. CSOs from Portugal, for example, have been working closely with counterparts from Angola. Supporting CSOs across borders may help to better calibrate your own work, in that it can help you identify gaps in your country's legal

and policy framework.

A key area here is that you may also be able to engage autonomously, or in collaboration with journalists, on investigations to identify cases of grand corruption and how these have been hidden domestically or overseas. This area of work needs particular thought, due to the risks involved, but can be used to pressure authorities into opening their own investigations. A lower risk activity can be investigating how facilitators are operating or how government institutions are responding, rather than looking at the corrupt individuals involved directly.

Judicial phase

As countries with more open civil society space and civic freedom have tend to have more transparent institutions, one alternative for CSOs operating in this context is to file access to information requests towards not only the courts, which may be excluded from access to information laws, but also the government itself to identify progress in asset freezing or confiscation.

Moreover, given that journalists working in such contexts are expected to work more freely, CSOs partnerships with local investigative journalists may be useful when trying to disclose information about the status of judicial cases.

It may also be possible, as identified above, to become directly involved in legal cases. It should be noted though, as one researcher mentioned:

“...that engagement [in the judicial phase] is no easy thing. It requires investment in understanding the different jurisdictions involved, their idiosyncratic legal systems, the agencies involved and contact points, and then it requires a strong commitment to proactively seeking information and engagement from these agencies. So,

for small NGOs with limited resources, this is an extremely tough programme of work to sustain, especially over the timescale of an average return process.”

A more involved way for CSOs to get involved in this phase is to obtain legal standing or, at least, civil party or *amicus curiae* status. In this way, CSOs could have access to the judicial proceedings and to documentation.

Another possibility, as court cases should be running also in countries of asset location, is to try this status in that jurisdiction. This is an option that should be assessed carefully, though. One of the CSO representatives interviewed⁵⁴ reported that after investing heavily in attempts to do this, their request was refused.

To sustain work during the judicial phase, CSOs need to ensure they are trained on the legal aspects of court proceedings or at the very least work with pro bono law firms or Bar Councils.

Return phase

CSOs based in less challenging contexts may also have greater possibilities to engage in the return phase.

This could involve engaging lawmakers and institutions on the modalities for return and advocating either for a specific use for returned funds or for procedures that would allow greater transparency, accountability and participation, particularly of victims' groups, in the process. In international recoveries, it could involve advocating for participation during negotiations, or for safeguards to be put in place, particularly when there are questions over civic space in the country of origin.

It could also involve establishing a monitoring programme over returned funds or releasing alternative reports analysing or auditing the use of

returned funds. It could also involve engaging with legal and policy reform to establish permanent mechanisms for the management and use of recovered assets, or for laws and policies to be established outlining how your country returns assets to other countries.

CONCLUSIONS



Civil society has been an active partner in asset recovery across many cases and jurisdictions. When considering work on this topic, there are several options that can frame your work in the asset recovery field. From an institutional perspective, there are lists of implementation gaps in the specific area of asset recovery that CSOs can and should highlight. There is the possibility to demand better implementation of existing legislation and policies and to ask for institutional and legal reforms to improve asset recovery. You can hold your institutions, and the institutions of other countries to account, or could work to investigate grand and cross-border corruption and expose the challenges in recovering stolen assets.

It is important to create a strategy that builds off a comprehensive stakeholder mapping, context analysis and risk assessment. There are a wide range of individuals and institutions that have experience with asset recovery and can support organisations willing to begin work in this field. Getting to know potential partners and allies is crucial – as is identifying your potential adversaries and your risks. Equally important is to equip and train staff in terms of safety and security.

Each context will determine which phase of asset recovery needs to be prioritised: you may identify that your work will have more impact if focused on the pre-judicial phase or on the return phase – or, perhaps, given your capacity and the context, the judicial phase. Once you have a plan and focus, there are a variety of tools and activities to undertake.

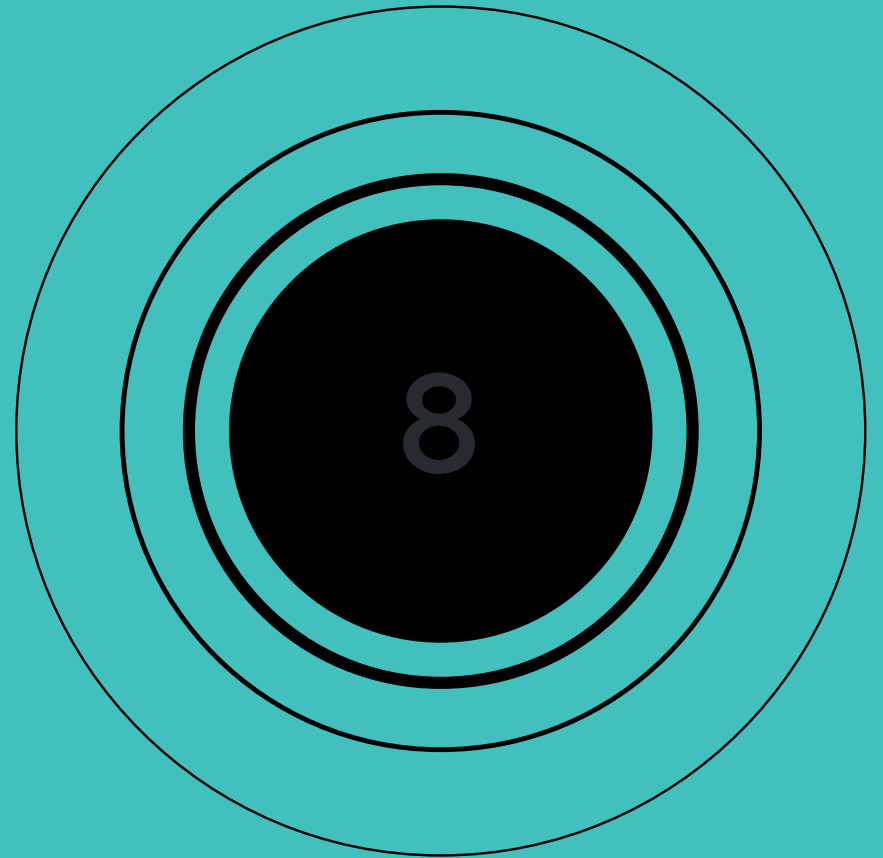
Asset recovery is a challenging and technical topic, but one that holds great promise not only for individual cases of corruption, but also for using asset recovery for more systemic reform.

CSOs have an important role to play in ensuring not only that any recovery is transparent and accountable, but also that returned funds are managed well and are used to benefit the victims of corruption.

This manual has intended to bring actionable ideas, experiences and keep steps to consider to the fore, based on the work of CSOs, as well as researchers and other experts. While each case and country context is different and so a step-by-step guide is not possible, it has tried to help you identify areas that could be prioritised and understand more clearly what can or could be done.

Much work is needed to make asset recovery a success, but you as a civil society actor are key to making that happen.

NOTES:SPACE
FOR YOUR
IDEAS



REFERENCES



REFERENCES

- 1 The Panama Papers was published in 2016 (<https://www.icij.org/investigations/panama-papers/>); the Paradise Papers, in 2017 (<https://www.icij.org/investigations/paradise-papers/>); Luanda Leaks, in 2020 (<https://www.icij.org/investigations/luanda-leaks/>); Open Lux, in early 2021; (<https://www.occrp.org/en/openlux/>); and Pandora Papers in late 2021; (<https://www.icij.org/investigations/pandora-papers/>)
- 2 See "Conference Room Paper prepared by the StAR Initiative: Mapping international recoveries and returns of stolen assets under UNCAC: an insight into the practice of cross-border repatriation of proceeds of corruption over the past 10 years", page 34
- 3 <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2FRES%2F46%2F11&Language=E&DeviceType=Desktop&LangRequested=False>
- 4 See Table 12 on page 17 of the Conference Room Paper prepared by the StAR Initiative: Mapping international recoveries and returns of stolen assets under UNCAC: an insight into the practice of cross-border repatriation of proceeds of corruption over the past 10 years. (https://www.unodc.org/documents/treaties/UNCAC/COSP/session9/CAC-COSP-2021-CRP12_E.pdf)
- 5 Only twelve countries in Africa presented in 2019 a nominal GDP (Gross Domestic Product) smaller than USD 4.1bn, according to World Bank data (<https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?view=chart>): Sierra Leone; Djibouti, Liberia, Burundi, Lesotho, Central African Republic, Cabo Verde, The Gambia, Seychelles, Guinea Bissau, Comoros and São Tomé and Príncipe (USD 427 million)
- 6 For an idea of civic space, see: <https://www.civicus.org/index.php/what-we-do/innovate/civics-monitor>. The tool uses five categories to describe the size of civic space in countries: "closed", "repressed", "obstructed", "narrowed", and "open"
- 7 This report has chosen not to mention their names for the sake of safety and security
- 8 See "International community continues making progress against offshore tax evasion". 30 June 2020. (<https://www.oecd.org/tax/transparency/documents/international-community-continues-making-progress-against-offshore-tax-evasion.htm>)
- 9 A summary guide on these terms can be found here: <https://cifare.eu/what-is-asset-recovery/>
- 10 "The Action (...) provides a new global framework for financing sustainable development by aligning all financing flows and policies with economic, social and environmental priorities". See particularly the section "Domestic public resources" (under "Action areas"), found on pages 10-17 of the outcome document of the July 2015 "Addis Ababa Action Agenda of the Third International Conference on Financing for Development". <https://sustainabledevelopment.un.org/index.php?page=view&type=400&nr=2051&menu=35>
- 11 Office of the High Commissioner for Human Rights, OHCHR Recommended Principles on Human Rights and Asset Recovery, 2022, p.2
- 12 See Workbook on Security: practical steps for human rights defenders at risk (https://www.frontlinedefenders.org/sites/default/files/workbook_eng_chapter_1.pdf)
- 13 See Digital and Physical Safety: Protecting Confidential Sources (<https://cpj.org/2021/11/digital-physical-safety-protecting-confidential-sources/>)
- 14 See particularly the following sections of the "Digital and Physical Safety" guide (<https://cpj.org/2021/11/digital-physical-safety-protecting-confidential-sources/>):
Researching your source
Communicating with sources
Receiving and managing documents
Meeting sources
Anonymizing sources
Publishing content
Maintaining confidentiality
- 15 Each country review report is a document produced after a self-assessment prepared by a given country complemented by comments made by experts from two other countries. The thematic report published by UNODC is based on 53 country review reports and can be found here: https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/6-10September2021/CAC-COSP-IRG-2021-7/2104759_E.pdf.
- 16 See: <https://www.transparency.org/en/press/france-adopts-new-provision-for-returning-stolen-assets-and-proceeds-of-crime-a-step-forward-with-room-for-improvement>
- 17 See "Remedy in Development Finance: Guidance and Practice portrays", a report from the UN Human Rights Office offering a look at how development finance institutions (DFIs) respond to harms associated with their projects, and what they can do to improve their responses (<https://www.ohchr.org/Documents/Publications/Remedy-in-Development.pdf>)
- 18 See: <https://cifare.eu/what-is-asset-recovery/civil-society-principles-for-accountable-asset-return/>
- 19 Information about this case study was extracted both from an interview by email (15 February 2022) and from an event held by the Hudson Institute (<https://www.hudson.org/events/2015-virtual-event-obiang-s-kleptocracy-in-equatorial-guinea-g2021>)
- 20 For a full timeline, see: <https://www.asso-sherpa.org/ill-gotten-gains-equatorial-guinea>
- 21 The 2013 law (<https://www.legifrance.gouv.fr/loda/id/JORFTEXT000028278976/>) created a new article in the criminal procedural code (https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000033460406). More information on the process can be found here: (<https://www.justiceinitiative.org/uploads/8e7d1268-b5fb-44cf-b549-bcoed6500667/legal-remedies-11-perdriel-20170612.pdf>)

22 See: <https://www.transparency.org/en/press/teodorin-obiang-conviction-asset-recovery-equatorial-guinea-france>

23 For a breakdown of the alleged structures and individuals involved, see: <https://www.theafricareport.com/137710/mozambiques-hidden-debt-scandal-where-did-the-2bn-go/>

24 "Costs and consequences of the hidden debt scandal of Mozambique" (<https://www.cmi.no/publications/7841-costs-and-consequences-of-the-hidden-debt-scandal-of-mozambique>)

25 Interview conducted by author

26 See: <https://cifare.eu/angola-from-the-dos-santos-recovery-towards-the-future/>

27 See: https://www.icij.org/investigations/luanda-leaks/how-africas-richest-woman-exploited-family-ties-shell-companies-and-inside-deals-to-build-an-empire/?gclid=Cj0K-CQjwvVj5BRDkARIsAGDgvlKeJgZELwKYp4aY9nV25WTLCoqMgFL2UtZvWgE_7-aQjczU-HYS6bxMaAnoFEALw_wcB

28 Interview conducted by author.

29 Interview conducted by author

30 See: <https://www.occrp.org/en/daily/13114-switzerland-to-return-to-uzbekistan-131m-from-karimova-accounts>

31 See Amnesty International Repot 2020: Uzbekistan: <https://www.amnesty.org/en/location/europe-and-central-asia/uzbekistan/report-uzbekistan/>

32 Interview conducted by author

33 Interview conducted by author

34 See: <https://busquedas.elperuano.pe/normaslegales/ley-que-asegura-el-pago-immediato-de-la-reparacion-civil-a-f-ley-n-30737-1624757-1/>

35 See: <https://www.reuters.com/article/us-peru-odebrecht-exclusive-idUSKBN1O70U4>

36 See: <https://www.bbc.com/news/world-latin-america-41109132>

37 See, for instance, a 2020 open letter from three UN Special Rapporteurs to FATF, an intergovernmental body, on anti-terrorism laws being misused to target and curb work of NGOs (<https://www.ohchr.org/en/press-releases/2020/11/serbias-anti-terrorism-laws-being-misused-target-and-curb-work-ngos-un-human?LangID=E&NewsID=26492>). And FATF (Financial Action Task Force) response (<https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35813>)

38 Interview conducted by author

39 This categorisation is adapted from one proposed by the 2013 study "Guide to the role of civil society organisations in asset recovery", Basel Institute on Governance

40 According to CIVICUS, 25% of the world's population now (as of the first quarter of 2022) live in countries with closed civic space; 45% in contexts with repressed space; and 18% in

jurisdictions with obstructed civil society space. Therefore, 88% of the world's population are now in contexts where civil society action is restricted. Civicus, Monitor, <https://monitor.civicus.org/>

41 Interview conducted by author

42 "Cultural expressions of dissent and critique of the status quo are important forms of social and political action", according to the study Action for Empowerment and Accountability in Challenging Contexts; page 25 (https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/17189/A4EA_Against_the_Odds_Sm.pdf)

43 See for example: "Eu Não Pago Dívidas Oculta" / "I don't pay Hidden Debts" (<https://www.youtube.com/watch?v=rC8NTTOulrk>). By CIP Mozambique

44 See, for example: "Eduardo Cunha - Brazil's most renowned Mr Trust | Transparency International" (<https://www.youtube.com/watch?v=1gFbMHZgF5U>)

45 Suggested by a high-level civil servant consulted

46 See <https://globenetwork.unodc.org/>. Clicking on "Members" at the homepage will bring up a list of countries with members registered on the platform and the number of law enforcement agents actively involved. You will then be able to see if your government is represented

47 See Resolution 9/5, on "Enhancing international anti-corruption law enforcement cooperation" (<https://www.unodc.org/unodc/en/corruption/COSP/session9-resolutions.html#Res.9-5>)

48 Interview conducted by author

49 See: <https://cifare.eu/what-is-asset-recovery/civil-society-principles-for-accountable-asset-return/>

50 See: <https://www.gov.uk/government/publications/framework-for-transparent-and-accountable-asset-return>

51 Interview conducted by author

52 Interview conducted by author

53 According to Civicus, only 12% of the world's population now (as of the first quarter of 2022) live in countries with open or narrowed civic space.

54 Interview conducted by author

CIVIL SOCIETY ORGANISATIONS AND ASSET RECOVERY: A MANUAL FOR ACTION

Published in 2022 by:

Civil Forum for Asset Recovery e.V.
Köpenicker Str. 147
10997 Berlin
Germany
cifar.eu

Supported by:



Norwegian Ministry
of Foreign Affairs

CiFAR and the individual authors have made reasonable efforts to ensure that the content is accurate. The views, opinions and evidence presented in this manual are the sole responsibility of the authors and CiFAR and may not reflect the views of the supporters of this manual.

