



Repatriating stolen assets in a responsible manner: how do we get there?

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This Blog post reflects the author's contribution to an expert meeting on corruption, convened by the International Development Law Organisation (IDLO) in the Hague in October 2019.

As the World Bank [just concluded its annual meeting](#) in Washington DC (18-20 October), and the anti-corruption community gears up for the 8th [Conference of State Parties on the United Nations Convention Against Corruption](#) (UNCAC) this December in Abu Dhabi, there are a number of points which should be high on the agenda concerning international asset recovery cases. As far as possible, these discussions should be geared towards creating a framework for 'responsible' (or accountable) asset return. In asset recovery circles, [this idea](#) has come to signify the need for greater transparency and accountability (and establishing whom the asset recovery process must be transparent to), including in how assets are managed and disposed of. Moreover, it recognises that assets returned to the victim jurisdiction should go towards remediating harm done, and the importance of both judicial and non-judicial mechanisms for repatriating assets. Achieving this, however, implies acknowledging some of the more fundamental challenges dogging asset recovery, as well as the opportunities for eliciting change.

In quantitative terms, the ratio of assets recovered from those that are looted is marginal. Compounding this problem is the risk that repatriated assets may end up being re-looted or directly or indirectly benefitting a kleptocratic elite. This is particularly the case where assets are repatriated to a country that lacks any democratic credentials or Rule of Law safeguards, such as transparency and accountability. Recently, Switzerland [announced](#) it will repatriate the proceeds of an [auction](#) of supercars forfeited from Equatorial Guinea's vice-president, Teodorin Obiang, via donations to charity. Exactly how the Swiss could ensure money repatriated isn't re-looted to benefit the Obiang family is an open question, however. The Obiangs have ruled over the country since the early 1980s, and Equatorial Guinea is at the bottom (i.e. most corrupt) of [Transparency International's](#) Corruption Perception Index.

Related to this, a key issue that remains to be addressed is how to ensure that asset recovery can be done in a manner that respects due process and the Rule of Law for all involved, since ultimately this helps the process be more legitimate and transparent. The example that comes to mind here is that of Gulnara Karimova of Uzbekistan, the daughter of the late president Karimov. Although she is known to have embezzled billions from the country, she was summarily tried in [her own kitchen](#) without due consideration for her basic rights.

Putting to one side complex debates around the concept of 'victimhood' and who is the rightful victim when a country's resources are looted on a grand scale and taken offshore, there is enough consensus by now that funds that are eventually repatriated should go towards benefiting the people of that country. This can be achieved through social development and economic empowerment programs, for example. This isn't a new idea, and there are sufficient case studies from which to generate important lessons learned. But here as well, one of the key questions that remains is how asset recovery can be victim-centric in cases (such as Equatorial Guinea), where very little is conducive to empowering victims in the first place. So, more time and

attention need to be devoted not only to auditing the actual impact of asset recovery on the ground (and indeed the extent to which victims are included), but also to finding common ground for including them in all stages of the return process once harm has been remediated. Victims should play a role in defining how the funds will be used as well.

NGOs can play a role in helping represent the interest of victims. There are also examples (e.g. in [Nigeria](#)) of how civil society can guarantee greater transparency and accountability in monitoring the return of assets. But to think that asset recovery only requires changes in the 'victim' state alone would be fundamentally wrong. Clearly, a lot can and should happen closer to home. There have been interesting developments in asset-holding jurisdictions. In the UK, a set of [joint principles](#) on compensating victims of economic crime has been developed by the Crown Prosecution Service, the National Crime Agency and the Serious Fraud Office. The UK foreign Minister Dominic Raab is also keen to strengthen the 'Magnitsky' provisions that would impose sanctions on individuals who commit human rights violations. In [France](#), a new Bill which would see the creation of a specialised fund to compensate victims of corruption.

However, more action is needed to curb the influence of enablers - such as lawyers and real estate agents, for example - and to introduce mechanisms that would make it easier to identify the ultimate beneficial owners of companies. The Cayman Islands' recent announcement that it will open up [beneficial ownership registries](#) and New York State's introduction of property purchase identity [disclosure](#) are obviously welcome developments in this respect.

These new tools should be implemented in combination with more 'structural' reforms that are needed further downstream in the corruption and asset recovery cycle. This includes, for example, the need to create [a centralised EU agency](#) with strong prosecutorial powers tasked with controlling money laundering, or encouraging countries to adopt national asset recovery strategies that proactively seek the engagement of civil society in defining priorities and monitoring the return process.

Policy-makers and governments are not totally oblivious to these challenges or recommendations, however. The [Addis Ababa process](#), and the [Lima](#) and [Oslo](#) conferences on high-level corruption all aim to find concerted approaches to improving asset recovery, so there is reason for optimism. While governments have a role to play, it is important that learned observers and activists keep building pressure to ensure questions to these challenges are found while also encouraging the uptake of solutions to help address corruption and improve asset recovery.

The Bingham Centre, together with partner organizations such as the [civil forum on asset recovery \(CiFAR\)](#), the [International State Crime Initiative](#) at Queen Mary University, the [African Network for Environment and Economic Justice ANEEJ \(Nigeria\)](#), [RAID-UK](#), the [UNCAC Coalition](#) and others, have been convening a series of webinars to discuss some of these issues and where possible, produce recommendations to help make asset return more victim-centric and ensure asset recovery is accountable and transparent.

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