Civil Society Principles for Accountable Asset Return

These principles have been developed through a consultative, 18 month process involving civil society organizations from across the globe. They are minimum, framework standards and are designed to be supplemented by country and case specific detail by civil society. These principles should be applied to both international and domestic asset recovery.

Transparency and participation

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.

   As far as possible, relevant authorities - both domestic and international – and including judicial authorities, where permitted, should publicly provide, from the earliest legally possible opportunity, the following information in an accessible manner and format to the public, including any identified victims of corruption:

   - timely and accessible case information on the progress and status of asset recovery cases, including case names;
   - the nature, type and estimated value of the assets under investigation;
   - the legal framework through which the asset recovery process was initiated and is being undertaken;
   - the nature, type and estimated value of assets seized and a timeline of planned steps for return;
   - the negotiating framework, modalities for asset return and disbursement, and the foreseen role of civil society in the return;
   - the disposition, administration and monitoring of returned assets. This should include an independent tendering process for third-party stakeholders involved in the disbursement of funds; due diligence on third-party/intermediary actors involved in the disbursement and monitoring of assets, and independently audited reports on the disbursement and management of funds; and progress of programs – all to be published publicly and available in an accessible format.

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. This could include, amongst other methods, that recovered funds be separated from the general state budget and placed in a special account or an agreed independent mechanism until assets have been fully disbursed.

3. Independent civil society organisations, including victims' groups/representatives, should be able and enabled to participate in the asset recovery process. This includes:

    - identifying the mechanisms and processes that allowed for initial harm to occur;
    - identifying how the harm can be remedied including providing information on how the harm was committed, as well as proposals to prevent recurrence and a timeline for achieving this;
    - contributing to decisions on the return and disposition of assets including social programs dedicated to victims of corruption and identifying needs;
    - fostering transparency, accountability and due diligence in the transfer, administration, disposition, monitoring and reporting of recovered assets; and,
    - as far as permitted by confidentiality rules, fostering transparency and accountability in the investigation.

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.

    These agreements should be concluded to ensure the transparent, accountable and effective use, administration and monitoring of the returned proceeds of corruption are in line with the principles set out here.

Integrity

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). This includes situations where those directly or indirectly involved in the original corruption remain in positions of power and are able directly or indirectly to benefit from the disposition of the recovered assets; or influence the decision-making process.

6. A process should be in place to monitor the disbursement of funds that includes an independent complaints mechanism.

    Any suspicion of irregularities concerning the management of recovered assets should lead to the opening of an investigation by independent authorities. Where the return is international, investigations should be opened by both the origin and returning jurisdictions and transfers should be suspended pending the outcome of the investigation.

    When countries are not compliant with UNCAC Articles 9, 10 and 13 (transparency and accountability in public financial management; public reporting and participation of society), monitoring for irregularities in international returns should be particularly stringent.

Accountability

7. Anti-corruption, rule of law and accountability mechanisms should be in place to provide oversight of recovered assets. As a minimum, this should include:

    - Transparent and accountable public procurement and tendering processes that meet international standards;
    - Transparent and publicly available registers of companies, with beneficial ownership declared;
    - Establishment of regulations on conflict of interest;
    - Independence of the judiciary and access to a fair trial;
    - Freedom of association and freedom of the press, without which any meaningful monitoring by the civil society would be impossible.

    When these are not in place, alternative arrangements should be considered in consultation with a broad base of independent civil society organisations that are truly representative of citizens, including where possible victims' groups/representatives, to ensure accountability and transparency in the management and oversight of recovered assets.

    This does not affect the principle that the recovered assets remain the property of the people of the country from which they were stolen.

Victim restitution and other beneficiaries

8. Victims should be provided access to justice in domestic and international cases of illicit activities including bribery and money laundering. They should be informed of case developments in an accessible format; and be provided opportunities to positively engage in cases e.g. through victim impact statements.

    Where possible, victim groups and their representatives should be afforded 'standing' in relevant jurisdiction outside their own, to allow them to bring cases against state officials and their representatives to the courts, particularly in instances where domestic judicial systems would not allow or are susceptible to being partial.

    Where victims of the abuse of power by public officials can be identified individually or as a group, they should allow the opportunity to be provided restitution for the damage caused. This principle should not apply to those involved directly or indirectly in the commission or facilitation of the offence(s).

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.

‘Benefit the people’ in this context means improving the living standards of populations and/or strengthening the rule of law and prevention of corruption in line with international human rights obligations in the country or countries where the underlying offences occurred, and thus contributing to the achievement of the Sustainable Development Goals.

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. Where possible and where victims’ groups do not exist, independent civil society should also be empowered to help identify, and where possible, to represent victims and their interests.