



ANTI-CORRUPTION, STOLEN ASSET RECOVERY AND CIVIL SOCIETY IN ETHIOPIA

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KEY MESSAGES

- Although the anti-corruption legislative framework in Ethiopia is strong, the effectiveness of the government's implementation of these laws is questionable.
- While several legal provisions can be construed and employed in cases of asset recovery, the anti-corruption legislative framework fails to directly address the issue of the recovery of stolen assets.
- Since the start of Prime Minister Abiy's administration, there have been renewed efforts in the area of asset recovery domestically and internationally, however, the activities of institutions set up by the government to deal with the recovery of stolen assets are not sufficiently publicised.
- In the past decade, courts have sentenced senior government officials for their involvement in corruption worth billions, even though most of these may have been politically motivated charges.
- Due to the difficult operating environment for civil society in Ethiopia, there are only a handful of NGOs that work on good governance and anti-corruption, with almost no activity in the area of asset recovery.

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ANTI-CORRUPTION OVERVIEW

At the outset of his premiership in 2018, Ethiopian Prime Minister Abiy Ahmed identified the proliferation of corrupt activities as an “existential threat” facing the country, and noted that the fight against corruption would be a top priority for his government.¹ Despite the announced high-level political will and the commendable anti-corruption legislative and institutional framework the government has put in place, pervasive corruption remains to be one of the most serious challenges hampering the country's development.²

Transparency International's 2020 Corruption Perception Index ranks Ethiopia 94 out of 180 countries, with a score of 38, placing it above average in the sub-Saharan Africa region.³ Similarly, Ethiopia's business bribery risk score of 64/100 on the 2020 TRACE Bribery Risk Matrix is “high”, ranking it 163 out of the 194 surveyed countries.⁴ A 2015 World Bank enterprise survey revealed that 27% of surveyed firms experienced at least one bribe payment request, higher than the sub-Saharan Africa average of 22%.⁵ The Worldwide Governance Indicators (WGI) of the World Bank give Ethiopia a 40 percentile rank in the control of corruption indicator for the year 2019, better performance compared to the 26 percentile rank in 2009.⁶

A 2017 Global Financial Integrity (GFI) report estimates that up to 29 percent of Ethiopia's total trade illicitly flowed out of the country between 2004 and 2014.⁷ It was estimated that during 2000-2013, the average growth lost as a result of such capital flight was about 2.2 percentage points per year.⁸ The effect on poverty is clear: **poverty would have been reduced by about 2.5 percent had it not been for illicit financial flows.**⁹ Similarly, the finding of the high level panel delegated by the African Union in 2015 shows that the failure to curtail illicit financial flows cost Ethiopia close to 6

percent of its GDP annually.¹⁰

Although the effectiveness of the government's implementation of anti-corruption laws is questionable, the anti-corruption legislative framework in Ethiopia is strong.¹¹ The Revised Federal Ethics and Anti-corruption Commission Establishment Proclamation (Proclamation No. 883/2015) and the Revised Anti-Corruption Law (Proclamation No.881/2015) criminalise attempted corruption and extortion. The Criminal Code 2004 criminalises active and passive bribery and money laundering in the public and private sectors.¹² The Assets and Property Registration Law requires government officials and their relatives to register their assets and properties, and calls for government officials not to accept gifts in connection with their duties. Article 444 of the Criminal Code, and the Proclamation on the Protection of Witnesses and Whistle-blowers of Criminal Offences provide legal protections for public sector whistle-blowers. In addition to these and other domestic laws, Ethiopia has ratified the AU Convention on Preventing and Combating Corruption¹³ and the UN Convention against Corruption (UNCAC).¹⁴

Although the extent and nature of their involvement varies, the following institutions constitute the institutional framework to prevent and sanction corruption in Ethiopia: the Federal Ethics and Anti-Corruption Commission (FEACC), the Office of the Federal Attorney General, the Federal Police Commission, the Federal Auditor General, the Financial Intelligence Centre (FIC), the Ethiopian Human rights Commission, and the Ethiopian Institute of the Ombudsman.

On the Africa Integrity Indicators (2014-2021) initiated by Global Integrity, results show that the implementation of anti-corruption mechanisms in Ethiopia is far

from satisfactory. On the indicator dealing with whether allegations of corruption against senior politicians are investigated by independent bodies, the country has a low score of 25/100.¹⁵ Similarly, an even lower score of 0/100 is accorded on whether, in practice, appointment of heads of corruption investigative bodies support the independence of the body.¹⁶ Moreover, the score for an indicator measuring how effective public sector corruption investigations are indicates serious shortcomings in this area.¹⁷ These low scores accorded to Ethiopia on many of the indicators point to the fact that the country needs to exert more effort to bridge the gap between the legislative/institutional framework in place and the implementation of these provisions.

ASSET RECOVERY IN ETHIOPIA

The asset recovery process brings together a number of institutions, particularly the Federal Police Commission, the Office of the Federal Attorney General, the Financial Intelligence Center and the FEACC. Asset recovery is, however, mainly spearheaded by the Office of the Federal Attorney General. The departments which directly or indirectly deal with asset recovery under the umbrella of the Corruption and Organized Crimes Department of the Attorney General's Office are the:

- Cross-Border Crimes Directorate General,
- Corruption Crimes Directorate General,
- Economic Crimes Directorate, and
- Asset Recovery Directorate General.

The Asset Recovery Directorate General conducts investigations on assets to be recovered, takes actions to recover assets and determines the modality of the administration of the recovered assets.¹⁸

In addition to its mandate to recover assets domestically, the Directorate works in collaboration with the International Cooperation on Legal Affairs Directorate (within the Attorney General's Office) to collect information and evidence regarding illicit financial flows from the country and works towards recovering such assets. The Directorate, in this regard, follows up on decisions passed by national and international courts in relation to assets to be recovered. The Directorate has a mandate to recover the proceeds of corruption both following a criminal conviction (conviction-based forfeiture) and without the need for a criminal conviction (non-conviction-based forfeiture).¹⁹

CHALLENGES ASSOCIATED WITH ASSET RECOVERY

While Ethiopia has a strong anti-corruption legal framework in general, legislation concerning asset recovery is rather weak. Although several legal provisions could be construed as applicable and employed in cases of asset recovery, the anti-corruption legislative framework fails to directly address the issue of the recovery of stolen assets.²⁰ Laws such as Assets Disclosure and Registration Proclamation No. 668/2010 and Proclamation No. 780-2013 on Prevention and Suppression of Money Laundering and Financing of Terrorism help in the seizure and forfeiture of stolen assets, and provide a mandate to the institutions tasked to recover such assets.

Although there are institutions set up by the government to deal with the recovery of stolen assets, their activities are not sufficiently publicised. It seems that since the start of Prime Minister Abiy's administration, there have been renewed efforts in the area of asset recovery domestically and internationally. However, the lack of transparency by relevant organs makes it difficult to assess the state of asset recovery in Ethiopia.

BIGGEST CORRUPTION CASES AND ASSET RECOVERY PROGRESS

Corruption in Ethiopia is particularly prevalent in the energy, construction, telecommunications, pharmaceuticals, land, and mining sectors.²¹ It is also common for Ethiopian and foreign businesses to encounter corruption in tax collection, customs clearance, and land administration.²² Non-competitive procurement in the above-mentioned sectors is a major risk area when it comes to grand corruption in Ethiopia. Ethiopia has made efforts to reform its procurement law since 2009, when it revised the existing procurement legislation, intending to achieve more transparency, efficiency, fairness, and impartiality in the procurement process.²³ However, not much can be said to have improved in practice, considering instances such as the awarding of mega construction contracts to the Italian company Salini without any competitive bidding procedures.²⁴

In the years following the coming to power of Prime Minister Abiy Ahmed, the country has witnessed an unprecedented crackdown on grand corruption, resulting in the arrests of hundreds of public officials. While efforts to step up anti-corruption action have been widely applauded, the arrests were also seen as selective and politically motivated, disproportionately targeting the members of the Tigray People Liberation Front party (TPLF).²⁵

In connection with embezzlement involving hundreds of millions of US dollars, the government arrested and charged in September 2018 over 40 officials within the army-owned Metal Engineering Technology Corporation (MeTEC).²⁶ Allegations filed against the CEO of MeTEC, Kinfu Dagneu, relate to 30 international procurement deals concluded without competitive tenders

between 2010 and 2018 and amounting to a total of USD 1 billion. Moreover, the Deputy CEO, Tena Kurunde, is alleged of conspiring with employees of MeTEC to conduct international procurement worth around USD 2 billion without legal procurement procedures.²⁷ These court cases are ongoing and information is not available about whether the relevant bodies have acted towards recovering any assets.

In the same period, the government also arrested another 59 officials and businessmen suspected of grand corruption from the following government institutions: the Public Procurement & Property Disposal Service, the Food & Drug Administration Agency, the Pharmaceuticals Fund & Supply Agency, and the Ethiopian Water Works Construction Enterprise.²⁸

When it comes to recovery of the proceeds of corruption, there appears to be a renewed effort and an increase in terms of the size of assets returned to government coffers.²⁹ Since the transfer of the investigative and prosecution powers to the Federal Attorney General and the coming to power of Prime Minister Abiy Ahmed's administration, asset recovery efforts have increased. A recent example is the decision of the Federal First Instance Court following the Asset Recovery Directorate General's plea to transfer the management of over 30 buildings worth millions of dollars previously owned by members of the leadership of the Tigray People Liberation Front (TPLF) - recently designated as a terrorist entity by the Ethiopian Parliament.³⁰ In addition, bank accounts of 34 TPLF companies have been frozen due to evidence indicating their alleged involvement in various criminal activities including tax evasion and corruption.³¹

Similarly, in January 2021, the Addis Ababa City Administration conducted a study on the state of land grabbing in the city, after receiving complaints from residents. Following the findings of the study, the City Administration decided to transfer close to 1,338 hectares of land to the city's land bank and demolished some of the close to 322 buildings found to be with no known owners.³² Although the city has transferred the case to the federal police and the Office of the Attorney General for investigation, no one has been held accountable so far. It is yet to be seen whether the city administration's move is a genuine effort to curb corruption.

CROSS BORDER ASSET RECOVERY

On May 15, 2018 Prime Minister Abiy Ahmed announced that his government was conducting investigations into assets that were stolen and deposited in foreign banks, although details of the investigation have not been made public.³³ A search on StAR's Asset Recovery Watch website, a public database that tracks recovery efforts by prosecution authorities worldwide, shows no ongoing or completed recovery efforts by the Federal Attorney General of Ethiopia, the Financial Intelligence Center, or any other relevant national body. However, the 2015 UNODC Country Review Report of Ethiopia mentions that Ethiopia has participated in the StAR-INTERPOL Global Platform on Asset Recovery, although information is absent as to the scope and extent of such law enforcement cooperation.³⁴

Ethiopia has ratified the IGAD Convention on Mutual Legal Assistance in Criminal Matters which includes cooperation on asset recovery, freezing and confiscation of the proceeds of crimes, including corruption.³⁵ The coming into force of this Convention created a framework for international cooperation between Ethiopia and the neighbouring eight IGAD member states. It

is not clear, however, if the country has so far pursued cross-border MLA cooperation based on the Convention.

Apart from the convention, Ethiopia has three bilateral treaties on international cooperation with Sudan (covering mutual legal assistance and judicial cooperation in civil and criminal matters), Djibouti and Yemen (covering extradition). Ethiopia has undertaken to negotiate further treaties on international cooperation (on extradition, MLA, and the transfer of sentenced persons) with Botswana, South Africa, the United Arab Emirates, India and China. Apart from such agreements, Ethiopia recognizes the principle of reciprocity as a basis for international criminal cooperation.³⁶

Although Ethiopia has made cross-border cooperation (particularly extradition arrangements) with countries such as Germany, Sweden, and South Africa, only a couple of the arrangements relate to corruption or corruption-related asset recovery. One instance was an extradition arrangement with the United Arab Emirates for the identification and location of corruption suspects where the fugitive was located and extradited based on the principle of reciprocity.³⁷

The Ethiopian government has used MLA requests in the case between Alganesh Teshome, prosecutor of the now abolished Ministry of Justice (MoJ), and former Prime Minister Tamrat Layne, Sheik Mohammed Hussein al-Amoudi and Shadia Nadim. The Federal Supreme Court ordered the MoJ to request money from the government of Djibouti, based on the judicial assistance agreement between the governments.³⁸ Not much is known about the outcome of the proceeding as it has not been made public.

Some government bodies in the country have established information sharing

mechanisms to exchange information related to cases of corruption and related crimes. The Customs and Revenue Authority has Memoranda of Understanding (MOUs) in place with its counterparts and border commissions in the Netherlands, Kenya, Uganda, Tanzania, Israel, South Africa, Denmark and Australia.³⁹ Moreover, the Financial Intelligence Centre (FIC) has signed total of three MOUs with the United Kingdom, Zimbabwe and South Africa, with four others under negotiation.⁴⁰ As of 2019, the FIC has become a member of Egmont Group - an international platform that serves to secure exchange of expertise and financial intelligence to combat money laundering and terrorist financing.⁴¹

REGIONAL AND INTERNATIONAL INSTITUTIONAL ENGAGEMENT

Regionally, Ethiopia is a member to the East African Association of Anti-Corruption Authorities (EAAACA) and the Eastern Southern Africa Anti-Money Laundering Group (ESAAMLG), a regional body implementing the FATF Recommendations. According to the ESAAMLG follow-up report published in 2021, Ethiopia was found to be compliant on 9 recommendations, largely Compliant on 24 recommendations, and partially compliant on 4 of the FATF 40 recommendations.⁴² Ethiopia has been in an enhanced follow-up process following the adoption of its Mutual Evaluation Report in 2015 and has since then made progress in addressing deficiencies, thereby achieving re-ratings on a number of recommendations.⁴³

The country is a member to Asset Recovery Inter-Agency Network for Eastern Africa (ARIN-EA), a regional platform to pursue asset recovery. The Federal Ethics and Anti-Corruption Commission has established a focal point for asset recovery matters involving ARIN-EA and the StAR / INTERPOL Asset Recovery Focal Points network. Utilising these networks,⁴⁴ Ethiopia has in the past exchanged information with Kenya concerning a company suspected of fraudulent activities in Kenya.⁴⁵ The Commission has also cooperated with the South Sudanese Commission in an embezzlement matter in the case of FEACC vs. Remila Lewey Usman and Others.⁴⁶

Ethiopia took part in the 2010-2015 review cycle of the Conference of the States Parties to the United Nations Convention against Corruption, submitting a response to the comprehensive self-assessment checklist.⁴⁷ The country also participated in a mutual evaluation conducted by

the World Bank and approved by the ESAAMLG Council of Ministers on the 5th of June 2015. This mutual evaluation report has been followed up by annual reports which analyse the progress of Ethiopia in addressing the technical compliance deficiencies identified in the former.⁴⁸ It is also noteworthy that Ethiopia has co-hosted the Addis I (February 2017) and Addis II (May 2019) conferences with Switzerland, a process which brings together asset recovery practitioners around the world to discuss innovative solutions regarding asset management, asset return and the use of returned assets for sustainable development.

Ethiopia's Criminal Justice Policy provides that the Ministry of Justice (now the Office of the Attorney General) is the responsible body for coordinating activities in relation to international cooperation in criminal matters.⁴⁹ Although the International Cooperation on Legal Affairs Directorate is supposed to coordinate and guide relevant bodies' mutual legal assistance efforts, it is not clear if this has been achieved.⁵⁰

CIVIL SOCIETY ENGAGEMENT IN ASSET RECOVERY

Only one specialised anti-corruption civil society organisation (CSO) exists in Ethiopia, but several others focus on the monitoring of the construction, mineral extractives sector and public procurement. Very little information about asset recovery in the country is made available to the public and civil society is not active in this area. While the government has been more willing to engage with CSOs on critical issues in the past three years, there are worrying signs of a pushback of authoritarian practices.

OPERATIONAL FRAMEWORK

The law that was governing civil society in Ethiopia until 2019 was the 2009 Charities and Societies Proclamation No. 621/2009 (CSP). The legislation placed excessive restrictions on civil society engaged in the areas of human rights, governance, conflict resolution, and advocacy on the rights of women, children and people with disabilities. The CSP prohibited Ethiopian CSOs working in these areas from receiving more than 10 percent of their funding from foreign sources. The proclamation also prohibited organizations from spending more than 30 percent of their budget on 'administrative costs', a category which included even teacher training activities.⁵¹ As a result of these and other impediments, most non-governmental organisations halted their operations while others changed their focus areas of operation.⁵²

Since the repeal of the CSP by the new Civil Society Organizations Agency Proclamation No. 1113/2019, some of the impediments have been reversed, improving the operational space of civil society in Ethiopia. This means that civil society organisations are now freer in the areas they work on. In practice, it also meant that more

organisations started new activities in the area of human rights and good governance since several international organisations could reopen their offices in Ethiopia and resume their funding for local CSOs.⁵³

While the space for the activities of civil society is certainly more open than it has ever been, CSOs are still being regulated by the government, for example by a ceiling on administrative expenses. The federal Civil Society Organizations Agency (ACSO), a national body established to oversee civil society organizations and their activities, also retains broad oversight powers. The agency registers, coordinates and monitors organisations, which includes examining the annual activity and financial reports of CSOs and ensuring they undertake their activities in compliance with the law.⁵⁴

Another government agency supporting the coordination of CSOs with government, focusing specifically on anti-corruption, is the Federal Ethics and Anti-Corruption Commission, engaging youth and women's organisations, business sector associations, the media, artist associations, religious organisations, and other civic and professional associations.⁵⁵ The FEACC organises a multi-stakeholder National Anti-Corruption Coalition conference and closely cooperates with CSOs on initiatives such as the Construction Sector Transparency Initiative, creating a platform for CSOs to participate. Apart from the FEACC, other government bodies collaborate with CSOs on relevant initiatives. The Ethiopian Extractive Industries Transparency Initiative is one of such platforms, where the Ministry of Mines works in collaboration with CSOs.⁵⁶

However, the CIVICUS Monitor of civic space marks Ethiopia as "repressed", its

second worse rating on a five-point scale.⁵⁷ This means that the work of CSOs is being overseen by the authorities and their work may be subject to de-registration and closure. Thus, the existence of critical civic voices is greatly constricted because they are at a risk of surveillance, harassment, intimidation, imprisonment, and violence.

While the situation improved after the administration of Abiy Ahmed took power in 2018, it again started to deteriorate at the end of 2020 due to the armed conflict in the Tigray region of Ethiopia. This led the government to impose internet shutdowns and communication blackouts, making it difficult for people to obtain information and organisations to operate. Furthermore, political opponents, journalists and media organisations have been threatened, arrested and injured for alleged spread of “false propaganda” and information that incites violence.⁵⁸

EXPERT ANALYSIS, ADVOCACY AND CAMPAIGNING

Due to the difficult operating environment for civil society in Ethiopia, there are only a handful of NGOs that work on good governance and anti-corruption. Their areas of work include public education, especially with youth, on anti-corruption issues, mobilising the public, conducting research projects, and providing legal advice and support. Most CSO activities in the area of accountability were being undertaken on the community level in the past restrictive environment but the scope increased after the connections to international organisations and funding was enabled again after 2019.⁵⁹

Several transparency initiatives of CSOs exist where civil society works together with or is hosted by the government, particularly around the monitoring of the construction, mineral extractives sector and procurement in general. The ACSO database of civil

society organisations registers only one organisation engaged directly in the area of anti-corruption, however, which is Transparency Ethiopia.⁶⁰

Since any work on good governance and anti-corruption at the policy level has been almost impossible until recently, there has been very little civic activity in this area until now. However, the civil society follows the developments around asset recovery in the country that have been made public, and has previously tried to obtain more information from the authorities around stolen assets and illicit financial flows, including the number of recoveries made during the previous regime. As access to information has recently improved, there may be an opportunity to follow up on this activity and obtain asset recovery-related information scattered throughout law enforcement agencies.

The increased willingness of government agencies to work together with both domestic and international civil society actors in tackling corruption can be seen in the increased acknowledgment of CSO efforts in this area, as well as in participation in public workshops. For example, the Office of the Attorney General joined civil society in a discussion workshop about public procurement issues in Ethiopia in 2020.⁶¹

International inter-agency cooperation and funding of Ethiopian CSOs has increased in the past two years, manifested for example by a training for CSOs on the UNCAC followed by a grant disbursement by the UNODC.⁶² However, during our interviews, civil society expressed the need for a further capacity building of their staff in order to engage in conversation with the government around fighting illicit financial flows. Government officials also lack the capabilities and capacity to devote to fighting corruption and recovering stolen assets.

INVESTIGATIVE JOURNALISM

Most of the media in Ethiopia is controlled and owned by the government - echoing and promoting the position of the state. Similar to the relationship of government and civil society organisations, the media space opened up after Prime Minister Abiy Ahmed took office in 2018. The government has eased restrictions on independent media, permitting both greater freedom for journalists and a publication of a more diverse range of news. A number of journalists were released from prison and several hundred websites were unblocked by the government.⁶³

Since then, however, several further journalists have been arrested, and tension between the government and the media grew, especially in relation to the conflict in the Tigray region and elections in 2021.⁶⁴ In the face of these tensions, the laws which had previously been used against journalists are not only still in place but have been reinforced.⁶⁵

Notwithstanding the fragile political and security environment, media research points to the fact that in a situation where Ethiopian media is dominated by a PR-driven journalism model, investigative and critical reporting is discouraged.⁶⁶ Moreover, weak access to information in law and practice has made the work of investigative journalists attempting to expose corruption almost impossible. Journalist scholars active in Ethiopia note that reform of the media landscape after a long repressive period will take time and that a positive outlook is offered by the high number of universities that offer media training and journalism-related courses.⁶⁷

CONCLUSION AND RECOMMENDATIONS

Despite the existence of numerous institutions and laws constituting the framework to prevent corruption, the fight against corruption has so far lacked effectivity in Ethiopia. This has been possibly due to resistance to, or lack of independence of, the investigative, adjudicative and other bodies within the anti-corruption institutional framework. Despite the existence of a wide range of anti-corruption laws, the institutional framework is not strong enough to implement this legislation.

Although there has been improving prosecution and conviction rates for corruption-related crimes, asset recovery is lagging behind. In the past couple of decades alone, courts have sentenced senior government officials for their involvement in corruption worth billions, although these may have been politically motivated charges. While the lack of information makes it difficult to establish the amount of assets being recovered in Ethiopia, the known cases suggest the amounts recovered are small.

Based on the findings of our desk-based research and interviews with CSO representatives conducted by CiFAR, this research offers several policy recommendations where the efforts of government and civil society should be concentrated:

- Increase **transparency of and communication by asset recovery institutions**. Most institutional websites are largely not accessible and lack updated information in the form of annual reports and press releases. In this regard, the government could develop a system where domestic asset recovery

processes can be followed, and where received or provided international assistance can be tracked.

- Adopt a **unified asset recovery law**. Given the encouraging signs of progress during the past few years, the asset recovery framework could be rendered more effective if a separate law giving a clear mandate and direction to the institutions involved in asset recovery would be introduced. As part of this a framework for the management of recovered assets should be established.
- Strengthen the **independence and both domestic and international coordination of the country's asset recovery institutions**. Incorporating the draft Directive on International Cooperation to better handle the relationship and mandates of stakeholders in international cooperation matters would be a step in the right direction. Capacity-building programmes for institutions responsible for asset recovery through training and experience sharing arrangements should also be considered.
- The government should continue to **work closely with civil society** on making public procurement more transparent and on systematic reforms, such as the obligation for companies in the extractive sector to disclose beneficial ownership.

Bearing in mind the current operational environment, the areas where the role of civil society fighting the misappropriation of public funds can be particularly strengthened and supported are:

- Engaging the **media**: Although there has been progress in relation to the atmosphere within which the media operates, their involvement has to be encouraged further to bolster asset recovery efforts. The strengthening of investigative journalism would be of particular importance.
- CSOs should be supported to **access and collate information** about asset recovery efforts of the government, to increase the availability of information and to enhance the transparency and accountability of institutions working on asset recovery.
- CSOs should be engaged in **further research** regarding the monitoring of stolen assets, casework, and legal analysis, and in turn utilising these efforts to raise awareness of this issue and in advocacy.
- Information sharing and **networking** of civil society within the country as well as internationally should be supported, for example to address gaps in data on international corruption cases.

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