



# ANTI-CORRUPTION, STOLEN ASSET RECOVERY AND CIVIL SOCIETY IN UGANDA

CIFAR RESEARCH PAPER

## KEY MESSAGES

- Despite the existence of robust laws, and dedicated anti-corruption institutions, Uganda is ranked among the most corrupt countries in Africa and the world at large.
- The functioning of anti-corruption laws and institutions and efforts geared towards asset recovery have been hampered by a lack of leadership on asset recovery and the challenges with the funding and capacity of law enforcement agencies to investigate cases of grand corruption.
- Uganda does not have a dedicated legal regime for asset recovery, with provisions scattered across various pieces of legislation: two dedicated asset recovery units exist, respectively within the Inspectorate of Government and the Office of the Director of Public Prosecution, both of which recover assets in respect to cases they prosecute.
- Past asset recovery cases in Uganda involved high profile persons but were not successful in terms of convictions and asset recovery. More recent corruption cases involving mid-level officials have a greater potential for asset recovery.
- Efforts led by the civil society to adopt non-conviction-based forfeiture laws have been picked up by the government but are currently stalled.

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Published: 2022, CiFAR – Civil Forum for Asset Recovery e.V.  
CiFAR – Civil Forum for Asset Recovery e.V.  
Köpenicker Str. 147, Berlin, Germany, cifar.eu

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# ANTI-CORRUPTION OVERVIEW

Uganda is one of the six member countries of the East African community (EAC). In 1988, it became the first country in the region, and among the earliest in Africa, to enact an anti-corruption law. The Inspectorate of Government Statute of 1988 criminalized acts of corruption and established a dedicated anti-corruption agency with a dual mandate: combating corruption and addressing human rights abuses<sup>1</sup>. In 2002, this law was amended to further streamline the role of the Inspectorate of Government (IG) to exclusively combat corruption.<sup>2</sup> As part of a legislative reform process, Uganda enacted the Anti-Corruption Act in 2009.<sup>3</sup> This is currently the major law under which corruption is criminalized. It provides for the investigation, prosecution, and punishment of corruption (including private corruption) and other related offences such as bribery, embezzlement, causing financial loss, diversion of public resources, abuse of office, illicit enrichment, influence peddling, conflict of interest, nepotism, and sectarianism. In addition to these laws, there exists legislation for mandatory declaration of wealth, access to information, whistle blower protection, and transparency in procurement.<sup>4</sup>

The implementation of current anti-corruption laws is a shared responsibility. However, under the Constitution, the Inspectorate of Government is established as the major anti-corruption agency with the mandate to "eliminate and foster the elimination of corruption, abuse of authority and public office."<sup>5</sup> In the exercise of this mandate however, the IG is complemented by numerous other institutions which are also members of the Inter-Agency Forum against Corruption (IAF).<sup>6</sup> They include the:

- Leadership Code Tribunal,
- Financial Intelligence Authority

(FIA),

- Office of the Director of Public Prosecution (ODPP),
- Office of the Auditor General (OAG),
- Directorate of Ethics and Integrity (DEI) and
- Uganda Police Force (UPF).

Further still, in 2009 Uganda established an Anti-Corruption Division (ACD) in the High Court for the trial of corruption and its related offences. There also exists some auxiliary units such as the State House Health Monitoring Unit and the State House Anti-Corruption Unit, both of which were created by the President to boost the fight against corruption. This is in addition to the numerous Commissions of Inquiry that have in the past been established to inquire into specific corruption scandals in different government bodies.

The existence of robust laws, and dedicated anti-corruption institutions notwithstanding, Uganda is still ranked among the most corrupt countries in Africa and the world at large. According to the latest Transparency International's Corruption Perceptions Index (CPI) of 2020, on a scale of the least to most corrupt countries in the world, Uganda ranked no. 142 out of 180 countries.<sup>7</sup> Evidence points to corruption being an issue in many sectors and different levels of public service delivery.<sup>8</sup> While some reform efforts have been made by the National Resistance Movement (NRM) government, which has ruled Uganda since 1986, the lack of convictions for corruption-related offences points to inadequate resourcing and independence of anti-corruption institutions.<sup>9</sup> This in turn greatly undermines the functioning of anti-corruption laws and institutions and affects efforts geared towards asset recovery.

## ASSET RECOVERY IN UGANDA

Asset recovery has in the Ugandan context been defined as the process of tracing, freezing, security, managing, confiscating, and returning to the country or government, movable or immovable property that has been obtained through illicit means.<sup>10</sup>

Uganda does not currently have a dedicated legal regime, but asset recovery provisions are rather scattered in various pieces of legislation. In 2015 the Anti-Corruption Act<sup>11</sup> of 2009 was specifically amended to introduce an asset recovery regime in respect to corruption and its related offences. In section 7, the law makes provision for, among others, the payment of compensation out of resources and property belonging to a person convicted of corruption and similar offences. It also empowers the IG and the ODPP to apply for confiscation of property belonging to a person convicted of an offence under the law. These provisions are the bedrock for Uganda's asset recovery regime in corruption cases in as far as they facilitate the confiscation and return of assets obtained through corruption and other illicit means.

Moreover, the law makes provision for tracing, freezing and management of property obtained through illicit/corrupt means. These include provisions that prohibit dealing in, and the disposal of assets and bank accounts belonging to persons accused of corruption (Section 34). In the same respect the law gives the courts of judicature the power to appoint receivers and administrators whose mandate is to manage the assets of an accused person pending conclusion of the trial (Section 56). This is fundamental for asset recovery as it ensures that the property of persons accused of corruption are preserved during the time they remain on trial and until their matters are disposed of by the courts.

Following the 2015 amendment to the Anti-Corruption Act, all property acquired in the period of ten years preceding the conviction is deemed to be a benefit or proceed of corruption. Similarly, any expenditure incurred at any time before the conviction is presumed to have been met from property obtained from an act of corruption. The total effect of these two provisions is that they have broadened the scope of property available for recovery upon conviction of a person accused of committing acts of corruption and any other related offences under the law. Secondly, the prosecution is no longer required to show that the property sought to be recovered was derived from the specific act of corruption for which an accused person has been convicted.

Besides the Anti-Corruption Act, 2009 (as amended), asset recovery provisions exist in numerous other pieces of legislation. This includes the Anti-Money Laundering Act of 2013 (as amended)<sup>12</sup> which provides for the recovery of tainted property obtained through crime. In this respect, the law provides for the search and seizure of tainted property, issue of restraining orders and confiscation of property that is deemed to be a proceed of crime. The other laws that facilitate asset recovery in Uganda include, the Access to Information Act, 2005, Leadership Code Act, 2002 and the Whistle Blower Protection Act, 2010. These laws collectively facilitate the disclosure of information relating to property belonging to persons accused of committing acts of corruption and other related offences. This is a very critical element for asset recovery since in many cases there is an attempt by the corrupt to hide assets obtained using proceeds of their criminal acts.

In terms of institutional arrangements, asset recovery in the context of corruption is largely a function of the Inspectorate of Government, and the ODPP - both recover assets in respect to cases they prosecute. In furtherance of this shared mandate, dedicated asset recovery units have been formed within each of these two institutions. The Asset Recovery Unit (ARU) of the IG was formed in 2016. The Unit is charged with the enforcement of recovery orders and may also enter into voluntary agreements for recovery of property with suspects. As of June 2019, ARU had since its operationalisation in 2017 recovered a total of UGX 4,419,014,014 (Approx. USD 1,210,000).<sup>13</sup>

The ODPP also has a dedicated Asset Recovery Division (ARD). Between November 2017 and November 2018, the ARD recovered and deposited on an account in the Central Bank of Uganda a total of UGX 1,174, 363, 766 (Approx. USD 321,567).<sup>14</sup> In the same period, the ARD managed to obtain restraining orders in respect to property constituting of land, motor vehicles and bank accounts belonging to various persons charged with offences under the Anti-Corruption Act.<sup>15</sup> It is important to note that with the enactment of the Anti-Money Laundering Act, 2013 the work of the ARU and ARD is now complemented by the Financial Intelligence Authority (FIA) and gives the FIA various powers in respect to recovery of tainted property.

### CHALLENGES ASSOCIATED WITH ASSET RECOVERY

Notwithstanding the existence of legal provisions and institutions in support of different facets of asset recovery, there still exists numerous challenges. First and foremost, asset recovery in corruption cases is currently dependent on securing a conviction against the accused person.

Such an approach makes it extremely difficult to recover property obtained using the proceeds of corruption given that in criminal cases the prosecution is required to prove that the accused committed the offence with which he/she is charged beyond reasonable doubt. This is a very high standard as compared to the one imposed in civil proceedings i.e., balance of probabilities. A civil standard entails the proof that in the absence of evidence to the contrary, the accused is most likely to have committed the act of corruption leading to the accumulation of property that is sought to be recovered. Such a standard would therefore have been satisfied where the prosecution has been able to show that the property accumulated by an accused person is beyond his/her known sources of income. If upon such proof the accused person fails to justify the accumulation of the property in question, the court would act on that basis to issue recovery orders. Given the protracted nature of proceedings, a conviction-based asset recovery regime increases the risk of the accused person interfering with, and in some cases, disposing of the property in contention. By the time court reaches its findings, it may be too late to recover.

It should also be noted that although the law contains a provision for the preservation of property pending the outcome of the court's proceedings, in practice there are various challenges encountered by the IG and the ODPP. The absence of a property management and administration system has made it difficult to preserve assets belonging to persons on trial and ensuring such assets remain going concerns up until the time when the court makes its final pronouncement.<sup>16</sup> In the event, the confiscated assets end up being stored with the police and, in some instance, court premises, where their value greatly deteriorates to the extent that some are worthless by the time the conviction is achieved. Amidst the absence of an asset

management system, courts have become reluctant to issue restraining orders. The ODPP and the IG are also increasingly reluctant to apply for such orders out of fear that if the accused person is eventually acquitted, they would be required to compensate them for any lost earnings.

Capacity constraints in the offices of the DPP and the IG are another challenge to asset recovery. The two agencies are for the most part understaffed and often lack specialized tools and skills for identification, tracing and recovery of assets<sup>17</sup>. In some cases, asset recovery has been frustrated by corruption by officials employed in the very bodies that are mandated to pursue and enforce recovery. The Office of the Director of Public Prosecutions has previously decried that on some occasions its officers have connived with suspects and their families to frustrate the recovery process in return for bribes.<sup>18</sup>

The lack of a witness protection law also makes asset discovery very difficult. Although there presently exists a law for protection of whistle blowers, the protection offered is restricted to the time the disclosure of information, i.e. whistleblowing, is made. Current protection is therefore restricted to informers. If the matter proceeds to court, no similar protection is offered to persons who offer to testify against an accused person i.e., witnesses. In the absence of such protection, there is a reluctance for persons to testify and to offer critical information relating to properties owned by, or otherwise associated with the accused.<sup>19</sup> This makes asset tracing and identification for the purposes of recovery very difficult.

Moreover, in 2017 there was an amendment to the Leadership Code Act to remove the requirement for leaders to declare names, income, assets and liabilities of their spouses and children.<sup>20</sup> Before the

amendment, leaders had a legal obligation to provide these details. The amendment therefore has serious implications for asset recovery as it could increase the practice of corrupt officials hiding their properties in the names of their spouses and children. This in turn makes asset identification and tracing for the purposes of recovery more difficult than it already is.

# BIGGEST CORRUPTION CASES AND ASSET RECOVERY PROGRESS

Corruption cases and asset recovery progress may be analyzed using two prisms. The earlier cases (pre-2010) involved high profile persons and staggering amounts of money but were not as successful in terms of convictions and asset recovery. The most recent cases on the other hand involve mid-level officials with relatively more asset recovery potential. These have predominantly been domestic cases of asset recovery.

## EARLIER CORRUPTION CASES (PRE 2010)

Pre 2010, several high-profile persons were indicted for corruption and other related offences. The charges against the officials were largely driven by donor pressure. In 2007 for instance, the then Minister of Health, Jim Muhwezi, his two deputies, Dr. Alex Kamugisha and Captain Mike Mukula, and a State House Official, Alice Kaboyo, were charged for the mismanagement of an estimated USD 4.3 million belonging to the Global Alliance for Vaccines Initiative (GAVI).<sup>21</sup> Alice Kaboyo was convicted on her own plea of guilty and sentenced to a two-year prison term with an option of paying a fine of UGX 20 million (approx. USD 142,000).<sup>22</sup> Ministers Jim Muhwezi and Dr. Alex Kamugisha were acquitted of all charges while Mike Mukula was convicted of embezzlement and sentenced to four years in prison, he was however later acquitted on appeal.

The second major corruption scandal during this time involved the mismanagement of funds meant for the Commonwealth Heads of Government Meeting (CHOGM) that was hosted by Uganda in 2007. An inquiry conducted by the Public Accounts Committee (PAC) of Parliament found that on numerous

occasions procurement laws were flouted and tilted in favor of certain companies and individuals.<sup>23</sup> PAC recommended for the prosecution of the committee Chair -Vice President Gilbert Bukenya for the loss of UGX 6 billion (Approx. USD 3.5 Million). He was subsequently charged by the IG in June 2011 and later acquitted.

Still on the recommendation of the PAC, three other cabinet Ministers Sam Kutesa, John Nasasira and Mwesigwa Rukutana were charged for their role in causing government a loss of funds amounting to UGX 13.9 billion (Approx. USD 8.1 Million). They were accused of wrongfully approving the money as a donation to a private owned hotel against the interests of the country.<sup>24</sup> The trio were however eventually acquitted based on lack of sufficient evidence. In his ruling, the trial judge decried the tendency of government bodies to present weak cases in respect of which they cannot secure convictions.<sup>25</sup> Some members of PAC also accused the IG of "*stage-managing prosecution to create an escape route for the Ministers.*"<sup>26</sup>

## CORRUPTION CASES POST 2010

### i) Office of the Prime Minister (OPM) Scandal

The Office of the Prime Minister (OPM) was cast into the spotlight in 2012 following allegations of mismanagement of funds meant for the rehabilitation and recovery of northern Uganda after the region emerged from a violent conflict. The public allegations led to the suspension of donor aid to Uganda.<sup>27</sup> In response to this, the government of Uganda commissioned a special audit into the activities of the OPM. According to the findings of the Auditor

General, close to UGX 50 billion was lost to officials and individuals at the OPM. The report also found that Geoffrey Kazinda, who was the principal accountant at the OPM, was the main architect of the scheme to defraud the government. In 2012 he was charged with several offences including abuse of office, making a document without authority, forgery, and unlawful possession of government stores.<sup>28</sup> In 2013 he was found guilty and sentenced him to 5 years in prison.

While still serving this sentence, several other charges were brought against him. Some of these were later withdrawn, and others successfully challenged before the Constitutional court in 2020.<sup>29</sup> The charge of illicit enrichment was however maintained since it was based on different facts from the ones from which Kazinda had been previously convicted.<sup>30</sup> The IG led evidence to show that the accused's lifestyle and the value of property attributed to him were disproportional to his known sources of income.<sup>31</sup> The court found that although registered in other people's names, the accused was at all times in material control of the property linked to him. Secondly, the ascertained value of the property i.e., UGX 3,165,717,471,500 (land and developments) and UGX 762,108,317,471(cars) was grossly disproportional to the accused's total income over a period of 18 years for which he was employed. On this basis he was found liable for illicit enrichment and sentenced to 15 years in prison. In addition to this, the court ordered the confiscation of the assets. Considering that these assets are collectively valued at about USD 1.25 million, the Kazinda case is the biggest asset recovery case in Uganda's history.<sup>32</sup>

## ii) Pensions Scandal

The pensions scandal is Uganda's biggest corruption scandal so far. It involved the loss of UGX 88, 241,784, 930 (approx. USD 24.5 million) in payments to ghost pensioners

between 2010 and 2012. Criminal charges brought against three top officials in the Ministry of Public Service, Christopher Obey, Jimmy Lwamafa and Kiwanuka Kunsu, showed that they illegally budgeted payments amounting to UGX 88.2 billion to the National Social Security Fund (NSSF).<sup>33</sup> The payments were made on ghost accounts were purported as gratuities and pensions to former employees of the defunct East African Community instead of the NSSF. Based on the evidence brought by the prosecution, in 2016 they were convicted of causing financial loss, abuse of office, false accounting, conspiracy to defraud and diversion of public resources. They were sentenced to varying prison terms of 7, 5 and 10 years. The court also ordered for the three to jointly compensate the government of Uganda a sum of UGX 50 billion (approx. USD 13.9 million). Although this amount has yet to be fully recovered due to associated legal hurdles, if successful, it will be the biggest in the country's history.

Moreover in 2018, the three officials were yet again convicted on separate charges involving the diversion of public resources and conspiracy to defraud government. According to the evidence led by the prosecution, the three conspired with Bob Kasango - a lawyer in private practice to feloniously divert and pay him a sum of UGX 15.4 billion in legal fees and costs even when these were not budgeted for.<sup>34</sup> Bob Kasango was convicted of theft and forgery of judicial documents to irregularly claim the said payment. In addition to prison sentences, the three officials were each ordered to compensate the government a sum of UGX 3,495,680, 066. The lawyer was sentenced to a total of 16 years imprisonment and ordered to compensate the government UGX 5 billion but died before this amount could be recovered.

### iii) Offshore corruption and asset recovery cases

Uganda has so far recorded one offshore case in respect to corruption and asset recovery. The case involved then presidential advisor Ananias Tumukunde. In 2008 a British court found that he had received BP 80,000 (approx. USD 96,681) as a bribe from a British firm contracted to supply security equipment that was to be used during the Commonwealth Heads of Government Meeting (CHOGM) in Uganda in 2007. He was convicted and sentenced to one year in jail. He also agreed to refund the said amount to the UK.<sup>35</sup> Ananias' conviction was the first in the UK in respect to bribes paid abroad.

More recently, the Southern District Court of New York found that a senior member of the Ugandan cabinet (Minister Sam Kutesa) had received USD 500,000 from Chi Ping Patrick Ho. In return, the Minister and his wife promised to obtain business favors for Chi's company China Energy Company Limited in Uganda.<sup>36</sup> Although Chi Ping was convicted and sentenced to prison for international bribery and money laundering, no charges were brought against the Ugandan Minister, and neither was he required to refund the money.

A close analysis of the earlier cases shows that the chances of conviction and asset recovery are extremely limited in corruption cases that involve highly placed and politically connected individuals. Despite the huge amounts of public resources lost in the GAVI and CHOGM cases, none of the top officials were convicted and only a small fraction of the funds lost (for GAVI a paltry UGX 460 million (approx. USD 261,356) out of USD 4.3 million) was recovered. The President declared his belief in Gilbert Bukenya's innocence<sup>37</sup> and offered to cover Minister Mike Mukula's legal costs in the appeal against his conviction.<sup>38</sup> All this notwithstanding, in the last ten years

the rate of convictions has been higher, albeit this has largely been in respect to cases involving mid-level officials. The courts have also made bold orders for refund and recovery of the lost funds. However, in practice both the IG and ODPP have encountered several obstacles in the enforcement of these orders. For this reason, asset recovery remains very limited.

## REGIONAL AND INTERNATIONAL INSTITUTIONAL ENGAGEMENT

Uganda is a state party to the United Nations Convention Against Corruption (UNCAC) and the African Union Convention on Preventing and Combating Corruption (AUPCC). These treaties set standards and enjoin state parties to take steps necessary for combating corruption. Most importantly, they create avenues for regional and international cooperation in the fight against corruption. Since Uganda is a state party, it is duty bound to adopt the prescribed mechanisms that are necessary for regional and international institutional engagement and cooperation.

Moreover, Uganda is a member of several regional and international anti-corruption institutional arrangements. This includes the Asset Recovery Inter Agency Network for East Africa (ARIN-EA) and the East African Association of Anti-Corruption Authorities (EAAACA). The country is also one of the eighteen member countries of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) - a regional body formed to help countries to implement standards designed to combat money laundering and terrorism financing.<sup>39</sup> The FIA is also a member of the Egmont Group of Financial Intelligence Units. While all these institutional arrangements are yet to be fully optimised for asset recovery purposes, they provide an important avenue for cross border enforcement of anti-corruption laws and asset recovery.

In September 2020, Uganda made a high-level political commitment with FATF and ESAAMLG to improve its anti-money laundering and counter terrorism financing regimes.<sup>40</sup> This is an important development considering that Uganda has previously been blacklisted and is presently under increased monitoring by FATF.

# CIVIL SOCIETY ENGAGEMENT IN ASSET RECOVERY

Uganda hosts a rich civil society, with a number of anti-corruption organisations active on the district, regional, national and also cross-border level. However, the country's restrictive political environment brings several operational challenges for local civil society organisations and limits the systematic effectiveness of their work. Interviews with several CSO representatives indicated a desire to engage in systematic research and advocacy against illicit financial flows but stated low capacity, lack of sustained funding, as well as the need for a better coordination as the main obstacles to do so.

## OPERATIONAL FRAMEWORK FOR CIVIL SOCIETY

The rights of civil society organisations to organise, assemble and participate in government affairs are protected under the Constitution of Uganda, 1995 (as amended). The state also has an obligation to protect the rights of civil society organisations and human rights defenders under the numerous regional and international human rights instruments that it is party to. However, the tolerance for critical and opposition voices has recently been low<sup>41</sup> and a number of incidences of violence towards journalists have been reported in connection with the 2021 elections.<sup>42</sup> Moreover, the government has restricted the operational space for organisations supporting good governance and suspended the Democratic Governance Facility (DGF) – a fund established by a consortium of foreign donor countries that has been distributing financial support to several anti-corruption organisations in the country.<sup>43</sup>

NGOs operating in Uganda must register

with the NGO Registration Board in the Ministry of Internal Affairs. The operation certificate is not granted indefinitely but initially for one year, renewable first for a period of three years and then five years assuming that the NGO fulfils the renewal requirements. Ahead of the general and presidential elections in January 2021, CSOs were compelled to go through a verification process, with many not able to pass it.<sup>44</sup>

## EXPERT ANALYSIS, ADVOCACY, AND CAMPAIGNING

There are several anti-corruption NGOs which act as coalitions for indigenous CSOs, individual activist, faith- and community-based organisations and which focus their activities in particular regions or districts. The anti-corruption activities of such sub-national organisations are mostly centred on sensitising and mobilising the public in the oversight of a local service delivery. They often act as facilitators in the investigation of small cases of misappropriated assets in the context of community schools or other services. In this process, they usually work with the local law enforcement agencies, especially if their own research, interviews and facilitation process does not lead to a successful resolution of such a case, and after their attempts to identify culprits behind mismanagement of local funds have failed. Some civil society organisations follow corruption cases from the stages of police investigation to courts and work with the district law enforcement agencies to monitor judicial proceedings or refer cases to the national anti-corruption court.

Sub-national anti-corruption coalitions and some other corruption-fighting organisations coordinate their efforts

via a national Anti-Corruption Coalition Uganda and several other national coalitions focused on concrete areas of good governance, such as political finance and budget monitoring. Our interviews as well as mapping of civil society activity in Uganda by other organisations<sup>45</sup> indicates that civil space is very active, concentrated especially on facilitating and monitoring local service delivery and less on lobbying or sustained advocacy efforts.

In a similar manner, the advocacy activities of civil society in the area of asset recovery have been very limited, mirroring the low level of activity showed by the Ugandan agencies. In 2020, several national<sup>46</sup> as well as regional<sup>47</sup> anti-corruption organisations have called for the adoption of a non-conviction-based forfeiture law to allow for an easier recovery of stolen assets. Dialogue with government anti-corruption agencies showed promise of this law being adopted but this has not materialised yet.

Anti-corruption civil society shares an understanding of pressing challenges that impede the fight against corruption and advancement of asset recovery. Beyond a lack of unified asset recovery law that would allow for a non-conviction-based forfeiture, enforcement of the laws and low capacity, as well as corruption within anti-corruption institutions, are seen as issues. Further areas of concern are difficulties to ascertain who owns what in the country, caused by the lack of company beneficial information, as well as low access to information and asset declarations of politicians, which do not include the wealth of their family members and are currently not being made public.

Regarding the obstacles on the side of civil society, deeper knowledge of all steps of asset recovery and how it is done in practice is needed to establish advocacy on what to recover and where to begin.

Not many organisations have the capacity to engage the government in a sustained manner, nor have the opportunity to network with CSOs with other countries, more advanced in the recovery of stolen assets. Importantly, anti-corruption work continues to be unstable and risky, with activists facing organisational obstacles and personal security risks. While CSO advice and advocacy is needed to push legislative reform further, civil society efforts should be concentrated in supporting the implementation of current laws and in investigating and exposing potential cases of misappropriation of public funds.<sup>48</sup> Proving corruption in judicial proceedings requires sufficient evidence and investigative journalists, as well as anti-corruption organisations, can be crucial in lifting the veil on issues such as property ownership or networks of interest relating to potential grand corruption.

## INVESTIGATIVE JOURNALISM

Similarly to non-governmental organisations, the media sector in Uganda is very active and contains many independent outlets. While the legislative network in Uganda supports free speech, and critical views appear in media outlets and on social media frequently, individuals and journalist in some cases face surveillance, penalties and harassment in reprisal for stories they write.<sup>49</sup> For example, in 2019, a leading Ugandan investigative reporter, who received a BBC Award for his story about the illegal sale of prescription drugs,<sup>50</sup> had his home raided and his colleagues were arrested.<sup>51</sup> A particular period of concern regarding media freedom preceded the Jan 2021 Ugandan elections, when several journalists were reportedly harassed, detained and attacked, which attracted international support urging Ugandan authorities to ensure investigations into any such events.<sup>52</sup>

In an environment where journalists

can become a subject to harassment, intimidation and restrictions on freedom of expression and where whistle-blower protection is very limited, it is not surprising that bigger investigative works are not that common in Uganda. Investigative activity is more centred, for example, on environmental wrongdoing, and the health sector, and less on exposing corruption in government procurement.<sup>53</sup>

Some international organisations and media have supported investigative work in Uganda in the past, and there is an appetite and room for more support. Journalists should be assisted to carry out their investigations in a safe and secure way, including through building partnerships with international networks and with journalists working in other countries and regions. The support of the international community to both journalists and anti-corruption activists is seen as important in amplifying the voices of local civil society and, as such, in helping to overcome harassment, restrictions and limited access to funding.<sup>54</sup>

## CONCLUSION AND RECOMMENDATIONS

Despite the existence of robust laws, and dedicated anti-corruption institutions, the functioning of anti-corruption laws and institutions and efforts geared towards asset recovery have been undermined by the absence of political leadership and the lack of funding and capacity of law enforcement agencies to investigate cases of grand corruption.

A look at grand corruption cases shows that the chances of conviction and asset recovery are extremely limited in corruption cases that involve highly placed and politically connected individuals. So far, only a very small amount of assets seems to have been recovered in relation to these corruption cases domestically and even smaller internationally.

While the courts have made increasingly bold orders for refund and recovery of the lost funds, government institutions have been facing a range of obstacles in the enforcement of these orders. The lack of non-conviction-based forfeiture provisions, the absence of a property management and administration system, low capacity of government institutions recovering assets and a lack of witness protection law are few of them.

Anti-corruption civil society has advocated for and discussed with the government the adoption of a non-conviction-based forfeiture law to allow for an easier recovery of stolen assets, however, the process is stalled. Based on the findings of our desk-based research and interviews with CSO representatives conducted by CiFAR, this research offers several policy recommendations where further efforts of government and civil society should be concentrated:

- Reinstating mandatory obligation for leaders to **declare the assets** and liabilities of their spouses and children as a signal of real political commitment to fight corruption in the country.
- Push for an expedited hearing of the constitutional challenge of the **restrictive Non-Governmental Organisations Act** which is currently before the Constitutional Court.
- Advocate and assist with the **capacity enhancement of the IG, ODPP, Uganda Police and other bodies involved in asset recovery**. This can be achieved through providing regular trainings for staff especially those involved in the tracing and identification of assets, investigations, and prosecutions.
- Introduce legislation on asset recovery, which also provides for **non-conviction based forfeiture and management of recovered assets**, and a law on witness protection, including those who testify in corruption and asset recovery cases.
- When proposing a new asset recovery legislation, **build on existing proposals**, such as earlier efforts of the Uganda Law Reform Commission (ULRC) to enact "a law for the recovery of proceeds of crime, civil asset recovery, asset management and disposal, recovery of consequential benefits and how to apply recovered proceeds."

- Strengthen **trust, relations and information exchange between government and CSOs** around the fight against corruption and recovery of stolen assets, for example via the establishment of specialised working groups or the creation of memoranda of understanding.

With additional expertise, funding, and general support to conduct their activities, anti-corruption organisations and investigative journalists can play a key role in helping to overcome low conviction rates in corruption cases and the limited track record in recovering stolen assets. With increased government transparency and open information, as well as training on investigative and monitoring tools, civil society can track public funds and investigate cases of their potential misuse. Increased training and knowledge about asset recovery in Uganda, as well as successful practices elsewhere, would enhance civil society's ability to monitor and advise government and other relevant oversight bodies on existing gaps in Uganda's asset recovery response mechanisms, as well as on the reuse of any recovered funds for the benefit of Ugandan citizens.

The areas where the role of civil society fighting the misappropriation of public funds can be particularly strengthened and supported are:

- Build on and **expand existing capacity of CSOs and think tanks** to conduct research on Uganda's illicit financial flows and on financial investigations, identifying asset owners in Uganda and abroad as a basis for further advocacy work.
- Support **coalition building** and coordinated sustained advocacy efforts aimed at producing structural changes in policy that

could curb illicit financial flows and support asset recovery

- Support **capacity building activities** of anti-corruption civil society in the area of asset recovery, including acquiring a deeper understanding of the different stages of the process, and the various law enforcement agencies involved, as well as the possible roles that civil society can play in the process, such as tracing stolen assets, providing evidence and monitoring court proceedings.
- Facilitate the formation of a **regional initiative for civil society** organisations involved in asset recovery. This would act as a coordinating body and help lobby for enhanced cooperation of countries in asset recovery at the regional level.
- Link Ugandan-based civil society organisations working on corruption and related areas on asset recovery with **like-minded organisations** in especially those countries considered to be safe havens for corrupt officials to hide their ill-gotten wealth.
- Provide capacity building in support of **improved digital and physical security** of anti-corruption activist and investigative journalists.
- Support journalists to **strengthen their networks** with others outside of Uganda and to develop joint stories.

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