



March 2024

Gender and asset recovery

Developing a gender-sensitive framework for asset recovery technical assistance programmes. A case study of Mozambique.

By: Monica Kirya and Carmeliza Rosario

Prepared for: International Centre for Asset Recovery at the Basel Institute on Governance

1 Introduction

In February 2023, the International Centre for Asset Recovery (ICAR) at the Basel Institute on Governance contracted the U4 Anti-Corruption Resource Centre, Chr. Michelsen Institute (U4/CMI) to develop a gender framework for its asset recovery technical assistance programme in Mozambique. The aim of the assignment was to identify key gender considerations relevant for the current and future programmes.

With funding from the Embassy of Switzerland in Mozambique, ICAR is providing support to the Public Prosecutor's Office (PGR) in Mozambique to strengthen the fight against corruption and increase asset recovery capacity in the country. The main goal of the programme is to reduce the political, economic and social costs of

corruption in Mozambique's development process by creating an environment that discourages the practice of corruption by public officials, officeholders, private companies and citizens.

The programme aims to improve the capacity of anti-corruption entities in Mozambique and increase their effectiveness and efficiency in investigating and prosecuting corruption and financial crime and recovering stolen assets. It also aspires to improve the legal and institutional framework for combating corruption, financial crime and asset recovery, and thereby contribute to strengthening the rule of law and the credibility of public institutions in Mozambique.

This is an abridged version of an original research report funded by the Embassy of Switzerland in Mozambique. The contents of the research report and this document are the sole responsibility of the authors and do not necessarily reflect the views and the official position of the Swiss Federal Department of Foreign Affairs, Basel Institute on Governance, U4 Anti-Corruption Resource Centre or other stakeholders. Copyright: Swiss Federal Department of Foreign Affairs.

2 Methods

The study employed a qualitative method of enquiry, beginning with a desk review of internal programme documents, academic and grey literature. The literature review informed the lines of inquiry for semi-structured interviews (both individual and group) with Basel Institute / ICAR team members (eight interviews), programme beneficiaries from the PGR and other government agencies in Mozambique (10 interviews), other stakeholders in gender and asset recovery such as anti-corruption and women's civil society organisations (CSOs) (six interviews), the development partners (two interviews) and an academic expert (one interview). The researchers conducted 31 interviews in total.

Following the qualitative data collection process, the researchers analysed the data manually, identifying common themes and highlights from the interview and focus group transcripts.

This document includes a selected bibliography to give readers a sense of the literature that was consulted during the research.

3 Findings and recommendations

The research examined gender-related aspects within the ICAR programme as relevant to programme management and delivery and explored potential gender considerations within anti-corruption and asset recovery laws and policies.

The main findings and recommendations are as follows:

3.1 Gender in ICAR programme delivery

So far, attention to gender in the programme has focused on monitoring gender balance in training activities. For example, 31 percent of participants in trainings delivered under the programme in 2021 were women. There is a significant number of women in leadership and decision-making roles in anti-corruption institutions, especially in the PGR and Courts.

Mozambican government institutions have gender mainstreaming infrastructure. The PGR has a Gender Unit and a Gender Adviser. The Ministry of Gender, Children and Social Action holds the overarching mandate on gender equality policy, as outlined in Mozambique's National Gender Policy. These offices provide an important entry point for any gender mainstreaming efforts.

Recommendations

Any gender mainstreaming efforts should involve the Gender Adviser and Gender Unit at the PGR, and the gender focal point at the National Criminal Investigation Service (SERNIC).

The programme could encourage strengthening the collaboration between programme beneficiaries, the Ministry of Gender, Children and Social Action, the Instituto do Patrocínio e Assistência Jurídica (IPAJ) and CSOs working on gender and corruption (such as the Centro de Integridade Pública (CIP) and the Observatório da Mulher). These entities can play a role in protecting the welfare of vulnerable persons affected by asset recovery processes and in improving access to justice for victims of corruption, for example by receiving complaints and forwarding them to the relevant authorities.

The following gender equality indicators could be incorporated into the results framework of a future phase of the programme:

- Number of training programme beneficiaries, vis-à-vis total number of staff in the host agency, disaggregated by gender.
- Gender-based risks for law enforcement personnel identified and addressed.
- Collaborations with other stakeholders working on gender equality initiated.

The following gender-related considerations could be considered in a future programme evaluation:

- Assess the extent to which gender issues have been identified and addressed in the programme. These include: a) the gender balance of programme staff

and beneficiaries of training programmes; and
b) attention to gender issues in training content, technical assistance and other collaborations with Mozambiquan institutions on anti-corruption and asset recovery law.

- Provide recommendations for integrating gender-sensitive approaches into future programme planning and implementation.

3.2 Gender-based risks for law enforcement personnel

There is a growing body of evidence that gender significantly influences the experiences and career paths of law enforcement officials. No programme-specific gender-based risks were identified during the research, such as respondents who had experienced threats or backlash for investigating and prosecuting corruption or asset recovery cases. Nonetheless, the evidence from other countries suggests that gender-based risk awareness and mitigation strategies should be an important feature of this type of programming.

Tools for assessing and mitigating gender-based risks to law enforcement personnel are scarce. Most available tools for gender risk assessment are about the risk for gender-based or intimate partner violence. Nonetheless, a [Gender Risk Assessment Tool](#) published by the Inter-American Investment Corporation provides potentially useful principles and ideas.

Recommendation

The programme should conduct regular risk assessments, for example, through an annual survey, in order to identify and address potential gender-based risks. The goals and objectives of a gender risk assessment would be to identify and understand the ways in which different genders are affected by the project or the nature of work that programme beneficiaries are engaged in and to ensure that perspectives of both genders are heard and taken into consideration in work plans and project management.

3.3 Gender in anti-corruption and asset recovery laws and policies

The research identified five points concerning gender in anti-corruption law and policy specifically:

- better understanding the gender equality implications of a country's anti-corruption and asset recovery legislation;
- a potential legislative gap concerning sextortion/sexual corruption;
- the importance of gender-sensitive corruption reporting and whistleblowing mechanisms;
- gendered implications of anti-money laundering and counter financing of terrorism (AML/CFT) law and policy; and
- implications of social vulnerability in bona fide third-party proceedings.

a) Analysing legislation

The researchers argue that the fact that anti-corruption laws are seen as gender neutral implies that they are in fact gender blind and can therefore cause unintended harm to women (especially) by not recognising their vulnerability.

The researchers identified two tools for assessing laws and policies from a gender perspective:

- The [Gender Legislative Index](#) is a tool that analyses and ranks laws against global standards of women's rights. While it has yet to be used to analyse anti-corruption laws, the benchmarking criteria on which the index is based could provide a useful tool for analysing the gendered impacts of anti-corruption and asset recovery laws.
- The Organisation for Economic Cooperation and Development's (OECD) [Social Institutions and Gender Index \(SIGI\)](#) suggests four indicators to measure four key dimensions of gender inequity in society.

The researchers are not aware of a national mechanism in Mozambique for analysing the gendered impact of the country's laws.

b) Sexual corruption

The researchers underlined five main points:

1. sexual corruption occurs at the intersection between gender-based violence and corruption;
2. there is evidence suggesting that sexual corruption is a widespread, global phenomenon;
3. some authors argue that domestic laws do not adequately address sexual corruption, given infrequent prosecution under either gender-based violence laws or under anti-corruption laws;
4. the nature of acts of sexual corruption necessitate legislation that recognises the gender dynamics and nuances involved; and
5. the existence of a recently passed UNCAC-COSP Resolution encouraging states to raise awareness on sexual corruption, to close any potential legislative gaps in this regard and to take measures to improve prevention and prosecution of sexual corruption.

The researchers also touch on restorative justice approaches that emphasise apologies and compensation, not just incarcerating the culprits. They suggest that although this is a crime of corruption from which no assets are recoverable, it would be just to consider prioritising compensation to victims of sexual corruption when making decisions about the use of recovered assets.

Mozambique, like many other countries, does not have dedicated legislation to address sexual corruption. Article 431 of the Criminal Code on the abuse of office or function is worded broadly enough to include sexual corruption.

c) Corruption reporting/whistleblowing mechanisms

The global literature indicates that women are less likely to report corruption than men, especially if the type of corruption involved is sexual. This could be because corruption reporting and whistleblowing mechanisms tend to be gender blind and do not consider gender differences in literacy, access to information, access to

digital technology including mobile phones, and mobility of victims to access corruption reporting channels.

Transparency International has found that many women prefer face-to-face reporting to using anonymous and impersonal hotlines. Research from the U.S. found that whistleblowing mechanisms may not account for gender differences in the motivation for whistleblowing or offer sufficient confidentiality and safeguards for those reporting corruption-related crimes.

Mozambique has Law 15/2012 (Law on the Protection of Victims, Witnesses, Whistleblowers and Experts in Criminal Proceedings). However, the research suggests that Mozambique has not addressed the issue of gender in corruption reporting and whistleblowing mechanisms, even though it can be an important consideration for the effectiveness of such mechanisms.

d) Gendered implications of AML/CFT law and policy

The Alliance for Finance Monitoring has studied the gender and inclusion implications of AML/CFT law and policy, specifically know-your-customer (KYC) requirements. It has published guidance on how to balance such laws and policies with the necessity of promoting financial inclusion, especially for women and other vulnerable groups.

Similar research has established that the policies put in place to counter financial crimes may have had "unintentional and costly consequences, in particular for people in poor countries". The effects of the rules are gendered because women domestic migrant workers, women-owned businesses and women in conflict situations already face several vulnerabilities.

Accordingly, the Financial Action Task Force (FATF) now encourages states to identify and mitigate legal, procedural and social barriers in identification systems, with special attention to underserved people and groups who may be at risk of exclusion for cultural, political or other reasons.

The research found that respondents were largely unaware of the potential unintended consequences of the AML/CFT laws on women and other vulnerable groups. Similarly, it is known that Mozambican CSOs are challenging a provision in the Money Laundering Law as they consider it overly restrictive on civic space.

e) *Bona fide* third-party proceedings

In the researchers' view, asset forfeiture and recovery could have gendered negative implications for bona fide third parties, especially spouses and children. Asset recovery laws contain protections for bona fide third parties. However these are often complex, and ignorance of their rights may hinder spouses and children from benefitting from these protections.

Recommendations

- An in-depth gender analysis of Mozambique anti-corruption, AML/CFT and asset recovery laws should be undertaken.
- Mozambique could consider establishing a national mechanism for analysing the gendered impact of laws, including anti-corruption and asset recovery laws.
- The issue of gender-sensitive whistleblowing mechanisms should be considered as a priority in efforts to integrate a gender perspective in Mozambique's anti-corruption laws.
- Dialogue on potential unintended consequences of AML/CFT laws on women and other vulnerable groups and further analysis of the situation in Mozambique should be initiated.

3.4 Gender considerations in the reuse of recovered assets

Transparency and accountability are crucial in managing recovered assets. Policy guidance from the Stolen Asset Recovery Initiative (StAR) emphasises that the management of recovered assets should be conducted in a transparent and accountable manner to ensure that the assets are used for their intended purposes, and to avoid any risk of re-corruption or misuse of the assets.

The same guidance emphasises that it is important to use returned assets for the benefit of society and to promote sustainable development. The guidance also makes recommendations for involving CSOs and local communities, including establishing clear and transparent procedures for the selection of organisations that will receive the assets and the monitoring of their use.

Thus, the management of recovered assets should consider the social, economic and environmental impacts of their use, and should prioritise projects that promote social and economic development and contribute to poverty reduction. Several examples from other countries show that assets can be used specifically for women and vulnerable groups to address inequalities.

In Mozambique, the Ministry of Economy and Finance has chief responsibility for asset management.

Respondents were asked how recovered assets should be reused and whether they can be deployed to improve the lives of victims of corruption, especially women and children. Responses suggest that the underfunded departments that recover assets should be given priority, and the health and education sectors should be prioritised second.

Recommendation

The programme can consider advocating for asset reuse guidelines that promote gender equality and inclusion.

Annex: Selected bibliography

Books, articles and reports

On corruption and gender

Carnegie, S. (2019), Sextortion: A crime of corruption and sexual exploitation, International Bar Association, available <https://www.ibanet.org/Media-Handler?id=E5E451C2-A883-4518-B0ED-5AAAEB-CDD5AA>

Feigenblatt, H. 2020. [Breaking the silence around sextortion. The links between power, sex and corruption.](#) Transparency International.

France, G.; (2022) [The impacts of corruption on LGBTQI+ rights.](#) Bergen: U4 Anti-Corruption Resource Centre, Chr. Michelsen Institute (U4 Helpdesk Answer 2022:11)

Jenkins, M.; McDonald, E.; (2022) [Corruption and the equal enjoyment of rights for persons with disabilities.](#) Bergen: U4 Anti-Corruption Resource Centre, Chr. Michelsen Institute (U4 Helpdesk Answer 2022:7)

Malik, Waleed Haider; Maghani, Clara. 2023. [Voices of the Vulnerable: Promoting Access to Justice in Sub-Saharan Africa \(English\).](#) Washington, D.C.: World Bank group. Available at <https://documents.worldbank.org/en/publication/documents-reports/document-detail/099652512182368546/idu0554b44400c-3f6048880a3610feff2110a06f>

Omotoso, S.A., 2023. [Media Transnationalism and the Politics of 'Feminised Corruption'](#) University of Bayreuth African Studies Working Papers.

Rakner, L., Benstead, L. and Wang, V., 2021, September. [Do women face a different standard? The interplay of gender and corruption in the 2014 presidential elections in Malawi.](#) In Women's Studies International Forum (Vol. 88, p. 102501). Pergamon.

Sierra, E.; Boehm, F.; (2015) [The gendered impact of corruption: Who suffers more – men or women?.](#) Bergen: U4 Anti-Corruption Resource Centre, Chr. Michelsen Institute (U4 Brief).

Transparency International. n.d. Global Corruption Barometer. <https://www.transparency.org/en/gcb>.

Transparency International Sri Lanka, 2015. The People Speak out against Corruption – More Than 20,000 Complaints to ALAC. Available at <https://www.tisrilanka.org/the-people-speak-out-against-corruption-more-than-20000-complaints-to-alac/>

Transparency International Zimbabwe. 2019. Gender and corruption in Zimbabwe. Available at https://www.veritaszim.net/sites/veritas_d/files/Transparency%20International%20Zimbabwe%20Gender%20%26%20Corruption%20in%20Zimbabwe.pdf

Zúñiga, N.; (2020) [Gender sensitivity in corruption reporting and whistleblowing.](#) Bergen: U4 Anti-Corruption Resource Centre, Chr. Michelsen Institute (U4 Helpdesk Answer 2020:10)

On women in organised crime

Enfield, S., 2019. Gender and Serious and Organised Crime. Institute for Development Studies (IDS). Available at https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/14437/561_Gender_and_Serious_and_Organised_Crime.pdf?sequence=1

Hübschle, A., 2014. [Of bogus hunters, queenpins and mules: the varied roles of women in transnational organized crime in Southern Africa.](#) Trends in Organized Crime, 17(1-2), pp.31-51.

On gender in law

Alliance for Financial Inclusion (AFI), Global Standards Proportionality Working Group (GSP WG) and United Nations Capital Development Fund (UNCDF), (2018). [Gender Considerations in Balancing Financial Inclusion And Anti-Money Laundering And Countering the Financing of Terrorism \(AML/CFT\), pp. 4-5.](#)

Centre for Global Development (CGD), (2015). [Unintended Consequences of Anti-Money Laundering Policies for Poor Countries](#)

OECD, Social Institutions and Gender Index (SIGI) – Which laws, social practices and norms limit girls' and women's rights and opportunities?

Financial Action Task Force (FATF) (2021), Opportunities and Challenges of New Technologies for AML/CFT, FATF, Paris, France

Gender Legislative Index. Available at <https://www.genderlawindex.org/>

Swan, S.L., 2017. Conjugal liability. UCLA L. Rev., 64, p.968.

On gendered experiences of law enforcement officials

Didwania, S.H., 2022. Gender Favoritism Among Criminal Prosecutors. The Journal of Law and Economics, 65(1), pp.77-104.

Feldman, A. and Gill, R.D., 2019. Power dynamics in supreme court oral arguments: The relationship between gender and justice-to-justice interruptions. Justice System Journal, 40(3), pp.173-195.

Jacobi, T. and Schweers, D., 2017. Justice, interrupted: The effect of gender, ideology, and seniority at Supreme Court oral arguments. Va. L. Rev., 103, p.1379

Loughland, A., 2019. Female judges, interrupted: A study of interruption behaviour during oral argument in the high court of Australia. Melb. UL Rev., 43, p.822.

Miller, M., & Sutherland, J. (2023). The Effect of Gender on Interruptions at Congressional Hearings. American Political Science Review 117(1), 103-121

Och, M., 2020. Maninterrupting in the German Bundestag: gendered opposition to female members of Parliament? Politics & Gender, Volume 16, Issue 2, June 2020, pp. 388 – 408 DOI: <https://doi.org/10.1017/S1743923X19000126>

Park, I., Choo, T. and Na, C., 2022. Burnout in the DA's office: Correlates and coping strategies among male and female prosecutors. International Journal of Law, Crime and Justice, 69, p.100533

Salo, I. and Allwood, C.M. (2011), "Decision-making styles, stress and gender among investigators," Policing: An International Journal, Vol. 34 No. 1, pp. 97-119. <https://doi.org/10.1108/13639511111106632>

Salerno, J.M., Phalen, H.J., Reyes, R.N. and Schweitzer, N.J., 2018. Closing with emotion: The differential impact of male versus female attorneys expressing anger in court. Law and Human Behavior, 42(4), p.385

On asset recovery and asset management

Boucht, J (2017). The Limits of Asset Confiscation: On the legitimacy of extended appropriation of criminal proceeds. Hart Publishing, Oxford. Pp. 9, 159, 212-213, 219.

Fletcher, C., 2019. "Double Punishment"-The Proceeds of Crime Act 2002 (POCA): A Qualitative Examination of the Post-Conviction Confiscation Punishment in England and Wales (Doctoral dissertation, Manchester Metropolitan University).

Gray L et al, 2014. Few and Far: The Hard Facts on Stolen Asset Recovery. Stolen Asset Recovery Initiative

Ivory, R., 2014. Corruption, Asset Recovery, and the Protection of Property in Public International Law. Cambridge University Press.

Rhimes, M., 2021. Forfeiting proceeds: Civil forfeiture, the right to property and the Constitution. South African Law Journal, 138(2), pp.325-368.

Stolen Asset Recovery Initiative (StAR), (2009). Stolen Asset Recovery Management of Returned Assets: Policy Considerations

US Department of Justice, Asset Forfeiture Policy Manual, 2023

Vlasic, M.V. and Cooper, G., 2011. Beyond the Duvalier Legacy: What New " Arab Spring" Governments Can Learn from Haiti and the Benefits of Stolen Asset Recovery. Nw. UJ Int'l Hum. Rts., 10, p.19.

Other

Bantekas, I., 2006. Corruption as an international crime and crime against humanity: An outline of supplementary criminal justice policies. Journal of International Criminal Justice, 4(3), pp.466-484.

Bibler & Zuckerman, 2013. The World Bank and women's unpaid care work in select sub-Saharan African countries. Available at <https://www.econstor.eu/bitstream/10419/93728/1/772078076.pdf>

Gadis, I et al, 2018. Gender Gaps in Property Ownership in Sub-Saharan Africa. World Bank Policy Research Working Paper 8573, available at Policy Research Working Paper 8573. Available at <https://documents1.worldbank.org/curated/en/939291535658711278/pdf/WPS8573.pdf>

Lopus S, Frye M. Intramarital Status Differences across Africa's Educational Expansion. J Marriage Fam. 2020 Apr;82(2):733-750. Doi: 10.1111/jomf.12632. Epub 2019 Dec 2. PMID: 34045775; PMCID: PMC8153517

Manirabona, A.M. and Wemmers, J.A.M., 2014. It doesn't go away with time: Victims' need for reparation following crimes against humanity. In Reparation for victims of crimes against humanity (pp. 71-91). Routledge.

UK Aid, 2018. Sexual exploitation, abuse and harassment in the aid sector: victim and survivor voices listening exercise.

UNESCO -IIEP, 2022. Education and Skills for Women's Integration into the Labour Market. Available at <https://www.iiep.unesco.org/en/publication/education-and-skills-womens-integration-labour-market-comparative-analysis-eight-sub>

Mozambique-specific literature

Cortez, E et al (2021) Costs and consequences of the hidden debt scandal of Mozambique. Maputo, Bergen: Centro de Integridade Pública (CIP), Moçambique, and Chr. Michelsen Institute, Norway

Human Rights Watch (HRW). (2019). Mozambique: Cyclone Victims Forced to Trade Sex for Food: Community Leaders Exploit Vulnerable Women

Kaarhus, R. and Dondeyne, S., 2015. Formalising land rights based on customary tenure: community delimitation and women's access to land in central Mozambique. The Journal of Modern African Studies, 53(2), pp.193-216.

Knox, A. and Tanner, C., 2019. Securing women's land rights in Mozambique. Gates Open Res, 3(480), p.480, at <https://gatesopenresearch.org/documents/3-480/pdf>

Manuel, Sandra. (2022). Perfil de Igualdade de Género de Moçambique. Ministério de Género, Criança e Acção Social

Mariano, Esmeralda. (2016). Relatório do Estudo Exploratório sobre a situação de violência contra as Mulheres e Raparigas nos Espaços Públicos da Cidade de Maputo. ONU Mulheres

Meque, Etelvina e Maloa, Joaquim. (2021). A lei contra a violência doméstica em Moçambique: seu alcance, limitação e desafios. Njinga & Sepé: Revista Internacional de Culturas, Línguas Africanas e Brasileiras, São Francisco do Conde (BA), v.1, nº 2, p.103-119.

Namburete, E (2009) Southern African Development Community Gender Protocol Baseline Study: Mozambique.

Nhampoca, Joaquim. (2013). A aplicação da lei de violência doméstica em Moçambique: constrangimentos institucionais e culturais. Outras Vozes, nº 41-42.

Manuals, guidelines and handbooks

Brun, J.P. et al, [Asset Recovery Handbook, a Guide for Practitioners](#) (Second edition)

Dunkley et al, 2021. [Gender, think tanks and international affairs: a toolkit](#). Chatham House, CFFP.

International Association of Women Judges (IAWJ). (2012). [Stopping the Abuse of Power through Sexual Exploitation: Naming, Shaming, and Ending Sextortion](#). Toolkit

IDB Invest, 2020. [Gender Risk Assessment Tool](#). Toolkit

UNODC, [Knowledge tools for academics and practitioners, Module Series on Anti-Corruption, Module 8, Corruption and Gender](#)

UNODC, [Mainstreaming Gender in Corruption projects/ programmes: Briefing Note for UNODC Staff](#)

UNODC, [Mainstreaming Gender in Organised Crime and Illicit Trafficking Project](#)

UN Proceedings

Conference of the States Parties to the United Nations Convention against Corruption. 15 December 2023. Addressing the societal impacts of corruption CAC/COSP/2023/L.14/Rev.1. Available at https://www.unodc.org/documents/treaties/UNCAC/COSP/session10/resolutions/L-documents/2325384E_L14_Rev1.pdf

Conference of the States Parties to the United Nations Convention against Corruption. N.d. Resolution 9/2. Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthening international cooperation: follow-up to the special session of the General Assembly against corruption. Available at <https://www.unodc.org/corruption/en/cosp/conference/session9-resolutions.html#Res.9-2>

United Nations General Assembly. 7 June 2021. S-32/1. Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation. Available at <https://digitallibrary.un.org/record/3928751?ln=en&v=pdf>