

SUMMER 2015

ACHIEVING DEVELOPMENT IMPACT WITH AN INCLUSIVE ASSET-RETURN MODEL: The Case of the BOTA Foundation in Kazakhstan

Swathi Balasubramanian & Colby Pacheco

IREX
1275 K Street NW, Suite 600
Washington, DC 20005



about IREX

Founded in 1968, IREX is an international nonprofit that provides thought leadership and innovative programs to promote positive lasting change. With an annual portfolio of over \$70 million, partners in 125+ countries, and more than 400 staff worldwide, IREX enables local individuals and institutions to build the key elements of a vibrant society: quality education, independent media, and strong communities. To learn more visit www.irex.org.

acknowledgements

This case study was written by Colby Pacheco and Swathi Balasubramanian. Christine Prefontaine provided substantial guidance and editorial direction. Jill Miller managed the process of bringing this case study to publication and Kathy Evans provided substantial technical advice and guidance. The IREX team extends its deep gratitude to all those individuals and organizations who worked to make the BOTA Foundation a reality and who are dedicated to advancing innovative and inclusive asset-return mechanisms.

abstract

A case study of the BOTA Foundation, one of the first examples of asset repatriation through civil society with independent and international third-party oversight. Provides an overview of the background, program design, and results, as well as recommendations for practitioners and decision makers. The authors also outline ways that civil society can be included in all phases of the asset repatriation process.

140-character summary

How was \$115 million successfully returned to the people of #Kazakhstan? BOTA Foundation case study. Via @IREX. #corruption #assetrecovery

copyright & distribution license

Copyright IREX 2015. Distributed under a Creative Commons Attribution-ShareAlike 4.0 International license.

recommended citation

Pacheco, C., & Balasubramanian, S. (2015) *Achieving Development Impact with an Inclusive Asset-Return Model: The Case of the BOTA Foundation in Kazakhstan*. Washington, DC: IREX.

Executive summary.....	1
Background.....	3
The Giffen-Mercator case, civil forfeiture, and a trilateral agreement.....	3
Asset return models	4
Why use NGO model? Why create a new institution?	5
Design.....	7
Blueprint for repatriation	7
Results	10
Key lesson: Finding fraud when implementing an asset-return program should is never a failure	11
Conditional Cash Transfer program results	11
Social Services Program results.....	12
Tuition Assistance Program results	12
Legacy.....	13
Creating new institutional and staff capacity	13
Transforming the delivery of social assistance	15
Establishing a coalition of child- and youth-welfare NGOs	16
Recommendations	18
Align real social needs and political priorities.....	18
Collaborate but maintain independence.....	19
Create an oversight structure robust enough to provide legitimacy but not so burdensome to prevent progress	19
Engage civil society at each stage of the asset-return process.....	20
Add to development investments — don't replace them	21
Allocate resources to asset recovery and return to ensure justice and deter corruption	21

Executive summary

The BOTA Foundation was a unique development response to “right the wrongs” of corruption. Over five years, the governments of Kazakhstan, Switzerland, and the United States, along with the World Bank, IREX, and Save the Children collaborated to return \$115 million of disputed assets to the people of Kazakhstan. The pioneering model delivered much needed social assistance to poor and vulnerable populations in the country, but was not without complications. The lessons from the BOTA experience provide insights into an unexplored area: returning assets to deliver justice and development impact.

Corruption hits the poorest the hardest. When public money flows into private bank accounts, essential services for the most vulnerable citizens become deficient. The phenomenon is all too common. Every year tens of billions of dollars are stolen from developing countries. Tracing and recovering these stolen assets is a complex and painstaking process, but once the recovery work is complete, the return of assets presents an opportunity to get money back to the people most harmed by its theft.

In the 1990s, investigations began in a case that would later be dubbed “Kazakhgate.” James Giffen, an American businessman, had helped parcel off oil concessions in western Kazakhstan by channeling bribes to the country’s President Nursultan Nazarbaev and former Prime Minister Nurlan Balgimbaev to broker oil deals. As part of the settlement of the case against Giffen, millions of dollars frozen in a Swiss bank account along with the interest accrued were to be returned to the people that were hit hardest by the corruption. As a result, the Governments of Kazakhstan, the Swiss Confederation, the United States, and the World Bank came together to establish the BOTA Foundation — an independent organization dedicated to serving Kazakhstan’s most vulnerable populations.

Agreeing to establish the BOTA Foundation was not easy. The Government of Kazakhstan asserted that the funds were its property, but the Swiss Confederation and the United States wanted to ensure that the funds would be used with appropriate accounting mechanisms to prevent further corruption. The three governments engaged the World Bank to discuss development uses. With the Bank’s assistance, eventually the three governments entered into a trilateral Memorandum of Understanding that would establish BOTA as an independent entity.

Many parties have a stake in the asset return process including “requested” countries (states that currently hold the assets in their jurisdiction) and “requesting” countries (states laying claim to the assets) as well as civil society. Balancing various incentives and needs can be challenging. There are four general models of asset return: (1) Country System, (2) Enhanced Country System, (3) Autonomous Funds, and (4) the NGO Model. With the Kazakhgate funds, the government parties had to consider the amount to be repatriated, the broader governance context, quality of the Kazakhstan’s public financial management systems, and the programmatic and financial management capacity of local NGOs. In opting for the NGO model, special attention was paid to the sovereignty of Kazakhstan and the wishes of the U.S. and Swiss to ensure oversight of the use of the funds. They decided to create a new institution, the BOTA Foundation, with several layers of monitoring and accountability.

Given its experience working with civil society in the region and robust financial management systems, IREX was selected to manage the set-up of the Foundation and provide ongoing institutional development support. Save the Children collaborated with IREX on program design and provided technical assistance on specific program themes. The resulting state-of-the-art foundation would concentrate on three core programs: (1) Conditional Cash Transfers, (2) Tuition Assistance, and (3) Social Services.

Through conditional cash transfers, BOTA provided money and associated professional development trainings to build human capital. Tuition assistance in the form of scholarships allowed poor Kazakhstanis to access higher education — most were the first in their family to attend college. And through an innovative social services program, BOTA delivered financial and technical support to service delivery NGOs throughout the country. In all, BOTA directly reached 208,000 individuals — more than double its original target.

BOTA leaves behind a rich legacy. From building and diffusing the capacity of more than 100 employees that are now seen as social service experts in the country to transforming the way the government views social assistance, the Foundation made a tremendous impact.

Documenting the process, results, successes, and struggles of BOTA has led to a set of recommendations for future asset return cases that can be thought of as the building blocks for best practices:

- Align real social needs and political priorities
- Collaborate with but maintain independence from government
- Create an oversight structure robust enough to provide legitimacy but not so burdensome to prevent progress
- Engage civil society at each stage of the asset-return process
- Add to development investments — don't replace them
- Allocate resources to asset recovery and return to ensure justice and deter corruption

This case study provides an authoritative account of the workings of a cutting-edge mechanism that delivered development outcomes while pushing to end impunity. It proves that governments and civil society can work to ensure justice is served.

Background

The Giffen-Mercator case, civil forfeiture, and a trilateral agreement

Grand corruption — abuses of power for personal gain at the highest levels — is all too common. While it is difficult to quantify exactly how much is stolen from countries ever year, the World Bank estimates \$20 to \$40 billion while others estimate almost \$1 trillion. All citizens suffer from corruption, but the poorest and most vulnerable suffer the most. Embezzlement, bribes, sweetheart deals, and all manner of illegal activities siphon public money into private hands — money that is key to delivering and improving essential services. Tracing and recovering stolen assets requires diligence, resources, and patience. It is complex, painstaking work, frustrating and fraught with legal, political, and diplomatic challenges.

Investigations into the Giffen-Mercator case — which would become known as “Khazakhgate” — started in the late 1990s. Prosecutions against James Giffen, a businessman, and J. Bryan Williams, a former executive at Mobil Oil, for crimes ranging from conspiracy to defraud the U.S. Internal Revenue Service, money laundering, wire fraud, and violations of the Foreign Corrupt Practices Act followed in 2003.¹ Williams was sentenced to 46 months in prison that same year, while the Giffen case went on for another seven years, finally ending in 2010 when Giffen was sentenced to time served after agreeing to plead guilty to a misdemeanor tax count. The judge, who was granted access to classified documents, explained that “Mr. Giffen was a significant source of information to the U.S. government and a conduit of secret information from the Soviet Union during the Cold War.” “How does Mr. Giffen reclaim his reputation?” he asked, “This court begins by acknowledging his service.”²

In 2007, the United States brought an in rem action seeking civil forfeiture of \$84 million in a bank account that had been frozen by the Swiss Confederation in 1999, alleging that the funds were traceable to unlawful payments to senior Kazakh officials, Nurlan Balgimaev (the former Prime Minister and Oil Minister) and Nursultan Nazarbaev (the current President), in connection with the oil and gas transactions arranged by Mercator (a company controlled by Giffen) for Kazakhstan. This action launched the process of negotiating what to do with these disputed assets.

Reaching an agreement was not easy. Civil society representatives in Kazakhstan began organizing and advocating that the funds be returned to benefit the people.³ The Government of Kazakhstan asserted that the funds were its property. The Swiss Confederation and the United States wanted to ensure that the funds would be used properly and that there would be appropriate accounting mechanisms to prevent and detect leakage. The three governments approached the World Bank, asking if they could play a useful role in determining how to use the funds. Since these funds could

¹ See <http://www.justice.gov/criminal/fraud/fcpa/cases/giffen/04-02-03giffen-press-indict.pdf>

² Steve Levine, “Was James Giffen telling the truth?” in *Foreign Policy*, November 19, 2010. <http://foreignpolicy.com/2010/11/19/was-james-giffen-telling-the-truth/>

³ On May 9, 2007, more than thirty civil society leaders signed an open letter to the U.S. Department of Justice entitled “Please Return our Funds” and published it in *Taszhargan*, an opposition newspaper (Almaty, No.18).

potentially be used for development efforts, senior officials at the Bank agreed to facilitate negotiations and carry out a supervisory function.

Hans Jurgen Gruss, Deputy General Counsel for Operations at the time, emphasized the effort required to build consensus: “I cannot tell you the amount of time and the number of meetings and the hours of telephone calls among all of us which it took to ensure that, at the end of the day, we were all walking in the same direction. We did and it worked.” In May 2007, the governments of Kazakhstan, Switzerland, and the United States executed a trilateral Memorandum of Understanding (MOU) specifying that the \$84 million in disputed assets — as well as the interest earned, increasing the total amount to \$115 million — be returned to Kazakhstan to establish the BOTA Foundation, an independent nonprofit dedicated to improving the lives of children and youth from poor families in Kazakhstan (*bota* means young camel in Kazakh). Crucial to this process was respect for the sovereignty of Kazakhstan. The MOU, therefore, was an official agreement with the status of an international treaty.

The MOU specified that the Foundation was to remain independent of the government, its officials, and their personal or business associates. It also specified that:

- BOTA would be subject to the monitoring of the Governments of the United States of America and the Swiss Confederation
- BOTA administration, management, and expenditures would be conducted by a competitively selected, reputable, international non-governmental organization serving as the BOTA Program Manager
- The World Bank would supervise and monitor the Foundation’s administration and expenditures

The MOU also laid out the composition and process of selecting founders and the Board of Trustees (BoT), the work of the Foundation, as well as the scope of the Foundation’s programmatic efforts: “cash payments to Kazakh families, scholarships to Kazakh residents, and grants to local and international NGOs in accordance with the BOTA Program Operational Manual.”⁴

Based on the success of the negotiations and with a solid agreement in place, the BOTA Foundation was registered on May 14, 2008, as an independent non-profit organization under the legislation of the Republic of Kazakhstan.⁵

Asset return models

Asset return — also referred to as “asset repatriation” or the “disposal phase” — is the final step in the asset recovery process. Many parties have a stake in the funds, including “requested” governments (states who currently hold the assets in their jurisdiction), “requesting” governments (states laying claim to the assets) and civil

⁴ Portions of this section adapted from *Left out of the Bargain: Settlements in Foreign Bribery Cases and Implications for Asset Recovery*, by Jacinta Odour et. al. (November 2013, Stolen Asset Recovery (StAR) / World Bank Publications).

⁵ *Kazakhstan BOTA Foundation Established*. World Bank Europe and Central Asia Region News Release No: 2008/07/KZ. Almaty, June 4, 2008.

society (often advocating on behalf of those most affected by stolen assets: the poor and marginalized).

While seizing assets is a victory in the fight against corruption, returning funds to the people of the “requesting country” sends a clear message that corruption does not pay. Moreover, returning funds in ways that benefit those citizens most affected by a lack of basic public services sends the message that justice and public trust is valued. How assets are returned, through which process, and for what purpose, can mitigate some of the damage caused by corruption and initiate a virtuous circle in a given country — especially if it begins to build trust through a process that demonstrates respect and inclusion.⁶

Broadly, there are four asset return models: ⁷

1. **Country System** — Returning funds directly to a requesting country’s central budget.
2. **Enhanced Country System** — Returning funds directly to a government’s budget with safeguards. These may include: legislating strengthened procurement policies, contracting private firms to conduct joint audits with national audit agencies, channeling funds through designated transparent accounts.
3. **Autonomous Funds** — Establishing a separate fund within the government budget and creating legal lines of accountability to a body established to oversee the management of returned funds.
4. **NGO Model** — Channeling funds through one or several NGOs in order to ensure that funds benefit a specific group or segment of society, and are disbursed as transparently as possible.

While the Country System model is simplest, it does not take advantage of the opportunity to rebuild trust in government and it can risk leaving funds vulnerable to further corruption. The first tranche of Nigeria’s “Abacha Assets” were returned using this model and there are lingering questions as to whether or not good financial management practices were followed. Without transparent systems and the capacity to effectively monitor the repatriation of large sums of money, there is no accountability for funds once they have been returned.

Why use NGO model? Why create a new institution?

With these models in mind, the representatives negotiating how to return the disputed assets in this case had to consider the amount to be repatriated, the broader governance context, the quality of Kazakhstan’s public financial management systems,

⁶ Ignacio Jimu. (2009). *Managing Proceeds of Asset Recovery: The Case of Nigeria, Peru, the Philippines and Kazakhstan*. Basel Institute on Governance Working Paper Series No.06. Basel: International Centre for Asset Recovery.

⁷ For a more detailed review of asset-return mechanisms see the Stolen Asset Recovery (StAR) Initiative’s guide: *Stolen Asset Recovery: Management of Returned Assets, Policy Considerations*. Washington, DC: The World Bank, 2009.

and the programmatic and financial management capacity of local NGOs. The specifics under consideration included:

- The government officials named in the investigation were still in office.
- Kazakhstan was perceived to have a culture of corruption (even NGOs were susceptible to skirting the rule of law in order to operate).⁸
- No single Kazakhstani NGO had the necessary programmatic or financial management systems to channel over \$100 million to improve the lives of children and youth from poor families.
- Civil society was active — calling for the funds to be returned to benefit the people — but not robust enough to embolden or coordinate NGO networks to work collaboratively to make use of the funds.
- NGOs were not capable of standing up to a government that could easily shut down an organization and take its funds.

These were the factors that led to the agreement as outlined in the MOU. The funds would be returned using an NGO model, but a new institution would be established with several layers of monitoring and accountability.

⁸ In 2007 Kazakhstan had a rank of 150 (out of 179) and a Corruption Perception Index of 2.1 (out of 10). See http://www.transparency.org/research/cpi/cpi_2007/0/#results.

Design

Blueprint for repatriation

In accordance with the MOU, BOTA focused on three core programmatic areas: conditional cash transfers to poor families (CCT), a social service grant-making program (SSP), and a tuition assistance program (TAP) to send lower-income Kazakhstani youth to university.

BOTA's charter named five hand-picked Founding Members of the Board of Trustees, all of whom were completely independent of the Government of Kazakhstan, its officials, and their personal and business associates. The remaining two trustees were appointed by the governments of the United States and the Swiss Confederation.

To manage the set-up of the Foundation and provide ongoing institutional development support, the Board of Trustees, with the assistance of the World Bank, conducted an open call for bids. Given its experience working with civil society in the region and robust financial management systems, IREX was selected as the Program Manager, with Save the Children collaborating on program design and providing leadership and technical assistance to the Monitoring & Evaluation and Conditional Cash Transfer teams, as well as on issues related to child welfare.

With the organizational development guidance and capacity building assistance provided by IREX and Save the Children, BOTA became a state-of-the-art organization operating in accordance with international best practices, including transparency, cost-effective impact, and sustainability. Details on each of the program areas follow, followed by sections highlighting specific results, the legacy of the BOTA Foundation, and recommendations for those designing similar mechanisms.

conditional cash transfers

A popular social protection tool for middle-income countries, CCT initiatives make cash payments conditional upon the recipient's actions. The CCT administrator only transfers the money to persons who meet certain criteria, which can include enrolling children into schools, receiving vaccinations, or participating in training programs. These cash transfers, and the programming that accompanies them, are an investment in developing human capital and part of a holistic approach to improving livelihoods and breaking the cycle of poverty. CCTs are typically implemented by governments — BOTA was unique because it made cash transfers as an NGO with the help of an extensive network of community-based volunteers.

The BOTA CCT program targeted families below a poverty threshold. To qualify for the program, a household also had to meet one of four additional criteria:

- **Children aged four to six** — conditional upon their enrollment in and attendance of an early childhood education program
- **Pregnant and lactating women** — conditional upon their participation in pre- and post- natal clinics, trainings to increase knowledge of risks and prevention of anemia

- **Children with disabilities** — conditional upon parents or primary care-takers attending trainings to improve home-based care
- **Unemployed young people, aged 16 to 19** — conditional upon attending livelihood-oriented trainings and gaining work experience

If CCT beneficiaries failed to meet the program criteria — for example if a new mother stopped attending post-natal clinics or trainings — then they were unenrolled and no longer received cash transfers.

Save the Children, the World Bank, and IREX worked together to design a CCT program that made sense for Kazakhstan's context. The World Bank shared experiences and lessons learned from CCT programs in other countries, and Save the Children provided technical expertise on best practices in child welfare methodologies.

social services program

The BOTA Foundation provided financial and technical support to Kazakhstani NGOs working on child welfare challenges. BOTA provided grants to organizations to support the creation or expansion of social services for children and young people with disabilities, orphans and children without parental care, and other at-risk youth. In addition to grant-making, the SSP also conducted trainings for NGOs on

- **Organizational development** — governance and leadership, strategic planning, human resources management, financial management, operations planning and implementation, and outreach and communications.
- **Program design** — program design and service delivery best practices, monitoring and evaluation, innovative tools and technologies to better serve children and youth
- **Advocacy and outreach** — forming partnerships and alliances, communications basics, designing and conducting an advocacy campaign

Support to larger NGOs focused on expanding the scale and scope of their services, while smaller, inexperienced NGOs received assistance to improve their administrative and programmatic systems, allowing them to implement incrementally larger grants.

IREX trained BOTA's SSP staff on the fundamentals of grant management, conducting risk assessments of grantees, how to tailor grantee monitoring plans based on assessment findings, as well as in sector-specific areas such as early childhood development and child protection. IREX also helped the SSP build a grant-management system that housed information on grantees, disbursements, milestones, monitoring and evaluation data, and staff roles and responsibilities.

tuition assistance program

The Tuition Assistance Program was designed to help poor and vulnerable youth — including orphans and people with disabilities — access higher education through means-based scholarships. Previously most scholarships were merit-based alone, so the TAP filled an important gap.

To receive a BOTA scholarship, students first had to be admitted to a university in Kazakhstan. Tuition assistance was accompanied by a training and skills-building program — augmenting knowledge gained in the classroom with practical experience. In order to promote social cohesion and responsibility, all scholars also served as volunteers, providing a minimum of 20 hours of assistance to organizations and causes to which they were drawn. Volunteer service included supporting orphanages, tutoring disabled people, or helping nonprofits carry out community development projects.

IREX's education development experts monitored the progress of scholarship recipients, supported the program through mentorships, and designed an employability program to improve their job skills and improve access to internships and employment opportunities.

Results

“The best thing about the BOTA Foundation is it worked...It was open. It was transparent. It was inclusive. It left behind people that were affected in positive ways.”

— Paige Alexander
Assistant Administrator
Bureau for Europe & Eurasia,
USAID

The creation of the BOTA Foundation represents the largest repatriation through an NGO model — where funds were channeled through a local organization with international NGO management support and technical assistance. In comparison with previous asset return efforts, the level of transparency in this case is unique — every dollar of funds returned through BOTA can be accounted for, while the use of funds in previous cases is not as clear.

Over six years, the BOTA Foundation successfully returned disputed assets to vulnerable children, youth, and their families. Of the \$115 million in assets returned, close to \$80 million (nearly 69% of the total funds) was disbursed directly to the people of Kazakhstan — and only 15.6% was spent on operations and overhead.⁹

Figure 1. Breakdown of how the \$115 million was spent



Not only did BOTA transparently repatriate a large sum of assets to the people of Kazakhstan, it also had tremendous development impact — directly reaching over 208,000 beneficiaries — more than double its original target.

BOTA prioritized monitoring and evaluating each of its program areas and collected significant amounts of information including data on outputs and lower-level outcomes, findings from external evaluations of each of its three program areas and an impact

⁹ It is difficult to compare the breakdown of BOTA's spending to programs implemented by other organizations. According to external evaluator Oxford Policy Management's Analysis of BOTA Program Costs, BOTA's expenditure patterns were distinctive because it operated outside government; it had a deadline of mid-2014 for using its funds; in CCT it spent small amounts of money for a small time on large numbers of people; and it imposed conditions on receipt of transfers.

evaluation of CCT. The results outlined below are based on the information BOTA and the external evaluator collected, and also represent short-term gains that resulted from BOTA's programming. The long-term impact of BOTA's programs has yet to be determined.

Conditional Cash Transfer program results

The CCT program was implemented in six regions, starting in December 2009 in Akmola and Kyzylorda, expanding into Almaty and Zhambyl in 2011, and reaching Atyrau and Mangistau in 2012. Over six years, the program transferred \$56 million dollars directly to 154,241 beneficiaries. Results were observed in the areas of maternal and child health, early childhood education, livelihoods, and home-based care for children and youth with disabilities. More specifically:

- BOTA helped households pay for medical services and transport to receive antenatal health care. As a result, **50,072 pregnant and lactating women** received training and support leading to better understanding of anemia-prevention diets and iron supplements. Additionally, **8,635 parents** attended trainings on home-based care for children with special needs.
- The program was instrumental in increasing the demand for and supply of early childhood education by helping households pay for pre-school (where payment was required) and equip children with clothes, shoes, and school supplies. As a result, **74,470 children** received early childhood education — a service that was largely not available before BOTA — laying the foundation for improved educational outcomes.
- Providing **21,064 young people** with employment and entrepreneurship skills training, BOTA helped youth access jobs, which is important given that many households depend on seasonal employment, causing incomes to fluctuate over the course of a year.
- BOTA provided training in adult learning methodologies to more than **3,000 community volunteers**, equipping them to deliver key messaging and mobilize community members to participate in the CCT program. Acting as informal social workers, BOTA volunteers were crucial to the success of the program and best placed to identify and understand the needs of families in their communities.

Key lesson: Finding fraud when implementing an asset-return program is never a failure

Preventing and addressing fraud requires diligence and fearlessness. Transparency and accountability are important above all else for any asset repatriation process to be perceived as legitimate and transparent. The strictest financial controls need to be in place coupled with constant monitoring to identify and address cases of fraud. Finding fraud should not be perceived as a failure. While BOTA did uncover a couple of minor instances of corruption due to its strong monitoring systems, in the end, BOTA was able to successfully recover the funds and return them to Kazakhstan's poorest populations.

Social Services Program results

The Social Services Program provided 632 grants worth \$12.5 million to NGOs from all regions in Kazakhstan to support the creation or expansion of social services for children and young people with disabilities, families in poverty, at risk youth, and orphans. NGO projects funded by BOTA reached a total of 53,000 children and youth.

NGO participants reported that BOTA trainings and technical assistance resulted in

- New models, work areas, and programming that addressed deep-seated social problems
- More and deeper connections between NGOs, including the establishment of learning networks and the development of training materials and curricula to enable NGOs to provide ongoing training and advisory services to local organizations and government agencies
- Increased capacity of child welfare NGOs to successfully advocate for policy change, meaning BOTA grantees were able to create legislative change and convince the government to adopt more effective service models

BOTA also facilitated the founding of a coalition for social service NGOs to convene and share experiences, practices, and learning. This coalition — The National Coalition for the Welfare of Children and Youth — went on to foster the development of an informal association of 18 NGOs in South Kazakhstan committed to protecting the rights of children and youth.

In addition, BOTA's communications department contributed to the visibility of social service issues by publishing 645 articles and producing 430 television and video programs.

Tuition Assistance Program results

Through four annual competitions, BOTA's TAP program awarded 841 needs-based scholarships to poor and vulnerable youth. Over 90% of these scholarship recipients were the first in their family to gain access to higher education. Collectively, these TAP scholars also provided close to 17,000 volunteer service hours to a range of organizations, including orphanages, nonprofits supporting special needs children, and NGOs carrying out community development projects. BOTA staff provided ongoing mentoring and coaching to scholarship recipients, regular trainings, and career counseling to help the students meet their educational goals.

Legacy

In addition to the 208,000 beneficiaries that BOTA reached, the Foundation left behind important legacies. The impact of BOTA on graduating TAP students who gained skills and social capital, found employment, and were able to break the cycle of poverty will be profound. Those nascent NGOs who grew into organizations capable of providing vital services over the long term, and who are better networked and able to advance and advocate for collective solutions, will contribute to creating a more vibrant civil society. The CCT program's robust procedures, systems, and monitoring and evaluation frameworks can serve as an example to be adapted by others. In this way, the \$115 million that was returned to the people of Kazakhstan not only benefitted the country's most vulnerable populations but also transferred best practices and strengthened institutions. The following section provides a deeper look into some of the key aspects of BOTA's legacy.

Creating new institutional and staff capacity

An independent civil society organization of BOTA's size was unprecedented in Kazakhstan. The capacity, systems, and processes needed to effectively implement three multi-faceted programs and transparently return \$115 million did not exist. IREX and Save the Children worked closely with the Foundation to build these critical systems.

comprehensive financial, procurement, and human resource policies and procedures

To strengthen BOTA's ability to monitor the repatriation of the disputed assets, IREX worked with BOTA staff to

- Adopt an internationally accredited accounting software that could handle and track the large volume of payments that BOTA had to make on a regular basis
- Develop comprehensive financial policies and procedures based on international best practices that met the standards of the government parties and the World Bank
- Implement internal control procedures that all BOTA staff learned and incorporated into their workflows
- Develop a banking system that could automate hundreds of payments to beneficiaries each month
- Improve BOTA staff's capacity to accurately budget for activities based on their workplans

Additionally, IREX worked closely with BOTA to develop comprehensive procurement and human resources policies appropriate for an organization of BOTA's size, train BOTA staff on these policies through formal modules and as-needed consultations, and hire qualified staff to ensure that the policies were followed.

building capacity to implement programs and track results

Staff working on BOTA's programs also received advisory services and mentoring, building their capacity to better implement complex programs and track results:

- IREX, with the help of Save the Children, trained Social Services Program staff on the fundamentals of grant management, on how to conduct grantee risk assessments and tailor monitoring plans accordingly, and in sector-specific areas such as early childhood development and child protection. IREX also helped SSP build a grant-management system that housed information on grantees, payments, milestones, monitoring and evaluation data, and staff roles and responsibilities.
- For the Tuition Assistance Program, IREX's education development experts built BOTA staff capacity in mentoring and supporting students, developing an employability support program to help students improve their job skills and access internships and employment opportunities, and track, monitor, and coach scholarship recipients.
- Save the Children provided technical assistance to BOTA's Conditional Cash Transfer program, designing and implementing CCT's volunteer-driven model to recruit, enroll, and deliver small cash payments to poor Kazakhstani families. Save the Children's monitoring and evaluation experts also led the design of BOTA's extensive management information system (MIS) that captured information on individual CCT and TAP beneficiaries, including payments administered, notes, and status updates.

diffusing capacity: 100+ local staff move on to other organizations

The BOTA Foundation hired and trained more than 100 local staff, with a high percentage of these at the specialist or manager level. Many of these individuals have already gone on to work for international organizations such as the World Bank, UNICEF, and UNDP. Others have started or joined local NGOs. For example, BOTA staff from its Akmola field office established a new organization, Shabyt, that seeks to improve the lives of the poor in the Akmola region by mobilizing local communities to solve important social problems. This new organization has already begun a project to measure the public's awareness of

activities that the government of Kazakhstan has implemented through its [E2020 employment program](#).¹⁰

Former BOTA staff will take the lessons and skills gained from working with the Foundation, such as program design and implementation, and apply it to their new jobs. There will also be opportunities for them to share their knowledge and experiences with others. In this way, BOTA's legacy will endure.

Transforming the delivery of social assistance

introducing new delivery models for the public sector

BOTA created and tested new models for government and civil society assistance to Kazakhstan's most disadvantaged citizens. For example, BOTA's Conditional Cash Transfer program provided a blueprint for the government's [E2020 employment program](#). Facilitated by the World Bank, BOTA engaged in dialogue with the Government of Kazakhstan's Ministry of Labor and Social Protection to improve the effectiveness of its efforts.

A high-ranking Ministry of Labor and Social Protection official explained that the E2020 pilot project encouraged citizens from poor families to be responsible for creating solutions to their family's problems thanks to BOTA's CCT model for behavior change. Through the pilot, the government provided families with cash transfers on the condition that recipients engage in government training programs and credit schemes, and access other government services. The pilot is now being implemented in three regions (East Kazakhstan, Zhambyl, and Akmola) and, if successful, it will be introduced to the rest of the country starting mid-2016.

In addition, many of BOTA's former volunteers — especially in Zhambyl and Akmola — have been employed by the government to help link beneficiaries to public services — just as they did for BOTA's CCT program. Based on lessons learned from the E2020 pilot, BOTA's CCT program, and other international efforts, the Ministry — with World Bank assistance — designed the Orleu program, a country-wide CCT assistance model to distribute targeted social assistance.¹¹ In sum, a key portion of the Government of Kazakhstan's social assistance program will be modeled on the successes and lessons of BOTA's Conditional Cash Transfer program. This is one of the Foundation's most important legacies.

NGOs deliver new services and work toward shared goals — developing civil society

BOTA's Social Services Program also made important contributions to the delivery of social assistance. SSP grantees provided approximately 1,000 new services, particularly in rural areas. Supported by local communities and the Government of Kazakhstan,

¹⁰ See http://egov.kz/wps/portal/Content?contentPath=/egovcontent/employment/employment_job_search/article/zanyatost_2020&lang=en

¹¹ <https://www.mzsr.gov.kz/en/node/321206>

these services included different types of therapy for children with special needs as well as new pre-school programs.

Through SPP, BOTA pioneered multi-stakeholder approaches for civil society development in Kazakhstan. SSP was the only grant program in Kazakhstan that emphasized the inclusion of community stakeholders into project design and implementation. SSP financed 121 projects that worked with community members to conduct needs assessments and develop action plans. Using a multi-stakeholder approach, SSP grantees attracted \$1 million in contributions from individuals and local businesses to support child welfare-related activities in their communities.

As a result of their grant projects with BOTA, NGOs in Kazakhstan improved social service legislation, government standards, and service delivery models. For example, as part of a systems improvement grant, the NGO Namys successfully advocated for needed changes to the law on special social services. Another SSP grantee developed standards and recommendations to promote small family-oriented orphanages as an alternative to traditional institutions that were adopted by the government. Finally, BOTA promoted tested models for child protection — leading to the Government of Kazakhstan’s adoption of models for school-based mediation activities for at-risk youth, including integrating hotline services for children and youth in difficult life situations into their regional child protection units.

Establishing a coalition of child- and youth-welfare NGOs

As stated earlier, starting in early 2014, the Social Service Program held a series of focus groups with current and former grantees to determine whether BOTA’s efforts to strengthen social service NGOs could be carried on through the formation of a national coalition. More than 145 NGOs took part in a series of meetings in nine cities across Kazakhstan to discuss the design of the coalition. In February 2014, 18 SSP grantees came together and formed The National Coalition for the Welfare of Children and Youth. Their collective goal: to improve child and youth welfare in Kazakhstan. The Coalition’s leaders also explored adopting BOTA systems and procedures for providing funding and technical assistance. Some of the Coalition’s planned activities include:

- Coordinate the development of a child welfare roadmap for Kazakhstan with annual targets and programs as well as developing approaches to fill gaps in child welfare assistance
- Monitor government and NGO activities to identify issues pertaining to child welfare
- Develop and advocate for policy improvements
- Carry out media campaigns to raise awareness and rally support around key issues
- Consolidate Kazakhstani NGOs delivering social services to children and youth
- Improve the quality of NGO services for children and youth through organizational and institutional development-related activities
- Disseminate best practices, tested approaches, and the latest developments in the field of child welfare

- Monitor, evaluate, and analyze child welfare-related programs
- Advocate for sustainable financial mechanisms to support child welfare NGOs

In the summer of 2014, Coalition leaders met with high-level government representatives to determine if there might be support for the Coalition to continue BOTA's work. The officials were supportive of the Coalition and encouraged its leaders to formally register, which they did in November.

The Coalition is now supported through a BOTA-facilitated partnership agreement with UNICEF. Through this agreement, UNICEF will provide technical and financial support to strengthen the Coalition as an institution. In October 2014, BOTA's Board of Trustees endorsed this partnership, and agreed in principle to transfer any remaining balance left in BOTA's bank account to UNICEF to support its child welfare programs, including building the capacity of the Coalition and to finance any work that UNICEF and the Coalition undertake jointly.

Recommendations

Each decision point in the asset-return process creates opportunities to take a step forward: Who has a seat at the table? How will returned assets be used? Who will make project management and design decisions? Who will provide monitoring and oversight?

As more asset return examples become available, we need to learn from them – adapting the best practices and dropping the worst. Increased access to more and better information about the possibilities and mechanisms of asset return will provide stakeholders with a better understanding of the pros and cons of various models. Collecting, analyzing and making available better examples, data, and resources is crucial.

Every asset return case is unique. There is not a single ideal method for repatriation. Context matters, as the needs of citizens in Kazakhstan will differ markedly from citizens in Equatorial Guinea, Ukraine, or Libya. Decision makers must understand local context to design the best return mechanism. Best positioned to leverage local knowledge and expertise, civil society can provide the connective tissue between governments and other partners to work together to best design and implement a return mechanism.

Based on their experience working with and supporting the BOTA Foundation, the IREX team has identified recommendations to guide policymakers who wish to support asset repatriation mechanisms that benefit the people from whom the assets were stolen, or practitioners working to design or implement similar initiatives.

Align real social needs and political priorities

BOTA's mission — to improve the lives of vulnerable children and youth suffering from poverty in Kazakhstan through investment in their health, education, and social welfare — advanced the Government of Kazakhstan's existing social development priorities, had the support of civil society, and met the expectations of the Swiss Federation and the United States. BOTA created a “safe space” for asset return where all stakeholders agreed that improving the lives of poor children and youth was a priority for Kazakhstan. Because there was agreement, BOTA was able to administer its programs and accomplish its mandate with little contention. The Foundation was able to pilot new programmatic and service delivery approaches that were largely supported — and in some cases adopted — by the Government of Kazakhstan. BOTA was not only a vehicle to transparently repatriate assets, but also a mechanism to deliver development impact.

For future asset repatriation efforts, particularly in contexts where the government representatives involved are still in power, it is important that the assets are used to respond to a need that is shared by all stakeholders — in this case, improving the lives of children and youth from poor families.

Collaborate but maintain independence

It is possible to balance independence from the government and collaboration with the government, and achieving this balance creates an environment where funds can be safeguarded and development impact can be achieved.

The MOU states several times that the BOTA Foundation was to remain “independent of the Government of the Republic of Kazakhstan, its officials, and their personal or business associates”. This requirement reassured stakeholders that the assets would be safeguarded and that the government would not influence how the money was spent or benefit from the funds. However in the interest of impact and sustainability, IREX advocated for some collaboration with the government, while carefully maintaining BOTA’s independence. As a result, the government was able to learn from BOTA’s experience testing various approaches for child welfare, and ultimately adopted some BOTA models and programs.

For future efforts, if government support is available and not a threat to the integrity of the return process, this support can significantly improve the impact of the work. However, the presence of an external neutral third party plays a key role — and specifically an actor with no local interests, a stake in maintaining a positive international reputation, and a focus on delivering transparency and development.

Collaboration between government and civil society does not preclude having adequate monitoring mechanisms in place. The right balance between independence and collaboration should be determined on a case-by-case basis when returning assets via an NGO. Particularly when the asset repatriation process seeks to have development impact, collaboration with relevant government bodies can significantly improve outcomes.

Create an oversight structure robust enough to provide legitimacy, but not so burdensome to prevent progress

The structure of asset repatriation mechanisms should be considered carefully and resources to support that structure should be commensurate. How many and exactly which partners are necessary has to be carefully considered from both prudence and feasibility perspectives. There must be enough layers of oversight by the right parties to provide the checks necessary for confidence in financial transactions and program results. Yet those parties must not become bottlenecks that hold up decisions, approvals, and ultimately the implementation of the return of funds.

BOTA had a multi-tiered governance structure. An international program manager (IREX and Save the Children), a board of trustees, the World Bank, and three government parties were responsible for ensuring that assets were returned transparently — and to the benefit of poor Kazakhstanis.

The following questions are key when designing an asset repatriation governance structure:

- Is there an existing local organization that has the capacity to manage large amounts of money transparently, accountably, and efficiently?

- Are additional layers of oversight, such as an international implementer and government parties, important for political reasons? Does international involvement protect the organization returning assets from being coopted by national actors?
- Are the layers of oversight mechanisms able to efficiently monitor the return of stolen assets — or are they impeding the funds from reaching the intended beneficiaries? Does each of the layers of oversight clearly understand their roles and responsibilities?
- Are there sufficient resources for each layer of oversight to effectively fulfill their roles and responsibilities?

While BOTA’s structure was effective in safeguarding BOTA funds, the oversight process caused delays and frustrations. For future asset return cases, it would be helpful to streamline the process as much as possible and to ensure that stakeholders are able to commit the time required for effective oversight.

Engage civil society at each stage of the asset-return process

Preventing corruption and creating a culture of integrity is a shared responsibility. Accordingly, UNCAC Article 13 affirms that State Parties should promote the active participation of individuals and groups outside the public sector, such as civil society, NGOs, and community-based organizations, in the prevention of and the fight against corruption. Consider the different ways that civil society can participate at each stage of the asset-return process — taking into account how to maximize their expertise and potential to contribute to understanding the context and different actors; monitoring public and private organizations; conducting research, awareness raising, and advocacy to participate and build public trust; convening stakeholders, illuminating issues, and amplifying citizens’ voices; and designing and implementing initiatives.¹² Figure 2 provides a summary of key ways to engage civil society.

Figure 2. The potential role of civil society at each stage of the asset-return process

Civil society can **contribute to each stage** of the asset-return process:



← Throughout the process, civil society can **advocate for victims** and **amplify citizen voices**. →

Add to development investments — don't replace them

Repatriated assets should be used to demonstrate that justice has been served, to strengthen institutions, and to augment development investments to benefit those most affected by corruption. Recovered assets have the most impact when used to augment existing funding streams and initiatives. They represent a rare opportunity to innovate and pilot new approaches, which can then be adopted by the government or used to fill gaps in social services that the government cannot meet. This was the case with the BOTA Foundation. NGOs expanded the range of services they offered and picked up new program designs and practices. Likewise, the government incorporated elements of BOTA's conditional cash transfer component into the design of its new social security program. In each of these cases, others were able to pick up new ideas and good practices and see what worked well, resulting in long-term sustainability.

Each set of assets also has strong connections to a range of stakeholders and narratives about its origin and recovery. In order for these assets to contribute to social and economic development — especially rebuilding trust and social cohesion — it is important that stakeholders extend these narratives to include how decisions were made and how the money was spent, including publicly accessible information about outputs and outcomes.

Allocate resources to asset recovery and return to ensure justice and deter corruption

When corrupt officials hide stolen funds abroad the crime becomes international in nature. Successful tracing, recovery, and return of stolen assets therefore require the cooperation and coordination of stakeholders across multiple countries. By facilitating mutual legal assistance and efficient asset recovery, requested country governments can provide additional resources to requesting country governments, signal that there are consequences to corruption, demonstrate that stolen assets cannot be easily hidden, and provide justice to victims.¹³

In addition to righting the wrongs of past crimes, successful asset-return programs can have a deterrent effect and contribute to ending impunity. An increase in and publicizing of asset recovery and return cases will alter the cost-benefit analysis underlying opportunities for corruption. Increasing the perceived risk of stealing public funds can serve as a deterrent.

Additional resources are needed as far too many stolen funds remain hidden in foreign bank accounts. Governments should allocate resources to better move forward stolen asset cases. Once funds are recovered, frozen, and marked for return, governments need to consider the most appropriate support to repatriate funds. Government aid agencies possess deep technical knowledge in delivering development assistance and should be leveraged to manage the return of stolen assets.

¹³ ICAR Background Note: "Asset Recovery and Repatriation of Funds in the Context of the Preparatory Process for the third International Conference on Financing for Development"