

International Experience of Asset Declarations

Query:

“What is the international experience with the asset/wealth declaration of public officials? Are there any good practices? Are there any IT-solutions for managing and publishing? Which institutions are generally in charge of managing the data?”

Purpose:

“Purpose is to better understand how donors can support governments in this task in order to fulfil the requirements of the UNCAC. Art. 8, 5 stresses on measures, systems and appropriate authorities for declaration - but what would they be. It would be especially interesting, if there are any technical/electronic solutions for handling the issue question.”

Content:

- Part 1: Asset declarations as a tool for transparency
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Part 1: Asset Declarations as a Tool for Transparency

Asset and interest disclosure has become a key global anti-corruption issue, as evidenced by its inclusion in the UN Convention Against Corruption, which notes that:

“Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.”¹

Regulations concerning the disclosure of assets and interests can help prevent conflicts of interest among public office holders. Disclosure of information on private interests increases the transparency of decision-making processes, and thereby lays the foundations for the accountability of office holders for their actions. The disclosure of assets helps to provide a baseline and thus means for comparison to identify assets that may have been corruptly acquired and that a public official may legitimately be asked to

¹ United Nations Convention Against Corruption, Article 8.5 (October 2003)

account for. A good disclosure system can, further, be the basis for successfully enforcing criminal and other legal anti-corruption provisions.

The scope of disclosure requirements can vary considerably. While some countries prefer to restrict the disclosure requirement to senior office holders or those in sensitive positions, others require the declaration of interests of less senior public officials more generally, with some also requiring information about the assets of public officials' spouses. Only a few countries, however, require asset disclosure of public officials at all levels.²

Without public access or oversight, or fair and effective enforcement, disclosure will likely have limited impact. Who monitors disclosure and how the information gained is kept and communicated are therefore crucial to ensure robust accountability of an official's interests and professional actions. Important variations exist among countries with regard to the method of recording and publishing declarations, and the institutions responsible for monitoring and evaluating disclosure. Monitoring and evaluating bodies can range, for instance, from civil or criminal courts to the office of the ombudsman.

In some countries, sophisticated IT platforms have been developed to make disclosure information available to a broad public audience (see the example of the US Center for Responsive Politics below). Others unfortunately make do with more cumbersome paper records that may only be viewed in designated public buildings at particular times. The role of information technology in enhancing access to information provided via asset declaration provisions is an area gaining increased attention around the world. Various examples of possible IT solutions are highlighted below.

Part 2: Country Examples

Albania: Revised Asset Disclosure Law

[http://www.usaidalbania.org/\(wp3nvo4511hpiw45vwmqfbyo\)/en/Story.aspx?id=34](http://www.usaidalbania.org/(wp3nvo4511hpiw45vwmqfbyo)/en/Story.aspx?id=34)

In April 2003, the Albanian Coalition Against Corruption (ACAC) succeeded in having the Law on the Declaration of Assets by Public Officials completely revised and approved by parliament. It took over one and a half years to convince the government that drafting a new law was a necessary element to the reduction of corruption in public finance. Parliamentary members were resistant to this change. Statements defending their ground such as, "We do not need an expensive body to monitor us, we can do it ourselves," and "We cannot make public our assets because we risk having our children kidnapped and even being murdered ourselves," were common.

The ACAC began this process by conducting a systematic analysis of the factors feeding corruption in Albania. In this study they noted determining issues, with the lack of transparency of financial disclosures by public officials clearly standing out. They started immediately developing a public awareness campaign; mounting pressure on the parliamentary officials with increased active involvement of the media and face-to-face debates at public forums. They lobbied parliament to make changes to the current law by, among other things, sending letters to its 140 members.

The law itself calls for all declarations to be made public, a reduction of the number of senior officials and their family members required to declare assets from 11,000 people to

² In 2002 these were recorded by the UN Economic and Social Council as Belarus, Brunei Darrussalam, Colombia, Egypt, Greece, Guatemala, Iraq, Italy, Lebanon and Malaysia. Source: UNESCO, Commission on Crime Prevention and Criminal Justice, 'Report of the Secretary General on Implementation of the International Code of Conduct for Public Officials' (February 2002).

3,500 (to only those that have access to public funds), and to create an independent body, called the High Inspectorate, responsible for the enforcement of the law.

Further information about the scope of Albania's asset declaration law can be found at: <http://www1.worldbank.org/publicsector/civilservice/assetsbycountry.asp>

Liberia: Combating Political Corruption Through Asset Disclosure

<http://www.moneyandpolitics.net/projects/map.html>

The case of Liberia demonstrates how effective asset disclosure can lead to greater public accountability. In late 2004, IFES launched its Money and Politics (MAP) project designed to encourage credibility in Liberia's fragile political process through the promotion of greater transparency and accountability in political finance. Following a similar approach to that previously employed in Nigeria, the MAP Project began with a comprehensive assessment of the political finance system in Liberia followed by the provision of regulatory support, including the drafting of necessary forms. This work was undertaken with the support of the National Elections Commission (NEC), and in coordination with major political parties and civil society organisations. As a result, political parties and candidates contesting elections publicly declared their assets. These declarations were made available for public scrutiny via the NEC website and written about widely in the press. The electorate thus had an opportunity to make more informed decisions at the polls and to hold the winning candidate accountable in the future.

Having completed MAP pilot projects in Bosnia and Herzegovina, Lithuania, Georgia, Hungary, Romania, and South Africa, IFES continues to conduct MAP project activities in Bolivia, Indonesia, Liberia, Nigeria, Peru, and Kosovo. IFES has also developed a set of lessons-learned and best practices for developing disclosure-oriented programs. The program claims to offer some relatively simple technical solutions that can, if well targeted and timed, effectively address weaknesses in a country's system of disclosure. For more information about the project contact Jamie Crowley (jcrowley@ifes.org) at the IFES Center for Transitional and Post-Conflict Governance.

Papua New Guinea and Taiwan: Role of Ombudsmen in Monitoring Asset Declarations

http://osce.org/publications/eea/2004/05/12211_87_en.pdf

Papua New Guinea and Taiwan are two countries where the ombudsman can review and monitor declarations of income and assets made by senior public officials. As an office independent of government, with the investigative capacities to examine the contents of financial declarations, the ombudsman's office can avoid the necessity for establishing other independent mechanisms specifically for monitoring financial assets. Alternatively, when a large number of applications for information are likely to be disputed, a local government ombudsman's office can be created to handle these requests. The Papua New Guinea model is widely seen as having had a positive impact. However, in Taiwan, in order to cope with the implementation of the asset disclosure law, the Control Yuan, an agency that monitors government, set up the Department of Asset Disclosure for Public Functionaries in August 1993.

Tanzania Governance Noticeboard

<http://www.repoa.or.tz/tgn/index.php>

The Tanzania Governance Notice board collates and presents information that is useful for the strengthening of accountability, transparency and integrity in Tanzania. Key statistics, including budget data, audits and other governance related indicators, have been gathered in the TGN database. Though the noticeboard doesn't explicitly collect information resulting from asset/wealth disclosures, it is interesting as an example of an IT platform sharing a range of financial information to enhance transparency and accountability.

UK: House of Commons Register of Interests

http://www.parliament.uk/about_commons/register_of_members__interests.cfm
<http://www.publications.parliament.uk/pa/cm/cmregmem/060919/memi01.htm>

The register was set up in May 1974 and is maintained by the Parliamentary Commissioner for Standards as laid out in the House of Commons Standing Order No. 150. The purpose of the register is to encourage transparency and accountability. It is "to provide information of any pecuniary interest or other material benefit which a Member receives which might reasonably be thought by others to influence his or her actions, speeches or votes in Parliament, or actions taken in the capacity of a Member of Parliament"³. The register is not intended to be an indicator of a member of parliament's personal wealth, nor is registration an indication that a member is at fault.

Transparency is also promoted by the obligation on members to declare in parliamentary debates or proceedings and dealings with other members, ministers or public servants, all interests, whether registrable or not and including indirect, past and future interests which are relevant to the business in hand.⁴

While the obligation to register outside employment, sponsorship, property and shareholdings is absolute, in respect of other gifts and benefits the requirement is only to register those interests which in any way arise out of membership of the House of Commons. In line with this principle, the interests of spouses, partners and dependent children are registrable only if they arise out of their relative's position as a Member, or if they are held jointly with, or by, the member.

The interests which are to be registered are set out in the "Code of Conduct and Guide to the Rules relating to the Conduct of Members", first agreed in July 1996 and revised in May 2002 and July 2005.

The financial thresholds over which an interest must be registered are mainly based, for convenience, on percentages of an MP's salary: one per cent, or currently GBP 590, for employment, gifts and hospitality; ten per cent, or GBP 5,900, for rental income; and a hundred per cent, or GBP 59,000, for property and shares. The exception is sponsorship, where the threshold has been set at GBP 1,000 to match that set for registration with the Electoral Commission.

Continuing interests like employment or property remain on the register until the member asks for them to be removed. 'One-off' benefits like gifts, visits and donations appear with their date of registration and remain on the register for a year from that date and until they have appeared in one printed register.

Entries made in the register aim to give a clear description of the nature and scope of the interests declared. Subject to the rules provided, however, each member is responsible for the content and style of his or her own entry.

Interests are registered under the following ten categories:

1. Remunerated directorships
2. Remunerated employment, office, profession etc.
3. Clients

³ UK House of Commons, Code of Conduct and Guide to the Rules relating to the Conduct of Members, HC (2005-06) 351, paragraph 9.

⁴ UK House of Commons, Resolution of the House, 22 May 1974.

4. Sponsorship or financial or material support
5. Gifts, benefits and hospitality (U.K.)
6. Overseas visits
7. Overseas benefits and gifts
8. Land and property
9. Registrable shareholdings
10. Miscellaneous and unremunerated interests

Under the authority of the Committee on Standards and Privileges, the Register is published by the government's Stationery Office after the beginning of a parliament and thereafter approximately once a year. The published register and its regular updates are on the internet and can be accessed at: www.parliament.uk

It is the responsibility of members to notify changes in their registrable interests within four weeks of the change occurring; and between its annual printings the Register is updated every two months or so, both in a loose leaf version and on the Web. The loose leaf version is open for public inspection in the Committee Office of the House of Commons.

The House of Commons website also contains further information about the rules applying to Members, the procedure to be adopted in the event of complaints of failure to register and the rule against lobbying for reward or consideration.

Other relevant UK government register of interest lists include:

- Register of Interests of Members' Secretaries and Research Assistants
- Register of All-Party Groups
- Register of Lords' Interests

USA: Center for Responsive Politics - Personal Financial Disclosures Database

<http://www.opensecrets.org/pfds/overview.asp>

The Center for Responsive Politics is a non-partisan, non-profit research group based in Washington, D.C. that tracks money in politics, and its effect on elections and public policy. The Center conducts computer-based research on campaign finance issues for the news media, academics, activists, and the public at large. The Center's work is aimed at creating a more educated voter, an involved citizenry, and a more responsive government.

The Center has devised an innovative way of communicating information via the internet on the assets of political representatives – a searchable, online database that can be sorted by various categories. By May 15 of each year, US Congress members and top officials in the executive branch must file forms covering the preceding calendar year that list their assets and liabilities, their income (excluding their government salaries,), asset transactions and gifts they received. They need not list property unless it produces income (so their primary residence is generally not listed), but they must include the source of their spouse's income.

It is difficult to gauge what a lawmaker is worth based on what they file, however, because the disclosure forms do not require exact values. Instead, the lawmaker reports the range of value into which an asset, for example, falls. As the values increase, the ranges get broader. To address this, the Center added together the lawmakers' range of assets and then subtracted their range of liabilities to establish their net worth. Valuation of very large assets is limited by the top range being over USD 50 million. When further research definitively reveals a more accurate figure, it is then used in place of the range.

Part 3: Further Reading

- Chau, P.K. and Cheung, C. 'Selected Issues Relating to Declaration of Interests and Avoidance of Conflicts of Interests by Senior Members of Government' (Hong Kong Legislative Council Secretariat, October 2002)
<http://www.legco.gov.hk/yr01-02/english/sec/library/0102in35e.pdf>

This note provides information relating to declaration of interests by senior members of government in the United States and the United Kingdom. Specific topics include declaration of interests and procedures to avoid conflicts of interests. Senior members of government here refer to Cabinet Secretaries in the US and Cabinet Ministers in the UK.

- Government of Bhutan Asset Declaration Form (no publication date provided)
http://www.anti-corruption.org.bt/pdf/Asset_Declaration_Form.pdf#search=%22asset%20declaration%20public%20officials%22

An example of an asset declaration form from the Government of Bhutan.

- Henderson, K. E. 'Asset and Income Disclosure for Judges: A Summary Overview and Checklist' (no publication date provided)
<http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/IncomeAssetDisclosure.pdf>

This paper provides a good summary of the issues surrounding income and asset disclosure requirements, oriented towards developing countries. Although the paper focuses on judges, where income and asset disclosure provisions can be more complicated than usual by considerations of separation of powers and privacy, the paper is of relevance to disclosure provisions for other public officials as well. The paper distinguishes between systems where judges are subject to the same disclosure obligations as other public officials and systems where they are separately regulated, and ends with a useful checklist of some key issues that need to be addressed when designing legislation on income and assets disclosure.

- World Bank Group Administrative and Civil Service Reform Website
<http://www1.worldbank.org/publicsector/civilservice/assets.htm>

This World Bank website contains links to laws and rules that require public officials to declare their assets and wealth. The full text of 18 laws/rules is provided, with three of these being translations.