Excerpts from
Philippines Center for Investigative Reporting,
Investigative Reporting for Southeast Asia (2006) edited by Sheila Coronel
on
Using Asset Disclosures to Expose Corruption

Asset disclosures: As recounted in the previous chapter, declarations of assets made by public officials have been key to many high-profile investigations. In countries where asset disclosures are made public, these documents are invaluable when investigating government officials. But journalists should remember that even when the law requires officials to disclose fully what they own when they assume and leave office (in the Philippines, they are required to file asset statements every year; in Indonesia, every other year), many do not comply strictly with the law.

In Indonesia, the Commission to Audit the Wealth of State Officials or KPKN was created in 2001 to monitor the assets of officials based on their official declarations. The problem is that only 59 percent of officials in the executive branch, 87 percent of legislators, and 84 percent in the judiciary declared their assets. In 2002, a new anti-corruption law was passed by the Indonesian Parliament, and the KPKN was replaced by a new body, the Corruption Eradication Commission (Komisi Pemberantasan Korupsi or KPK).

The KPK is now the repository of the asset disclosures, which are available, after submission of a written request, to any member of the public. The KPK inherited the files on 110,000 state officials from the KPKN. Officials are required to update asset information every two years, and as of mid-2006, the KPK has 60,000 updated files. The KPK eventually plans to post the asset declarations on its website, http://www.kpk.go.id.

While officials may comply with the law by filing annual disclosures, they generally tend to understate the value of what they own. This is the case in the Philippines where, although nearly all officials declare their assets, they rarely make a full disclosure.

They also tend to withhold some important information, a trait they share with officials in other countries, such as those in Thailand, where it took an investigative journalist to expose the concealment of assets of Prime Minister Thaksin Shinawatra. [See the case study on Thaksin in Chapter 3.]

Asset declarations are useful for tracking an official's wealth over time as well as revealing actual or potential conflicts of interest. Asset declarations can also be mined for bits of information (an official's home address, for example; the companies he has shares in; and the names of his children) that may be useful when pursuing the investigation further. That information could well be the missing piece in the jigsaw puzzle confronting a journalist.

Table: Agencies that Keep Asset Declarations, and Whether Available to the Public

Country	**Agency that keeps record**	**Available to the public?**

Cambodia	None available, not required by law	No
Indonesia	Corruption Eradication Commission (Komisi Pemberantasan Korupsi or KPK)	Yes
Malaysia	State agency to which the official reports	No
Philippines	Office of the Ombudsman and agencies concerned for national executive officials; Congress for senators and representatives; regional Deputy Ombudsmen for local elected officials; the Supreme Court for the judiciary; the Military Ombudsman for the armed forces; and the Civil Service Commission for bureaucrats	Yes
Singapore	Human resource departments of ministries concerned	No
Thailand	Office of the National Counter Corruption Commission	Yes
Vietnam	No one knows	No

Source: The Right to Know: Access to Information in Southeast Asia (with updated information from Warief Djajanto of Indonesia)

* * * * *

The Philippines: Investigating a President[1]

In 2000, the Philippine Center for Investigative Journalism began an investigation of the unexplained wealth of President Joseph Estrada. The findings of the investigation were published as news reports in major newspapers and aired as 10- to 15- minute segments on public-affairs programs in two major networks from July to December 2001. These reports also became the bases for the impeachment charges filed against the president.

Estrada's two-and-a-half-year presidency provides a classic case study of political corruption in the Philippine context and of the vast amounts that can be amassed by a president who misuses the powers of his office. The estimate is that Estrada accumulated as much as P20 billion ($400 million) in cash and real estate while he was president.

When the PCIJ began its investigation in January 2000, there was already coffee-shop talk about the deals made by President Estrada and the huge amounts of money that were changing hands. It was, however, difficult to substantiate these rumors, especially when Estrada was at the height of his popularity and had succeeded in muzzling critical segments of the press. It was hard and

---

[1] For a more detailed explanation of how the PCIJ investigated Estrada, see Lars Moller and Jack Jackson, "Journalistic Legwork that Tumbled a President," published by the World Bank Institute. That paper is available online at http://www.worldbank.org/wbi/governance/cases.htm.

very tricky at that point to get firsthand sources to be interviewed on the subject or to find documentation to support the allegations.

Such is often the case when journalists are investigating corrupt officials. But this does not mean that they should stop probing. It only means that they should change the focus of the probe and the techniques used. The PCIJ investigation of Estrada took nearly a year and was done by a team of five journalists, several researchers, and interns. The focus of the investigation was on the paper trail of the president's wealth, but the research also involved interviewing scores of different sources and doing Internet searches.

The following is a simplified step-by-step account of how the PCIJ investigated a president:

Aim for what can be documented

The challenge in investigating political corruption is to find a paper trail and to get sources to reveal information, especially when the targets of the investigation are powerful. The PCIJ knew that it had to find documents to back its reports. Its investigation, therefore, was determined by what could be documented, by the paperwork that could be found. It was difficult to find records of deal making and payoffs. It was easier at that time to document the fruits of the deal making. This was the reason the PCIJ decided to find out how Estrada spent his money, rather than how he got it.

Devise a research strategy

It is essential at the onset to conceptualize a strategy for the research. The strategy should include a list of the information needed and the documents and sources that can provide such information. Investigators should know what they are looking for. For the PCIJ, this requirement also entailed rereading the law on assets and conflicts of interest.[2]

The main strategy at the initial stage of the investigation was to find out whether the president's assets exceeded what he had declared in his statement of assets, making him liable for accumulating unexplained or ill-gotten wealth. The PCIJ needed to retrieve Estrada's statements of assets since 1987, when he was elected senator and required to disclose his wealth. Then it would have to do a systematic search of his assets and see whether his statements contained major omissions.

Be patient with documents

The search for statements of assets was easy as these are public records in the Philippines. The PCIJ had several declarations already on file. Those when Estrada was a senator could be obtained from at the Senate, and those he filed as president were retrieved from the Office of the Executive Secretary. The search for the other assets was more tedious. The PCIJ began with

---

[2] Philippines Republic Act 6713 is a code of conduct for government officials, and includes provisions on asset disclosures. The implementing rules give specific instructions regarding how these disclosures ought to be filed. http://www.chanrobles.com/republicactno6713.htm.

corporate records and did a systematic search of companies in which Estrada and various family members were registered as board members or incorporators.

The search began at a computer terminal at the Securities and Exchange Commission (SEC), where members of the public can key in a name and find out what companies list it as an incorporator or a board member. PCIJ researchers keyed in Estrada's name and those of his wife, various mistresses, and children. More than 100 companies were found, but the list was trimmed down to take out companies that listed people who had the same names as some members of Estrada's family, but who were in fact unrelated to him.

The next step was to retrieve the registration records of the companies in the trimmed down list. This entailed queueing at the SEC for five to six hours to get a maximum of three records a day. The process took about three months. By the end of that period, the PCIJ had a list of 66 companies in which Estrada or his family held shares. The search had paid off as Estrada declared less than a dozen companies in his statement of assets.

Organize and analyze data

The crucial pieces of information from the corporate records (date of incorporation, board members, incorporators, areas of business, amount of assets) were inputted in Microsoft Excel, a basic spreadsheet program that sorts data, categorizes information, and alphabetizes. This allows the user to view the data in any number of ways and to discern patterns. The data were categorized according to which wife/mistress or child held the corporations, at what stage of Estrada's political career the corporations were formed, and how much they were worth. The assets of 14 companies alone totaled more than P600 million, but in 1999 Estrada declared a net worth of only P35.8 million. Thus, the PCIJ's first story, released in July 2000, said that Estrada had accumulated more assets than could be explained by what he had declared in public records.

Investigate further

Further trips to the SEC later showed that Estrada either did not divest himself from companies where his name was listed or that he divested only after the 60-day deadline set by the law. Moreover, the divestments were made to his wife, Luisa Ejercito, again a violation of the law that says there can be no divestments to relatives within the fourth degree. In effect, there were no real divestments, meaning that Estrada could have violated the Constitution, which bans the president from engaging in business.

This violation became abundantly clear in the PCIJ's investigation of 34 townhouses being constructed by JELP, a real estate company owned by Estrada, his wife, and their three children. The PCIJ team visited the project site in a Manila suburb and talked to neighbors who complained that the construction caused flooding in their area and tipped off the journalists that the project did not have the required permits.

The PCIJ team then did a research of the permits required for building housing projects and found that JELP had violated every rule in the book: it had none of the eight permits needed for such a project. Moreover, residents had seen Estrada himself inspecting the property, further proof that he had violated the constitutional ban on engaging in business. Because he had named himself “housing czar” overseeing his administration’s housing projects, the President was clearly in a conflict-of-interest situation. The PCIJ’s report released in August 2000 exposed the problematic housing project.

Continue the search

In the beginning, the PCIJ’s documentation of Estrada’s assets focused on those registered in his name or those of members of his family. The PCIJ, however, suspected that he had more. For example, talk of fabulous mansions being built for various presidential mistresses was rife. If the rumors were true, then it was scandal on a grand scale. An initial search, including tips from various contacts, showed that the mansions were not in the names of either President Estrada or those of his mistresses. This was going to be a far bigger challenge than the corporate search.

Land records are public, but researchers have to know exactly what they are looking for. The process of searching for Estrada’s properties involved a lot of trial and error. At the start, the PCIJ had only sketchy information, from rumors and numerous contacts, of the various real-estate acquisitions. In some cases, the journalists knew only who the previous owner of the property was; in others, only the address or the general area.

Use flow charts

To put some logic into its investigation, the PCIJ journalists made flow charts. One chart illustrated the process of building a house, who would be involved, and what papers were needed at every step of the way. First would be the owner of the property, the lawyer of the owner, the architect, the contractor. Soon the neighbors would sense that construction was going on, the village association where the building was taking place would have to be informed, permits would have to be obtained, and so on down the line. It is impossible to build a house without an entire army of people knowing about it and a boxful of documents being produced in connection with the construction.

Tap human sources

When the documents–-land titles, building permits, etc.–-did not show the names of Estrada or any of his family members, the focus of the investigation shifted to human sources. These included architects, lawyers, builders, suppliers, and other contractors as well as neighbors and residents of villages. These human sources had encountered either Estrada, one of his mistresses, or one of his cronies who had fronted for the sale. Some exclusive residential associations cooperated with the investigation by supplying information as well as giving access to documents such as barangay (village) permits and building plans. Some neighbors saw Estrada inspecting his properties. One neighbor said one of Estrada’s intermediaries had offered to buy her property, which was next to one of the mistresses’ homes.

Look for patterns

From the beginning, it was clear to the PCIJ that proving the real ownership of the mansions would be problematic. But if there was a pattern that could be established, then it would be possible to link the houses to Estrada. As the investigation progressed, the patterns began to emerge in:

- the mode of acquisition,
- the law firm/s used to form companies or to front for the acquisitions,
- the individuals or companies who acted as nominees,
- the architects, contractors, and interior designers of the houses, and
- the design of the houses.

From interviews, buildings plans, and photographs, the PCIJ found a pattern in the use of contractors, project managers, architects, and design firms, as well as uniformity in the style of the mansions. A routine search of building plans–-some obtained from village associations, others from City Hall, or from contractors–-showed the grandeur of the constructions. Not only that, they revealed new information, such as the names of the president's children in the blueprint of bedrooms being planned for them—additional proof that the houses were indeed being built for Estrada. While searching for documents, the PCIJ also found property in the exclusive Forbes Park residential area that Estrada had bought without paying taxes.

Unmask front men and shell companies

The breakthrough in the investigation of the mansions came when the ownership of the so-called "Boracay" mansion in New Manila, Quezon City was uncovered. The property was purchased in 1999 from the wealthy Madrigal family. Estrada had both the house and the grounds redone. He also ordered the construction of a heated swimming pool surrounded by white sand – which was why the property came to be called "Boracay," after the famous Philippine resort island. The pool came with wave- and mist-making machines.

From a tip on the address, the PCIJ located the land title for the property and discovered that its new owner was a company called St. Peter Holdings. The real-estate trail thus led back to the corporate trail at the SEC. From the corporate registration files, the PCIJ found St Peter's incorporators. The journalists had no idea who they were. But around that time, the PCIJ was told by various sources, including Estrada's press secretary, that the person to talk to about the president's assets was his counsel, Eduardo Serapio, who had been appointed presidential assistant for political affairs.

A search on the web showed that Serapio was part of the De Borja Medialdea Bello Guevarra Serapio & Gerodias law firm. The law firm's website also revealed the names of all the partners and associates working for it. It was here that the PCIJ found that all the names listed as incorporators of St. Peter Holdings were partners and associates of the firm. The link to Estrada had been established. Later, the PCIJ found that the law firm was linked to other acquisitions as well, including shares in a gambling casino.

In October and November 2000, the PCIJ released a series of stories on Estrada's mansions. A total of 17 properties worth over P2 billion in Metro Manila, Baguio, and Tagaytay were uncovered. In December 2000, the PCIJ exposed how Estrada, through his crony Lucio Co, may have used shell companies to acquire the Fontana casino in Clark.

* * * * *

Sniffing the story: the Thaksin assets case

Sometime in 2000, Thai journalist Prasong Lertratanawisute, editor of the Bangkok business newspaper *Prachachat Turakij*, came across what appeared to be a routine news story.

The news report was about Thaksin Shinawatra, the billionaire telecommunications magnate whose company had a lock on Thailand’s booming mobile-phone market. Thaksin was then the foreign minister and head of the Thai Rak Thai party. He was also the richest man in the country. The news report said that he had transferred shares in several companies, including his flagship Shin Corp and his cell-phone company AIS, to his wife and children.

The announcement was part of a routine disclosure made to the Thai stock exchange. Shin Corp. and the other firms in the report were all publicly listed companies, and share transfers are regularly made public. Thaksin’s spokesperson explained that the businessman wanted to comply with the law that required government ministers to avoid conflicts of interest by limiting their shares in companies to just five percent. At the same time, there were rumors that Thaksin was considering running for prime minister, and having controlling ownership of the country’s biggest telecommunications company was bound to create controversy.

Following the lead

Prasong was suspicious. The news story on the stock transfer was his lead. For a veteran business journalist with a keen sense of how tightly intertwined business and politics are, the report was just the tip of what appeared to be a bigger story. It led him to ask questions and to find answers to them. He could sniff the bigger story behind a routine news report. His nose for news told him there was something not quite right.

Prasong asked himself and his colleagues: was the share transfer really as routine and as harmless as it sounded? Thaksin, after all, was a clever businessman. Did he have other holdings in other companies that were not listed in the market? Did he transfer those as well? If Thaksin did not, Prasong thought, then he was violating Thai law.

The 1997 Thai constitution provides strict penalties for officials who hide or do not make an accurate declaration of what they own. Those found guilty of falsely declaring their assets could be banned from public office for five years. In fact, earlier in 2000, Prasong had written a report that exposed the concealment of assets by Sanan Kachornprasart, then the interior minister. That report led to Sanan’s conviction. The interior minister, one of the most powerful politicians in Thailand, was banned from politics for five years.

The significance of his investigation was not lost on Prasong: if Thaksin were proven to have misdeclared or concealed his assets, he could not be prime minister.

Following the investigative trail

The only way to find out the truth, Prasong knew, was to look for documents. He had to get the papers that showed what Thaksin owned and to trace his holdings in various companies. He had to follow the **paper trail.**

He began the search with documents that were relatively easy to obtain. Prasong knew that Thaksin was a Cabinet minister and later deputy prime minister in the late 1990s, and that since 1997, the Thai constitution had required Cabinet ministers to declare their assets. Those declarations should have a listing of everything that Thaksin owned during the year the declaration was made.

In Thailand, as in the Philippines and Indonesia, the asset declarations of officials are public records. They are not secret and are accessible to journalists. So Prasong and his team of six reporters started with obtaining copies of Thaksin's asset declarations in the previous years. They went even further, by getting documents from the Commerce Ministry listing the various other companies that Thaksin and his family owned.

There were other public records as well, some of them online. **The stock ownership and transfers in publicly listed companies,** for example, **were easily accessible**; much of the data was in fact on the Internet or in electronic form. This required following the **electronic trail.**

Because he was editor of a business newspaper, Prasong knew he could get much of this information from the Thai stock exchange. This information is routinely available: if a company is listed in the stock market, it is required to disclose a lot of information. The disclosures, some of them posted on the stock exchange website, are supposed to protect investors who put their money in listed companies.

Piecing the information they found from corporate and stock exchange records, Prasong's team estimated that in 1994, when Thaksin took his oath as foreign minister, he was worth 58 billion baht (then more than $2 billion). Yet, in 1997, when he took his oath as deputy prime minister and was required for the first time by the Thai constitution to declare his assets, Thaksin said he was worth only less than half that amount, only about 23 billion baht.

Digging deeper

Where did the rest of his assets go? ***Analyzing the documents that they had obtained, the Prachachat team found that since the mid- 1990s Thaksin had been transferring his assets to nominees and dummy firms***. Prasong's team followed the paper trail even farther. They found, for example, that some shares were transferred and hidden in a shell company registered in the British Virgin Islands.

Some of the shares were also transferred to Thaksin's relatives. The transfers appeared to be anomalous, as the stocks were sold at below market prices. For example, in 2000, Thaksin sold Shin Corp. shares to his sister and brother-in-law at 10 baht per share. The

market price at that time was 110 baht per share. This raised the question: was this a real divestment or one made just on paper, in procedural, but not substantial, compliance with the law?

What puzzled the *Prachachat* team were some anomalous details that needed an explanation. For example, for several years, two unknown individuals had been publicly named by the Thai stock exchange as among the top ten shareholders in the country as they happened to be owners of 11-billion baht worth of Shin Corp. shares. They were not known to journalists as millionaires or business executives; neither were they Thaksin relatives or political associates. Who were these mysterious shareholders Boonchu Rienpradab and Wichai Changlek?

For Prasong's team, this was the puzzle that had to be solved. In their search for the key to the puzzle, they followed the **people trail**. The reporters asked their sources at Shin Corp. and at the Thai Rak Thai party. They queried as many people as they could, sources who were well informed about Thaksin and his inner circle.

Finally, the search yielded a clue. One Shin Corp. source said Boonchu was Thaksin's maid. Prasong refused to believe it. Another source said she resided at the home of Thaksin's brother-in-law. So Prasong called the latter's home and was told that Boonchu had gone to the market. Prasong still refused to believe it, convinced this was a case of mistaken identity.

So he sent one of his journalists to the brother-in-law's home to inquire. The journalist was told that Boonchu was at work at Thaksin's home. They checked again, and found out it was true. One of the biggest investors in the Thai stock exchange was Thaksin Shinawatra's maid!

Further digging showed that the other top stock market investor, Wichai Changlek, was Thaksin's driver. Another mysterious name that appeared in the documents—that of Chiangrat Chianpruek—was Thaksin's security guard. In fact, *Prachachat* found, all three were listed as the owners of the posh Alpine Golf and Sports Club in Bangkok. It was the same golf club that Thaksin had boasted he owned and where the politician had hosted some high-powered dinners, including some with Bangkok's leading journalists.

By the end of their investigation, the *Prachachat* team found that Thaksin had underdeclared his assets in 17 companies. In his first asset declaration in November 1997, he did not report shares in companies worth 2.4 billion baht. By the end of that year, when he resigned as deputy prime minister, he filed another asset statement, which did not report shares worth 1.5 billion baht. In his third declaration in 1998, he again did not declare 647 million baht.

Thaksin exposed

Prachachat's investigation was so explosive that it prompted the National Counter-Corruption Commission (NCCC) to investigate Thaksin. In December 2000, the NCCC ruled that the richest man in Thailand had hidden his assets in the name of, among others, his household staff. Still, in the following month, January 2001, Thaksin was elected prime minister by a resounding majority.

Meanwhile, the NCCC's decision was appealed to the Constitutional Court. Thais were divided: by law, Thaksin should be banned from public office, as other officials have been, for violating the law on asset disclosure. But at the same time, he had a convincing electoral mandate and was especially popular among rural voters.

In August 2001, the Constitutional Court issued its verdict. In a split 8-7 vote, it said Thaksin was not guilty. With just a one-vote margin, the majority of the judges ruled that the prime minister did not deliberately hide his shares and that he had not intended to withhold information from the public. He was home free. The judgment was, in the words of a Thai academic, the triumph of "popularity over rule of law."

Although Thaksin escaped conviction, the investigation made an impact on Thai political life. It provided evidence of what many Thais had suspected for a long time: the many shady business dealings of a politician who had grown wealthy by taking shortcuts and abusing his political clout. These charges would haunt Thaksin even years later.

In 2006, he would face similar charges—this time of evading paying taxes when he sold Shin Corp. to a Singaporean company. To many Thais, it seemed that Thaksin did it again. He was being himself, a shrewd businessman who refused to play by the rules. He exhibited the same behavior that had been exposed by Prasong and his team five years earlier. This time around, though, he would not get off so easily. In the face of popular protests on the streets of Bangkok and the intervention of the Thai monarch, he was forced to take a leave from the prime ministership.