

The magic bullet to fight corruption through income and asset disclosure (IAD)

1. Introduction of corruption and its consequences around the world

There is no consensus on the definition of corruption. The [Organization for Economic Co-operation and Development](#) (OECD) defines corruption as abusing of private or public functions to gain individual benefit (Collins 2012, p. 1) while Transparency International (2010) refers to abuse trusted power to serve personal interest (p. 4).

The root of corruption is controversial. According to Dwivedi et al. (2012) they claim that corruption is deep-rooted in nations where patrimony is socially recognized and arranged by cast, neighbourhood, religious, ethnic origin, family relation and kinship (p. 151). While the root of corruption is complex this could be the reason that it has different forms including campaign contributions, influence-peddling, kickbacks, deception of records, embezzlement, theft, pilferage, speed money, graft, nepotism, fraud, extortion, and bribery (Klitgaard 1998, p. 1). Swain and Dininio (1999) argue from an institutional point of view that corruption occurs when civil servants have low incentives, have little accountability and large authority that they can use their authority to regulate and seek for corrupt opportunity (p. 7) especially among companies (Willebois et al. 2011, p. 32).

The negative consequences of corruption are huge. First, corruption in the political domain damages democracy and good governance by sabotaging formal processes. Second, corruption in the judicial system interrupts the rule of law. Third, corruption in government leads to unsatisfactory provision of services and erodes the institutional capacity because officials are hired or promoted without regarding performance. Fourth, corruption deteriorates economic growth because it increases the cost of business operation through negotiation and additional illegal payment to corrupt officials in order to process their work (Swain & Dininio 1999, p. 5). According to the World Bank it is estimated that global bribery costs one trillion dollars annually and global corruption costs 2.6 trillion dollars or over 5 per cent of global GDP. Alan L. Boeckmann, President and CEO of the Fluor Corporation has claimed that the cost of bribery one trillion dollars is enough to feed 400 million people over the next 27 years (Cleveland et al. 2009, p. 200).

The tendency of IAD practice is growing (Caiden 2001, p. 93). While resources are scarce, they are deserved to use efficiently and effectively on public goods and improve quality of life. It is an important to fight corruption and brings thieves of public assets into trial (Burdescu et al. 2010, p. 1). During the last three decades IAD has been embedded in laws in many countries that require high-ranking officials to submit IAD as part of anti-corruption strategies. This practice became popular in the 1990s (Barnes et al. 2012, p. 8), and there are conventions are adopted to enshrine it; for example, the United Nations Convention Against Corruption 1996 (UNCAC), the Inter-American Convention against Corruption (IACAC) 1996, the African Union Convention against Corruption (AUCC) 2003, the Organization for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transaction 1999 (ibid, p. 10).

2. Rational of IAD

It is agreed that IAD is the magic bullet to combat corruption. Any country that has high impunity and perception of corruption should adopt IAD to detect civil servants' wealth and assets which do not come from legitimacy sources (Barnes et al. 2012, p. 7). This strategy was introduced by President Truman to the congress in 1951 to encourage civil servants to implement IAD in order to demonstrate that they were honest officials during when corruption was widespread in the US. Then, in 1965 President Lyndon B. Johnson required federal officials to disclose their assets. Later on, the Ethnic of Government Act in 1978 obliged public officials to publish details of their assets, and it has been valid until nowadays. IAD was spread to Western Europe in the 1980s, and was put into practice by all European members in 2000 (OECD 2011, pp. 22-23).

The major purpose of IAD is that it enhances public trust and transparency in public administration by revealing information on properties of civil servants and politicians to show their integrity; reduce conflict of interest, refers to the way that public officials use public positions, duties and responsibility to serve personal gain (OECD 2003, p. 24), between senior officials and staff; check wealth of public officials and politicians to discourage them from malpractice and defend them from dishonest complaints; and to illuminate illegal actions or illicit enrichment by providing additional evidence (OECD 2011, p. 12).

3. Privacy vs transparency and accountability

The controversial issues between privacy, and IAD happening include countries that are implementing it. Privacy is a fundamental individual right, but it hinders effectiveness of IAD where verification procedures are weak. Many officials are concerned about personal security when privacy is published; for example, address, model of car, and so forth. They are concerned that they and their families could be kidnapped or risky. However, there is no correlation between IAD and violence because people home and assets can be accessed by many sources in this digital age (Caiden 2001, p. 84-87).

Many experts try to address issues between protecting privacy and public access to officials' assets. Argentina, for instance, the private annex that contains personal information including tax declarations, information of real estate locations, account numbers, or names of banks where the assets are held have to be protected. It can be revealed when the court orders. Public annex can be accessed by the public (Caiden 2001, p. 87). Any parties requesting sensitive information have to supply their identity including name, occupation and address to the in charge institution (Barnes et al. 2013, p. 13).

The compromising between non-public and public release in the US is that only high ranking officials including senior civil servants, cabinet secretary, deputy secretary, and officials appointed by the President have to publish assets publicly, while the other 90 per cent of officials must disclose assets to their agencies (Messick 2009, p. 7). Nevertheless, the court in the US, Romania, Germany, and Chile decided that “the constitutional protected privacy rights are not infringed by financial disclosure legislation” (ibid, p. 5).

4. Types of IAD

IAD can be done by two ways: paper based and electronically.

a. IAD based on paper

Some countries practice IAD based on paper. For example, civil servants in Rwanda have to send their statements to the Office of the Ombudsman. Other countries, for example, Mongolia require officials to submit their summaries by using paper and electronically (Barnes et al. 2012, p. 30).

The drawbacks of IAD based on paper are that it is overloaded with papers (Barnes et al. 2012, p. 3); errors in filed declaration; and it needs a large amount of resources to implement it (Ibid, p. 38). It needs more spaces to store documents for many years (ibid, p. 44). This is a reason that Mongolia requires only 256 high ranking officials to declare their assets, and documents can be stored for only two years which are then transferred to the Archive to preserve for another three years. Documents of other officials have to be preserved in their agencies (ibid, p. 45).

b. IAD based on electronic

It is very useful to use technologies to underpin IAD. Information communication and technology is a powerful way to fight corruption because the process is automatically online, bypass many administrative layers, and it can report on corrupt cases to authority (Davies & Fumega 2014, p. 2). Technologies are very powerful means to reduce errors, easy to process, low cost, encourage public access, and more convenient to track and report the performance of agencies (Caiden 2001, p. 48).

Moreover, this system improves effectiveness and efficiency. It requires fewer staff to manage the system (Barnes et al. 2012, p. 41). It is easy to submit and verify the process, and it reduces errors and threats; for example, Argentina introduced IAD electronically of 36, 000 officials and verified the top five per cent systematically. The other 95 per cent is verified according to the risks, and the Asset Declaration Unit can verify roughly 2, 500 declarations per year (Barnes et al. 2013, p. 8). After electronic system was introduced, the rate of compliance increased from 67 per cent to 96 per cent in the following year. The average cost of compliance per official has reduced from US\$ 70 to US\$ 8. The number of conflicts of interest increased from 40 to 331, and the number of requests from public officials, media and NGOs on asset disclosure increased from 66 to 823 (Barnes et al. 2013, p. 18). Furthermore, it can reduce risk from destruction or theft; it is easier to verify the process, check, report, spend less time to file in and submission, is accessed by the public, and more secure than the paper based (Barnes et al. 2012, p. 46-48).

However, a shortcoming of the IAD online is that it needs a facility to back up the files to protect any loses or to ensure consistently supply documents when has no electricity (ibid, p. 46-48).

5. Features of IAD

a. A regulatory framework

IAD involves a wide range of work, collaboration, resources and the support from leaders. It is essential to embed the clause on IAD in a particular law; so that it gains powers and resources from the state to implement it. This clause is not included in many constitutions including the US, EU and Asian countries. However, Article 122 of the Columbian Constitution 1991 is a rare constitution which obliges civil servants on IAD under oath before taking the office, upon retirement, or when they are requested by a competent authority. Likewise, the Constitution of the Republic of the Philippines 1987, Article XI, Section 17 stipulated that “the President, Vice President, members of the Cabinet, the Congress, the Supreme Court, the Constitutional Commissions, and other constitutional agencies, officers of the armed force officers with general and flag rank shall declare under oath their assets, net wealth and liabilities”.

b. Institutional arrangements

There are different ways to arrange agencies to implement IAD. In Croatia, for example, judges and prosecutors have to send their statements to the Human Resource Administration of the Ministry of Justice while the civil servants have to submit their summaries to a Commission of the Parliament. Any institutions that are under the control of the executive branch are likely to be under the political interference. Thus, any institutions that implement the IAD need to be independent, well-resourced and have specializations (Barnes et al. 2012, p. 27-28). It is also useful to embed technologies to operate the IAD system (Caiden 2001, p. 40-7).

c. Scope and coverage system

IAD varies extensively from one country to another, from all civil servants to only high ranking officials (Caiden 2001, p. 34-5). There is no agreement regarding what kind of officials should declare asset. However, senior officials and members of parliament should be stricter than middle and low level staffs. Focusing on managerial and decision-making powers is another important issue to control abuse of power and conflict of interest. Moreover, many corrupt bureaucrats conceal their properties in the name of their families, other persons, and their relatives. So, it is essential to check wealth of their family members and close relatives through tax system, civil servants’

asset declaration, or authorities. This issue has to respect privacy as well (OECD 2011, p. 14).

d. What, When and How often

There are a wide range of income sources that have to be declared including inheritance, wages, assurance payments, dividends, fees, interest, income from lease or sale of property, won games, gifts, non-pecuniary and pecuniary interest, and so forth (OECD 2011, p. 62-5). The extent of properties can be matter to statement – real estate, movable properties including animals, vehicles, vessels, works of art and valued antiques, construction materials, animals, extended loans, securities and shares, and savings in cash and in bank credits, and so forth (ibid, p. 63).

The frequency of submission varies from one country to another which could be periodically, annually, or every two years (Messick 2009, p. 12). Argentina, for example, every official has to declare their assets within 30 days before occupying a position and 30 days before leaving office. This work has to be done once per year before December 31. The statements are kept for ten years after leaving the office or determine by authority or judges (Barnes et al. 2013, p. 11).

e. Verification and public access IAD

It is important to embed verification on IAD to identify illicit enrichment and possible conflicts of interests. This requires a responsible agency to check the content of declaration and consistency. They could monitor private and public sector records, against prior disclosure of every individual official or against civil servant' lifestyle. So, the agency should have investigation powers and require information from other institutions. Moreover, this institution should a equip mechanism to receive complaints and denounces from the public which could help in verification (Martini 2013, p. 5-6).

f. Sanction

It is essential to impose punishment in order to strengthen laws and regulations on IAD. Countries have different sanctions on who fails to disclose assets including fines, disciplinary, administrative and criminal punishment (OECD 2011, p. 81). For example, Article 38 of the Cambodian Anti-Corruption Law imposes fines from one hundred thousand Riel to two million Riel and sentences from one month to one year.

6. Successful and challenge experiences

There are some successful practices on IAD. Liberia, for example, imposes IAD online during election periods. Tanzania is another successful example where technologies play an important role to facilitate IAD to strengthen transparency and accountability because it is accessed by the public (Chêne 2008, p. 5).

However, IAD is challenged by at least six factors. First, the legal framework could be challenged by the scope, form, formal design and items of declaration (OECD 2011, p. 98). Second, the implementation aspect faces difficulty because institutions in charge of verification and collection IAD do not have adequate power to implement their task (ibid, p. 99). Third, the institutions verified statements do not implement their task properly because they lack of participation from third parties including media and civil society; for example, Serbia, Montenegro, and Macedonia (ibid, p. 99). Fourth, the institutions fight corruption could be isolated and face kickbacks from other agencies. Fifth, lack of support/awareness system in the early stage that officials lack information about the requirements, how to fulfil it, training and guidance. Sixth, it lacks support from the public (ibid, p. 100-101).

Furthermore, IAD involves administrative burden, costs to fill in, and process the statements. For example, the Albanian High Inspectorate of Declaration and Audit of Assets employs 2.4 officials to check 1,000 officials and spend annually USD 1,156,563 in 2008 or roughly 0.028 per cent of the total expenditure while in Latvia employs 1.07 officials to check 1, 000 staff and spend 0.01 of the total expenditure (OECD 2011, pp. 94-5). Moreover, professional staff could resign from their work because they do not want to declare their assets, while others are concerned about business competitors because their privacy is revealed (Messick 2009, p. 4). In addition, the quality of laws could be decreased because lawyers and business persons do not want to run for the seats as they have to implement IAD (Aaken & Voigt 2011, p. 301).

7. What we have learned and how it could improve

IAD is well recognized as an effective tool against corruption, and it is adopted by conventions (Mukherjee & Gokcekus 2006, p. 325). IAD should cover all moveable and immovable assets (TI 2013). It has characteristics: legal framework, institutional

arrangement, scope and coverage of IAD, content and frequency to declare, verification and public access, and sanction.

The advantages of IAD is that employees' wealth can be monitored, wrong doing can be revealed, conflict of interest can be identified, increasing unusual assets are easier to investigate, and corrupt officials have to be brought into account (Messick 2009, pp. 3-4).

The impact of IAD really influences the level of corruption. Mukherjee and Gokcekus (2006) argue that any country which has a long tradition of IAD has lower level of corruption than the newer. Countries that verify official's statement and prosecute corruption offenders have significant lower levels of corruption (pp. 326-327).

It is broadly agreed that the right to information is essential to reduce corruption and improve transparency and accountability. However, it needs additional elements including independent media, a check and balance system, serious punishment, is well-resourced and has competent institutions to carry out tasks and vibrant civil society (Martini 2014, p. 1). Countries that have more freedom of press have less corruption than countries that impose censorship and control media (Brunetti & Weder 2003, p. 1801-1802). Moreover, countries are more developed and democracy imposes more on IAD (Djankov et al. 2010, p. 179).

Increased wages could reduce to some extent the corruption, but it really needs embedded control and a staff management system (Lindner 2013, p. 1).

IAD requires civil servants to declare conflict of interest and illicit enrichment, and is a criminal offense that officials cannot explain the relationship of their wealth increase significantly with lawful income (Muzila et al. 2011, p. 12).

The Judicial system like other branches is ruined by corruption; so, IAD needs to be applied to judges as well (Hoppe 2014, p. 1).

The availability of public access to IAD is necessary because vibrant civil society and independent media help to detect and investigate the violation of asset disclosure requirement (Barnes et al. 2013, p. 5). Many NGOs, for example, the Centre for Public

Integrity has monitored and reported IAD in the state level of the United State since 1999. It used a survey to develop a ranking arrangement to measure free access information lawmakers' assets, performance, employment, investment, and other outside legislator activities. Louisiana was ranked very low, but later on the state governor Bobby Jindal adopted laws in 2008 which required legislators to report outside financial interests which led to reach the peak among the 50 states (OECD 2011, p. 30).

Combating corruption and asset recovery needs political will. It is important to identify ally and build strong support from political and government agencies especially public and media to generate or maintain political will (Brun et al. 2011, p. 27). One way to reduce resistant is to introduce a voluntarily disclosure scheme at the first step, and then set a mandatory disclosure as the next stage. This approach was implemented successfully in 1993 in South Korea where President Kim Young Sam voluntarily published his wealth, and all ministers, and other high ranking officials to do the same thing. Then, it became a compulsory practice in the same year. It is also suggested that countries can introduce granting amnesty in the transitional period to solve resistance and build consensus to pave way for reform. This way should also consider the risks and challenges (Chêne 2008, p. 6).

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