

ASSET DECLARATIONS IN YEMEN ILLICIT ENRICHMENT AND CONFLICTS OF INTEREST OF PUBLIC OFFICIALS

Transparency International is the global civil society organisation leading the fight against corruption. Through more than 90 chapters worldwide and an international secretariat in Berlin, we raise awareness of the damaging effects of corruption and work with partners in government, business and civil society to develop and implement effective measures to tackle it.

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INTRODUCTION

EXECUTIVE SUMMARY

Four years after unprecedented change rocked the Middle East and North Africa, many Arab governments and their citizens are finishing the chapter on revolution and writing a new one on reconstruction. Among the most important topics fuelling the call for change has been the salience of corruption among public officials, which diverts money from public programmes, has a significantly negative impact on development and has entrenched non-democratic leaders securely in power. The revelation that more than an estimated US\$160 billion¹ in public money was stolen by regime officials in Egypt, Libya, Tunisia and Yemen sounds the alarm for action to end impunity. As the region takes the first steps in building institutions for good governance, asset declaration laws are a key to promoting honest leadership, government accountability and social trust.

Asset declaration laws require public officials to declare all sources of income, as well as assets such as savings accounts and investments. Legally increasing government transparency can reveal graft and conflicts of interest, and they serve as a powerful deterrent to prevent corruption before it starts. Practical experience has shown that implementing a comprehensive asset declaration system helps deny the corrupt the fruits of their actions and, if properly enforced, can be an effective tool in strengthening integrity and accountability.

So far, countries in the Middle East and North Africa (MENA) have not met most of the standards put forth by the United Nations Conference against Corruption (UNCAC). Declaration requirements have fallen significantly short and there remains a large gap between law and practice. The MENA region continues to have the highest trend rate of growth of illicit financial flows in the world, with an average increase of 31.5 per cent every year throughout the decade ending in 2011.²

In order to facilitate greater integrity in the MENA region, Transparency International has commissioned this report as a peer-reviewed Scoping Paper examining current best practices in asset disclosure systems. Original research provides an evidence base for a comparative view of country-level systems via National Reports in Egypt, Lebanon, Libya, Morocco, Palestine, Tunisia and Yemen, as well as a Regional Report covering all the countries listed.

TRANSPARENCY INTERNATIONAL'S ROLE

Transparency International's focus on MENA is part of a global drive to end corruption and promote integrity in government. The global campaign focuses on increasing transparency via declarations of interest and assets to end impunity and make transferring the illicit gains of corrupt officials more difficult. The importance of tracking illicit enrichment and conflicts of interest is only the start of the process of establishing a standard, universal model of declaration of interests and assets. In MENA,

¹ Transparency International takes "billion" to refer to one thousand million (1,000,000,000).

² D. Kar and B. LeBlanc, *Illicit Financial Flows from Developing Countries: 2002-2011*

(Washington: Global Financial Integrity, 2013), p.10. Retrieved from

http://iff.gfintegrity.org/iff2013/Illicit_Financial_Flows_from_Developing_Countries_2002-2011-LowRes.pdf.

we focus first on advocating for the adoption and enforcement of national asset disclosure systems that are robust and legally based.

ASSET DISCLOSURE SYSTEMS IN ANTI-CORRUPTION

The disclosure of assets is increasingly being seen around the globe as a key tool in combating corruption. Although asset declarations have been utilised as an anti-corruption tool on a larger scale since the 1970s, the topic acquired renewed international focus with the passage of UNCAC, adopted by the UN General Assembly in 2003. UNCAC created an international legal basis for states to require public officials to declare their assets.

Articles 8(5) and 52(5) of UNCAC call on countries to adopt legislation that requires public officials to declare their assets. Together with the convention's provisions on international cooperation, the focus on assets created a genuine basis for governments to identify and track assets, and recover them if they are determined to have been stolen. UNCAC provided an impetus for the international donor community's global anti-corruption efforts in instituting or refining national legislation on asset declarations for politically exposed persons. Furthermore, the African Union, Arab, and inter-American conventions against corruption contain similar provisions on financial declarations by public officials (Article 7, Article 28, and Article III, respectively). The Council of Europe's Group of States against Corruption (GRECO) has been issuing recommendations on asset disclosure systems since 1999, and the Organisation for Economic Co-operation and Development (OECD) and World Bank have contributed to the ongoing process of standard setting by publishing handbooks in 2011 and 2012 (*Asset Declarations for Public Officials: A Tool to Prevent Corruption*³ and *Public Office, Private Interests: Accountability through Income and Asset Disclosure*⁴). In 2013, the Organization of American States published the *Model law on the declaration of interests, income, assets and liabilities of persons performing public functions*.⁵ The Group of 20 leading economies (G20) adopted High Level Principles on Asset Disclosure by Public Officials in Los Cabos in 2012.⁶ Finally, in October 2014, the Western Balkan countries adopted the first international standard on asset declarations.⁷

³ OECD, *Asset Declarations for Public Officials: A Tool to Prevent Corruption* (OECD Publishing, 2011). Retrieved from www.oecd.org/corruption/anti-bribery/47489446.pdf

⁴ The World Bank, *Public Office, Private Interests: Accountability through Income and Asset Disclosure* (Washington D.C.: World Bank, 2012), p.10. Retrieved from http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2012/03/23/000333037_20120323003424/Rendered/PDF/676270PUB0EPI0067882B09780821394526.pdf

⁵ www.oas.org/juridico/PDFs/model_law_declaration.pdf.

⁶ https://star.worldbank.org/star/sites/star/files/los_cabos_2012_high_level_principles_on_asset_disclosure.pdf

¹³ Regional School of Public Administration, *Western Balkan Recommendation on Disclosure of Finances and Interests by Public Officials*, 08-09 July, 2014. Sixth Meeting of the Ethics and Integrity Network (Danilovgrad: ReSPA, 2014). Retrieved from <http://respaweb.eu/11/library#respa-publications-and-research-18>.

10 PRINCIPLES FOR AN EFFECTIVE ASSET DISCLOSURE SYSTEM

Consistent with international standards (see previous chapter) and the Preventive Measures for governments outlined in Chapter III of the UNCAC, Transparency International identified 10 principles for an effective, legally based asset disclosure system based on its previous publications in this area:⁸

I. LEGAL BASIS AND PURPOSE

Asset declarations are an effective tool in preventing corruption as well as an instrument in facilitating the detection, investigation and possible prosecution of corruption and accumulation of illicit wealth of public officials. For this, a sound legal basis is required, and the law should make a clear statement that asset declarations serve dual purposes: to detect both illicit enrichment and conflicts of interest.

II. DECLARATION CONTENT

The information required for detecting illicit enrichment should capture all essential financial flows, including on the incoming side all sources of income, received loans and gifts; on the side of outgoing financial flows this includes immovable assets such as houses, moveable objects such as vehicles, jewellery and fine art, and financial assets such as cash, domestic and foreign bank accounts, stocks or bonds. Most of the information relevant for illicit enrichment will also reveal possible conflicts of interest: information on an outside employment will indicate generated income but also point to potential conflicts of interest; the case of financial assets, such as shares in a company, is similar. However, there are also non-financial interests such as (unremunerated) corporate board memberships, which are only relevant in the context of conflicts of interest.

III. COVERAGE OF OFFICIALS

An effective asset declaration system should cover all public officials at risk for corruption. This includes senior executive office holders (ministers, deputy ministers, commissioners, agency heads); legislators; judges at all court levels; prosecutors; and any civil servants with some decision-making power. This should include not only national-level officials but also those at the sub-national level, where local authorities are entrusted with decision-making. Additionally, the asset declaration should also cover at least members of the immediate family and/or household members, as otherwise public officials can hide illicit income and assets behind them.

IV. SUBMISSION OF DECLARATIONS

Asset declarations should be required when a person first assumes public office, to establish a baseline for any future accumulation of assets during their tenure. Regular, periodic updates should be made. The obligation to report should extend beyond the individual's tenure in post to capture deferred enrichment. As much as possible, submission of declarations should be done online. The online availability of data greatly facilitates automated analysis as well as later publication of the information.

V. VERIFICATION

An effective verification system concerns the verification of submission of declarations, as well as their formal accuracy. As for detecting illicit enrichment, it includes a financial audit. This requires

⁸ Transparency International, *Local Governance Integrity: Principles and Standards* (Berlin: Transparency International, 2015), pp.10-16.

access to state databases as well as to privately held information such as company or banking data. It will also entail on-site inspections of assets in single cases and the possibility to make enquiries of witnesses, if only for voluntary information. All declarations should be subject to submission and formal verification. Declarations subject to a financial audit should be chosen by a random sample as well as by risk criteria.

VI. OVERSIGHT BODY

An oversight body needs to be in place with sufficient resources to control declarations. This includes staff with competency on conflicts of interest as well as financial expertise in detecting hidden cash flows. The oversight body should also have access to publicly available data, or data that private individuals provide on a voluntary basis, and should have the option of (outside) inspections of assets in individual cases. The oversight body also needs up-to-date information technology to support online submission, processing and publishing of the data.

VII. COOPERATION

The oversight body cooperates with tax police and other police units, the prosecution services and financial intelligence units, so that these units can further trace down hidden cash flows, possibly with compulsory measures. Oversight bodies should also be obliged to notify other state bodies on any suspicion of a criminal, administrative or disciplinary offence. For undeclared income, the two most frequent offences are tax evasion and money laundering.

VIII. PUBLIC ACCESS

Experience shows that most successful investigations are triggered by complaints of citizens, NGOs or journalists with knowledge about the true situation of an unfaithful public official. Therefore, asset declarations should be publicly available online. Paper-based access only is too much an obstacle for research. Personal contact details, such as addresses and plate numbers of cars, can be redacted. The oversight body should also publish a regular overview of its activities and information on investigated cases.

IX. SANCTIONS

Failure to produce timely, complete and accurate declarations should at a minimum subject the filer to effective, proportionate and dissuasive sanctions. Criminal sanctions should apply to the most egregious offences – in particular, intentional errors or omissions. Should it turn out that public official was hiding a substantial amount of wealth, the sanction must include forfeiture of the hidden assets.

X. CIVIL SOCIETY

The oversight body should reach out to NGOs and the public at large, and publish regular reports containing inter alia case statistics and an analysis of trends. The internal procedures of the oversight body should be as transparent as possible to the public. Representatives of the public should have the opportunity to participate in, consult on and monitor the work of the oversight body.

ASSET DISCLOSURE IN YEMEN

LEGAL BASIS AND PURPOSE

The Financial Law No. 8 of 5 December 1990 requires in its Article 58 that all employees in revenue entities and financial fields make annual personal financial disclosures (“All workers in administrative authorities and financial fields have to submit an annual declaration of the financial property of all movable and immovable properties.”).⁹ However, this provision does not provide any further instructions and has never been implemented. In 1997, as widely reported in the press, the Prime Minister sought to introduce financial disclosure at the cabinet level. This idea never got past cabinet discussions, though.¹⁰

Eventually, Yemen introduced asset declarations by **Law No. 30** of 19 August **2006** “On Asset Declarations” (full text in Annex II). Law No. 39 of 25 December 2006 “On Combating Corruption”,¹¹ as well as the Presidential Decree No. 19 of 27 October 2010 “On the Implementation of the Law on Combating Corruption” further acknowledge and complement the asset declaration system. Furthermore, there are Guidelines by the Supreme National Authority for Combating Corruption for filling out the asset declaration forms (full text in Annex III).

The whole set of regulations provides a comprehensive source regulating more or less all aspects described in the following sections. The disclosure system of the law is clearly focused on **one purpose** only, detecting **illicit enrichment**, leaving conflicts of interest aside. According to Article 3 of Law No. 30 of 2006, the “Law aims at:

1. Protection of public funds.
2. Enhancing trust in the state agencies and its officials and safeguard the dignity of the public office.
3. Combating illegal gain and reducing tempering public office values and ethics.
4. Enhancing monitory on whoever holds a public office and is subject to this law.”

As for **conflicts of interest**, there are no specific rules yet in the civil service legislation.¹² Law No. 39 of 2006 “On Combating Corruption” defines the development of rules in Article 21 as one of the tasks of the Supreme National Authority for Combating Corruption:

“The Commission [Supreme National Authority for Combating Corruption] studies, evaluates and recommends developing employment systems and presenting them to relevant bodies to adopt them for the attainment of the following: [...] c.) Promoting the principle of transparency in public office and preventing conflicts of interest between public offices and those occupying them, with having checks and time limit after concluding the service of the public official to prevent him from

⁹ Retrieved from <http://www.pogar.org/publications/ac/compendium/yemen/anticorruption/anti-corruption-%20law-06-en.pdf>.

¹⁰ UNPAN, *Republic of Yemen, Public Administration, Country Profile* (UNPAN: February 2004), p.16, <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan023187.pdf>.

¹¹ [www.htb.gov.ye/userfiles/file/Laws%20and%20regulations/Anti-corruption%20Law%20No%20\(%2039%20\)%20for%202006\(E\).pdf](http://www.htb.gov.ye/userfiles/file/Laws%20and%20regulations/Anti-corruption%20Law%20No%20(%2039%20)%20for%202006(E).pdf).

¹² UNPAN, *ibid*; the overall score for conflicts of interest safeguards in Yemen is „very weak“, according to the 2010 report by Global Integrity. Retrieved from www.globalintegrity.org/global/the-global-integrity-report-2010/yemen/.

practicing professional or commercial activities or enrolment in private sector if it has direct connection with the official offices to achieve illegal personal objectives.”

As of 2010, the overall score for conflicts of interest safeguards in Yemen is „very weak“, according to the 2010 report by Global Integrity.¹³ The respective indicators score around 20, with zero being the worst score, 100 perfect, and any score less than 60 already being considered “very weak”.¹⁴ While the Constitution foresees some basic conflicts of interest provisions on top-level officials, it does not require any disclosure (Article 134).¹⁵

DECLARATION CONTENT

For detecting illicit enrichment, one assesses the lifestyle of a public official by adding up all assets he/she owns. Then, in a second step, one adds up all legal income a public official has. If the income does not match the lifestyle, there is at least a suspicion that this public official has hidden sources of income. Regularly, these would result from corrupt sources. Compared to a full picture of incoming and outgoing financial flows of a public official, Yemen’s asset disclosure system requires disclosure of the following financial items:

“Income”		“Expenditures/Lifestyle”	
Item	Declared?	Item	Declared?
Salary	Yes	Cash	Yes
Rental income	Yes	Bank deposits	Yes (?)
Fees for services	Yes	Real estate	Yes
Interest, royalties	Yes	Valuable movables	Yes
Loans received	Yes (?)	Securities	Yes
Debts repaid to the official	Yes (?)	Loans given	No
“Income for free” (Gifts, inheritances, assets sold, etc.)	Yes (?)	Loans paid back by official	No
		Non-asset expenses (travel etc.)	No

It is not fully clear, if public officials in practice declare under “any other income” loans received by and repaid to the official, or inheritances and gifts, which are not income in a technical sense.¹⁶ As for cash, the form requires disclosure of “money possessed”, which is broadly defined as “local or foreign currencies or gold or silver and other money in country or abroad”; however, it is not fully clear whether this comprises bank deposits as well.

Under the condition that all these positions are included in practice, the Yemeni declaration provides quite a comprehensive picture on financial flows of a public official. Based on such a declaration, the

¹³ www.globalintegrity.org/global/the-global-integrity-report-2010/yemen/.

¹⁴ Global Integrity, *Methodology*, Retrieved from <http://www.globalintegrity.org/wp-content/uploads/2013/08/GIR2010-Methodology.pdf>.

¹⁵ Of 16 May 1991, as amended in 2001. Retrieved from <http://www.refworld.org/docid/3fc4c1e94.html>.

¹⁶ Council of Europe/ T. Hoppe/V. Kalnins, *Practitioner manual on processing and analysing income and asset declarations of public officials*, January 2014. Retrieved from www.coe.int/t/DGHL/cooperation/economiccrime/corruption/Projects/EaP-CoE%20Facility/EaP_TP_default_en.asp.

oversight body could build a case of illicit enrichment, should the income be insufficient for the concrete lifestyle.

It is interesting to note that the declaration form goes beyond what the wording of Law No. 30 “On Asset Declarations” requires. The Law only focuses on outgoing financial flows (“lifestyle”): Article 15 requires disclosure of “movable and immovable assets inside and outside Yemen”; similarly, Article 2 defines “assets” as “All that can be possessed and utilized for profit including goods, money, animals, real estate, land or machinery or other properties.”; additionally, Article 8 makes reference to “any decrease of financial obligations”, which refers to loans paid back. However, declaring incoming cash-flows is a prerequisite for detecting illegal gain. Thus, the declaration form is well in line with the objective of the Law.

As for movables, the Guidelines define them as follows:

“Movables do not include furniture and ordinary home requirements, and they include cars, agricultural or industrial tools and machines, and high valued masterpieces, and include shares in big transportation means like carriers, locomotives, airplanes, ships, and other machineries, apparatus and movables beyond furniture and home requirements.”

It might entail a lack of clarity in some cases if there are no clear thresholds – for example, at which value is a “masterpiece high valued”, at US\$1,000, US\$10,000, or US\$50,000?

As for **conflicts of interest**, shares – and to some extent bank deposits, real estate and valuable movables – can be a cause. For example, a judge would be in conflicts of interest if he/she had stocks from a company that was a party to one of his/her trials. However, financial interests typically causing conflicts of interest, such as gifts, and non-financial interests are missing in the declaration form. It is thus questionable, whether an oversight body would actually be in a position to verify conflicts of interest of public officials in any meaningful way.

COVERAGE OF OFFICIALS

Article 4 of Law No. 30 of 2006 covers public officials of management level and above in all **three constitutional branches** of power and from a wide selection of state bodies (see Annex II). In general, anybody on the level of directing a department or unit or above is covered within the administration or legislation. In the judiciary, all judges and prosecutors are included; this is fortunate, as members of the judiciary are sometimes excluded in other countries despite being at high risk of illicit enrichment in corruption prone countries.¹⁷

The question remains, whether certain public officials of expert level should also be included. Illicit enrichment is often found with policemen of ordinary level, doctors, or civil servants responsible for procurement. In view of reportedly rampant corruption in Yemen, it seems important to include a wider range of public officials into the declaration scheme. This might generate more declaration forms than the Supreme Authority might be able to handle in terms of verification. However, there is an additional benefit of asset declarations that is often overlooked: they “may provide key evidence in **criminal investigations** triggered by evidence from other sources. For example, allegations of bribery, including anonymous charges or press reports, may lead to an investigation that is

¹⁷ Tilman Hoppe, *The case for asset declarations in the judiciary*, U4 Brief, May 2014. Retrieved from www.u4.no/publications/the-case-for-asset-declarations-in-the-judiciary-identifying-illicit-enrichment-and-conflicts-of-interests/downloadasset/3474.

inconclusive without additional evidence. Such supplementary evidence may be found in an asset declaration on file and accessible to prosecutors. When discrepancies exist, they may provide grounds for search warrants or other investigative measures, or simply offer useful leads for further investigation.”¹⁸ In countries, where there is no central database of bank accounts, the information in asset declarations may for example help prosecutors identify bank accounts of suspects.

As a useful feature, the Law does include **family members**, i.e. spouses and minor children. This is important as public officials often use close family members to hide illicit income and assets behind them.

There are no numbers available as to how many officials have to submit declarations.

SUBMISSION OF DECLARATIONS

Public officials have to submit their declaration upon assuming office, every two years in office, and upon termination of office (Article 15). This obligation includes family members. The Supreme National Authority for Combating Corruption is receiving and handling all declarations. Declarations are submitted in paper form and signed in writing.

Due to the submission in **paper form**, and due to the overall weak administrative capacities to handle many thousands forms annually (in theory), there are no statistics available on submission compliance.

According to local experts, **compliance** with the obligation to submit is rather low in Yemen. Estimates vary between 51-75% depending on which expert one asks. According to one expert, only 50 % of member of Parliament submit their declaration. In any case, in public perception the low submission rate is one of the main problems of asset declarations in Yemen.

Reportedly, the Supreme National Authority for Combating Corruption publishes the names of public officials who failed to submit their declaration.

It is interesting to note that according to Article 10 of Law No. 39 of 25 December 2006 “On Combating Corruption”, “members of the Supreme National Authority submit their asset declarations to the parliament presidency”. This mechanism might help to avoid a conflict of interest of member of the Authority when handling their own asset declarations. However, it requires that somebody at the Parliament administration knows about the methodology to verify such declarations and is in fact able to do so.

As for facilitating submission of the declarations (for those public officials who might have access to the internet), Global Integrity made the following observation in 2009:

“An interested party cannot even see the standard form used for fulfilling this legal requirement as such. There are links to it in the Supreme National Anti - Corruption Committee (SNACC), but the links are not accessible.”¹⁹

As a rather odd feature, public officials declaring their wealth are also obliged to keep their declarations confidential. According to Article 27 of Law No. 30 of 19 August 2006 “On Asset Declarations”, everybody obliged to declare “must send their declarations in sealed envelopes to the

¹⁸ Hoppe, May 2014.

¹⁹ www.globalintegrity.org/global/the-global-integrity-report-2010/yemen/.

designated party that is legally authorized to receive them in a month time period of the date they became subject to the provisions of this law.”

VERIFICATION

In order to verify the **submission** of declarations, the oversight body needs to establish, maintain and monitor a roster within the database of all the officials who are obliged to declare their finances.²⁰ To that extent, the oversight body needs to maintain a list of all categories of public officials that are obliged to declare their finances. To this end, all state bodies employing public officials obliged under the Law to declare would have to send lists to the oversight body with names of concrete individuals. It would be necessary for the oversight body to check the completeness of these lists for two reasons: An official could escape his duty of declaration by managing to avoid insertion in the list or be taken off the list; furthermore, public perception could be negative if the lists were incorrect and there was no mechanism at all at the oversight body’s disposal for verifying a sample of the lists.²¹ There is no indication that in Yemen such a mechanism exists for ensuring that the oversight body knows about all public officials obliged to submit declarations.

The next step of verification would be a formal check of the declarations (are all necessary fields filled out with relevant and conclusive information?). According to local experts, declarations are filed without any **formal check**.

As for the **financial verification** of the declaration, the oversight body needs to establish in a first step a true picture of all incoming and outgoing financial flows of a public official. To this end, the oversight body needs to compare the declared data with data available by the following sources:

- Tax authority.
- Motor vehicles registry.
- Land registry.
- Civil registry.
- Business registry.
- Register of bank accounts.
- Patents and licenses registry.
- Financial Intelligence Unit.
- Party finance databases.
- Foreign public databases.

Information from internet research, publicly available files, commercial databases, and data on banking transactions complements above sources.

However, the verification should not limit itself to comparing data of the declaration with other databases, but should aim at actively detecting undeclared cash-flows and their possible illicit origin. Therefore, once a true picture of the financial data is established, the oversight body needs to balance the incoming and outgoing financial flows, calculating also a lump sum for daily expenses because not all expenditures are and can be included in a declaration.

The calculation algorithm for monitoring the plausibility of the declaration is as follows:²²

²⁰ T. Hoppe/V. Kalnins, January 2014.

²¹ Ibid.

²² Ibid.

Financial flows		
Period	Incoming side	Outgoing side
Beginning	Existing assets	
During	All coming in	All going out
End		Existing assets
Total incoming must = total outgoing		

If the outgoing side (= the “lifestyle”) goes beyond the means of the official (incoming financial flows), there is at least a suspicion of illicit enrichment. For above algorithm, it is necessary to look at the declaration from the following three angles:

1. Verifying the amount of incoming financial flow.
2. Verifying the amount of outgoing financial flow.
3. Verifying the relation of the incoming and outgoing financial flow.

In **Yemen**, there is yet no such methodology in place (which in other countries outside the region is sometimes contained in the law itself, a decree, or an internal decision of the oversight body). The lack of a verification mechanism is sometimes attributed to a lack of staff and resources at the Supreme Authority. The lack of verification does not seem to be the result of weak legislation. According to Article 119 of the Presidential Decree No. 19 of 27 October 2010 “On the Implementation of the Law on Combating Corruption”, the Supreme National Authority can use the following means:

1. Correspondences and requesting information and reports from parties concerned with the inquiry,
2. Accessing relevant files, contracts and document, and viewing sites and conducting technical examinations on them when it is required,
3. Examining and auditing documents and evidences annexed to reports and complaints that were submitted to the commission,
4. Reviewing reports of monitory bodies and reports of legal accounts auditors,
5. Corresponding with banks to get information relevant to the subject of inquiry and copies of documents,
6. Contrasting the obtained information with the data mentioned in asset declaration,
7. Conducting interviews and summoning persons to obtain additional information or statements that serve investigation purposes,
8. Verifying and surveying the effects of the corruption incidence being investigated and the damages incurred by it,
9. Any other legal means that serves the purposes of inquiry and evidences collection.

Furthermore, according to Article 124 of the Decree, the Supreme Authority “can ask for assistance, as it sees proper, of experts, consultants, and specialized bodies to participate in inquiry actions and to obtain information, when it is required.”

The supervision of **conflicts of interest** should be the obligation of a supervisor of the public official: conflicts of interest are relative to the job duties and a central oversight body cannot monitor

conflicts arising in the course of daily work.²³ The supervisor needs to have access to declarations in order to know about possible conflicts of interest. Any central body in charge with verifying income and asset declarations can complement the disciplinary supervisor by identifying incompatibilities which are not depending on the job duties but are visible from the declarations themselves. However, in Yemen, the content of the declarations does not allow for any checks of conflicts of interest, even if the Supreme National Authority or any other body would want to take on this task.

OVERSIGHT BODY

The “Supreme National Authority for Combating Corruption” is the competent body for handling all aspects of asset declarations. According to Article 8 of Law No. 39 of 25 December 2006 “On Combating Corruption”, the Supreme National Authority “holds the following competences and practices the following tasks: [...] No. 6: Receiving asset declarations.” Article 91 of the Presidential Decree No. 19 of 27 October 2010 “On the Implementation of the Law on Combating Corruption” further specifies this task including verification of declarations:

“The Supreme National Authority, in the framework of corruption prevention, works to establish the suitable organization to enforce the asset declaration law and deal with declarations it necessitates regarding receiving and reviewing them and examining their data, and changes done on them, and taking necessary procedures for that.”

The main challenge for the Supreme National Authority remains the weak capacity in verifying asset declarations. This not only concerns shortage of staff, but also a lack of training on what this task actually entails in practice.

CO-OPERATION

Co-operation of the verification bodies with **other state bodies** is necessary with regards to the following other state bodies:

- Tax administration: hiding income and wealth regularly entails violations of tax offences (and other way round). The tax administration therefore needs to have a regular exchange with both Commissions.
- Financial intelligence units: hiding wealth is regularly a money-laundering offence. The Commissions should therefore be in regular exchange with the FIU on relevant cases and information. At the same time, the FIU would need to use asset declarations in order to examine suspicious financial movements related to public officials.
- Disciplinary bodies: non-submission of declarations or submission of false declarations regularly constitutes a disciplinary offence. The Commissions therefore need to notify such bodies in cases of violations.

For all above co-operations, the oversight bodies should have standards on reporting and information exchange, possibly supported by memoranda of understanding with the respective institutions, or a joint set of guidelines. Co-operation would also profit from joint workshops and

²³ Regional School of Public Administration, *Western Balkan Recommendation on Disclosure of Finances and Interests by Public Officials*, 08-09 July, 2014. Sixth Meeting of the Ethics and Integrity Network (Danilovgrad: ReSPA, 2014). Retrieved from <http://respaweb.eu/11/library#respa-publications-and-research-18>.

trainings on verifying asset declarations and investigating illicit enrichment with representatives of these state bodies.

However, the issue of cooperation would only become virulent, once the Supreme National Authority establishes a verification mechanism. As far as the legal framework is concerned, there does not seem to be a shortage at first sight. Law No. 39 of 25 December 2006 “On Combating Corruption” states

“All state agencies must cooperate together to detect corruption crimes and reporting them to the commission or to the investigation authorities with providing them with the information related to any corruption incidences.” (Article 44 par. a)

“If the commission finds, during examining and auditing the asset declarations, clear evidence of illegal gain it should refer the case to justice for summary procedure.” (Article 11 par. i)

PUBLIC ACCESS

So far, asset declarations are neither published, nor accessible upon request by ordinary citizens. This practice is based on the following somehow reiterating provisions of Law No. 30 of 19 August 2006 “On Asset Declarations”:

“The right to look in the asset declarations and data, explanations, documents and examination and study procedures is exclusive to the commission and investigation parties.” (Article 12)

“All submitted declarations from all categories subject to this law are fully confidential; it is prohibited to circulate them except in the limits illustrated in this law.” (Article 14)

“The declarations and all documents and information related to them are considered confidential and it is allowed to copy or disclose them or make them seen by a third person whoever except the parties that are determined by the law.” (Article 26)

Experience shows that most successful investigations are triggered by complaints of citizens, NGOs, or journalists with knowledge about the true situation of an unfaithful public official. In addition, public availability of declarations would be a strong incentive for public officials to actually comply with submission requirements, because anybody will be able to see whether they are compliant or not. Therefore, asset declarations should be information publicly available online (see Principle 8). Confidentiality of asset declarations rather occurs in totalitarian systems and is not in line with the standard of open, participatory democracies. It is of utmost importance that declarations are not public only as an image scan of the paper-version of the declaration, but as a text-file in machine readable format. Otherwise it is impossible to search for the declaration on the internet or to electronically analyse it.

Even if Yemen is not a country where a substantial number of citizens have access to internet,²⁴ it would still allow key players from the media, civil society organisations, or academia to look into the declarations.

²⁴ www.globalintegrity.org/posts/case-against-open-data-in-yemen/.

A **good example** – out of many more others – is **Georgia**. Following a previous paper based system, declarations became online in February 2010. The Civil Service Bureau scanned and published more than 50,000 declarations from 1998-2010. Since 2010, all senior Georgian officials submit their asset declarations annually at <http://declaration.gov.ge/eng/> (English version of the website).²⁵ Submitted declarations appear instantly on the same website. Currently, the website hosts more than 60,000 declaration documents. In 2013, it won the “United Nations Public Service Award” in the category of “Preventing and combating corruption in public service”. It should be noted that such an online system is not a privilege of highly industrialised nations. When introducing its award-winning online system in 2010, Georgia had a GDP per capita of only US\$ 5,837 per year.²⁶ By comparison, **Yemen** in 2010 was not far from this value (US\$ 4,447),²⁷ and in any case, donor money would be available to support such reforms if there was only the necessary political will.

SANCTIONS

Law No. 30 of 19 August 2006 “On Asset Declarations” has a two-pronged approach for sanctions:

- Criminal offences
- Asset forfeiture

The following offences/sanctions are available for public officials **submitting** declarations:

- Illegal gain (Article 21)
- Forfeiture of illegal gain (Article 22)
- Submitting false data in asset declarations (Article 23)
- Failure to submit (Article 24)

The following offence is available for public officials responsible for the **handling** of declarations:

- Breaching confidentiality of the declaration (Article 25)

The following offence applies to **citizens falsely reporting** violations:

- False accusation of illegal gain (Article 20)

Compared internationally,²⁸ the system of sanction is quite comprehensive covering all necessary infractions. However, at least in the past there seems to have been a significant gap in implementing sanctions:

“For the record, there are no known substantial cases of conviction and sentencing to date, especially for holders of top, senior or sensitive positions (e.g., legislators and judges), although some judges may have been dismissed or reprimanded or relocated.”²⁹

²⁵ See also: World Bank, *Fighting Corruption in Public Services: Chronicling Georgia's Reforms* (Washington D.C.: World Bank, 2012, 108 pages). Retrieved from <http://elibrary.worldbank.org/doi/pdf/10.1596/978-0-8213-9475-5>.

²⁶ World Bank, GDP per capita. Retrieved from <http://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD>.

²⁷ World Bank, GDP per capita. Retrieved from <http://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD>.

²⁸ ReSPA/Tilman Hoppe (lead author), *Comparative Study: Income and Asset Declarations in Practice* (Danilovgrad: ReSPA, 2013), chapter 1. Retrieved from www.respaweb.eu/11/library#respa-publications-and-research-18.

²⁹ Global Integrity, www.globalintegrity.org/global/the-global-integrity-report-2010/yemen/, Notebook at indicator 29a.

The Supreme National Authority and law enforcement bodies need to show a track record of investigated cases and should regularly report on case statistics to the public. According to Article 16 par. b of Law No. 30 of 19 August 2006 “On Asset Declarations”, “the commission is committed to publicize all information and data regarding corruption crimes after being proved by a definitive judicial decision.”

CIVIL SOCIETY

So far, civil society has only a minimum role in the asset declaration process: citizen can report any suspicion they have on the illegal gain or any other violation of a public official. However, citizens have no possibility at all to look at asset declarations; at the same time, they face the legal risk of being criminally liable for false accusations (see above under “Sanctions”). There is no transparency of the asset declaration process towards the public at large, such as statistics, overview on cases and trends, and on the work of the responsible institutions. State institutions do not reach out to citizens, the media, or civil society organisations to participate in the process. Shutting civil society off the asset declaration system in such a way seriously hampers the effectiveness of the system. Other regional research has shown that successful investigations of asset declarations are most often triggered by citizens or the media.³⁰

It should be underlined that it is often (substantiated) **anonymous** complaints which trigger successful investigations into asset declarations. Potential reporting persons often face a risk of reprisal by the public official, either privately or in their official position. Banning anonymous complaints thus cuts off a substantial source of promising leads. In this context, one should keep Article 13 par. 2 of the United Nations Convention against Corruption (UNCAC) in mind:

“Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including **anonymously**, of any incidents that may be considered to constitute an offence established in accordance with this Convention.”

RECOMMENDATIONS

The international community and regional bodies have developed comprehensive principles and procedures to build effective asset disclosure systems, and many countries have even adopted these as law. The policies help reduce corruption by exposing illegal activity, opening the door to investigation and creating enforcement and monitoring mechanisms. As the data illustrates, Yemen has fallen behind international standards on asset declaration. The following recommendations are based on the research conducted for this report and seek to provide a set of priorities for improving the effectiveness of asset disclosure in Yemen:

³⁰ ReSPA/Tilman Hoppe, 2013:218.

Legislative reforms

Introduce a legal basis for conflicts of interest: A legal basis for conflicts of interest disclosure and oversight is necessary, amending the information needed to be declared by relevant information, including non-financial one. The declaration obligation for employees in revenue entities and financial fields under Article 58 Financial Law No. 8 of 5 December 1990 should be integrated into the Law No. 30 of 2006 “On Asset Declarations”.

Broaden the scope of information: Declarations need to show the fullest picture possible of incoming and outgoing financial flows during public officials’ time in office, in particular salaries and fees, royalties, gifts, loans, and other incoming cash flows such as inheritances. Without information on the income of officials, no meaningful verification of the declaration is possible. Declarations also need to include information relevant for detecting conflicts of interest, such as second jobs, business relationships and memberships in relevant interest groups.

Broaden the coverage of officials: Coverage of public officials should include any civil servant with some decision-making power.

Increase the frequency of declaration: Declarations need to be filed annually for illicit enrichment purposes, at least in the case of senior public officials.

Implement a verification procedure: Countries urgently need to establish meaningful verification mechanisms. Failing this, declarations have no deterrent effect, making illicit enrichment less unattractive and severely weakening the asset declaration framework. A methodology for submission verification, formal verification, and financial audits of declarations needs to be in place based on a legal act. The oversight body should be obliged by law to verify a sample of declarations by public officials. The samples should be chosen randomly, as well as be based on specific risk criteria. As members of the Supreme National Authority submit their declarations to the parliament presidency, it needs to be defined who could verify them and based on what competencies. Finally, a legitimate verification procedure must follow up on any substantiated anonymous complaints. Until appropriate monitoring mechanisms are in place, existing aspects of a country’s asset declaration system are vulnerable to exploitation and loopholes.

Provide access to the public: Asset declaration laws mean nothing if they are not applied, which often requires the watchful oversight of engaged citizens and active civil society organisations. The public is the most important watchdog; therefore, information should be made available through an open web portal that is centralised at each level of government. If a web portal is not available or is underutilised, the information should be widely disseminated through alternative media. Digital information should be published in widely used formats that are non-proprietary, searchable, sortable, platform-independent and machine-readable. On any of these platforms, there should be clear guidelines and explanation for the limited exemptions for non-publication or exclusions. Although the legal framework on access to information is still weak in many countries of the MENA region, there are at least policies in place that should be used to support a wider dissemination of asset declarations, limiting the waiting time between receiving and answering a query on assets.

Fully criminalise violations: Substantiated anonymous complaints should be grounds for investigations. The offence of illicit enrichment needs to be formulated with a sufficient degree of detail. Any substantial difference between the declared and real finances of a public official should constitute a criminal offence and provide the basis for asset forfeiture. A respective definition in the offence could read for example:

“Any increase in wealth that happens after assuming the service or the actualization of the status of the person subject to this law or his spouse or minor children when it is not proportional with their resources as stated in his/her asset declaration. If the expenditures exceed the income of the person by more than 10% or alternatively by 10,000 € this is considered a disproportionate increase in wealth.”

Engage civil society: The oversight body should be obliged to publish regular reports containing inter alia case statistics and an analysis of trends. The internal procedures of the oversight body should be as transparent as possible to the public. Representatives of the public should have the opportunity to participate in, consult on, and monitor the work of the oversight body.

Organisational reforms

Alleviate submission of declarations: In order to allow for automated processing and verification, and thus reducing the administrative burden, declarations should gradually be submitted online in machine readable form. Declarations shall be submitted in printed form only when the technological means are not available in the workplace or at home of the public official concerned. At least senior public officials should gradually submit their declarations online. Ideally, online declarations are already prefilled with existing data from state databases such as salaries, vehicles, real estate, and other information, in order to facilitate the filling out of declarations.

Facilitate the work and cooperation of oversight bodies: The oversight body needs sufficient staff with training on verification procedures including financial analysis and conflicts of interest. Other state bodies, which usually benefit from asset declarations, such as tax administration or the unit on anti-money laundering, need to be trained as well and there should be standards on reporting and information exchange, possibly supported by memoranda of understanding with the respective institutions, or a joint set of guidelines.

Account for implementation: Law enforcement bodies need to show a track record of investigated cases and should regularly report on case statistics to the public.

ANNEX I: METHODOLOGY

The main focus of the country reviews is to compare:

- a) the existing legislative framework against the emerging **international standard**
- b) the existing legislative framework of asset disclosure with its **actual implementation**

The main sources were:

- **desk review** of the legislative and regulatory framework on the respective asset disclosure system.
- **semi-structured interviews** with up to six experts per country drawn from the public sector as well as the private sector, including civil society or academia

Experts for the semi-structured interviews were selected from the following two categories:

- **Key experts**, i.e. practitioners or ex-practitioners in the area of asset disclosure (these included officials in the agency or agencies tasked with managing asset declarations, law enforcement officials, lawyers and accountants, human resources/ministerial staff, experts from tax authorities, and any others with practical experience).
- **Informed experts**, i.e. individuals who are not experts on asset declarations but have an informed opinion on the workings of the public administration and understand how asset declarations could increase transparency and accountability (these included journalists, civil society activists and informed citizens). Interviews with this group were optional depending on the level of information obtained through official interviews.

ANNEX II: DECLARATION FORM

[Unofficial translation by TI; several empty lines in the form for inserting information have been redacted in below version to save space]

Republic of Yemen

LOGO

Supreme National Authority for Combating Corruption

Ref.:-----

Date: -----

Asset Declaration Form

Submitted by: -----

To: Supreme National Authority for Combating Corruption

In enforcement of the provisions of Law number (30) of 2006

Regarding asset declaration

Republic of Yemen, Sana'a, Al-Tahreer Square

Tel. 01 490 400, fax 01 299433

P.O.Box 3454, website: www.snaccyemen.org

Instructions for writing the declaration:

- 1- This declaration should be written by the declaration submitter
- 2- The declaration must include all the property of the declaration submitter of movable assets and immovable assets inside and outside Yemen
- 3- Every page should be signed in the shown space
- 4- Do not write outside the designated space and all spaces should be crossed out by the same pen
- 5- The declaration should be written using black or blue ink or typed clearly

- 6- If any page is not sufficient for data, then the declaration submitter should complete the insufficiency by copying the needed page before filling it by the needed number of copies and annexing them to the declaration according to the submitted data
- 7- The declaration should be submitted to the supreme national authority for combating corruption – asset declaration sector – and the declaration should be submitted in a sealed envelope signed by declaration submitter with writing the personal and job data of the declaration submitter on the envelope.

First: Personal data:-

Name			
Occupation			
Place of birth		Date of birth	
Address			
Home tel.:			
Work tel.:			
Mobile:			
Email:			
Spouse name:		His/her occupation	
Children			
Adults		Minors	
1		1	
2		2	
3		3	
4		4	
5		5	

Signature

Date:

Second/1: Data on income sources of declaration submitter

Income elements	Foreign Currency	Yemen Rial
Salary		
Rents		
Profits from bank stocks (estimated as of last year before the declaration)		
Profits from bank deposits (estimated as of last year before the declaration)		
Profits from speculations (estimated as of last year before the declaration)		
Returns of consultative and professional services (estimation)		
Other incomes		

Signature

Date:

Second/2: Data on income sources of declaration submitter's spouse

Income elements	Foreign Currency	Yemen Rial
Salary		
Rents		
Profits from bank stocks (estimated as of last year before the declaration)		
Profits from bank deposits (estimated as of last year before the declaration)		
Profits from speculations (estimated as of last year before the declaration)		
Returns of consultative and professional services (estimation)		
Other incomes		

Signature

Date:

Second/3: Data on income sources of declaration submitter's children

Income elements	Foreign Currency	Yemen Rial
Salary		
Rents		
Profits from bank stocks (estimated as of last year before the declaration)		
Profits from bank deposits (estimated as of last year before the declaration)		
Profits from speculations (estimated as of last year before the declaration)		
Returns of consultative and professional services (estimation)		
Other incomes		

Signature

Date:

Third/1/1: Data on immovable assets (land and real estate) possessed by declaration submitter

No.	Estate type (land or building)	Location	Possession document		Area and description of land or building and kind of use	Total area of land	Four directions borders details				Notes
			Document	date			West	East	North	South	

Signature

Date

Third/1/2: Data on immovable assets (land and real estate) possessed by declaration submitter

No.	Estate type (land or building)	Location	Possession document		Area and description of land or building and kind of use	Total area of land	Four directions borders details				Notes
			Document	date			West	East	North	South	

Signature

Date

Third/1/3: Data on immovable assets (land and real estate) possessed by declaration submitter

No.	Estate type (land or building)	Location	Possession document		Area and description of land or building and kind of use	Total area of land	Four directions borders details				Notes
			Document	date			West	East	North	South	

Signature

Date

Third/2: Data on immovable assets (land and real estate) possessed by declaration submitter's spouse

No.	Estate type (land or building)	Location	Possession document		Area and description of land or building and kind of use	Total area of land	Four directions borders details				Notes
			Document	date			West	East	North	South	

Signature

Date

Third/3: Data on immovable assets (land and real estate) possessed by declaration submitter's minor children

No.	Estate type (land or building)	Location	Possession document		Area and description of land or building and kind of use	Total area of land	Four directions borders details				Notes
			Document	date			West	East	North	South	

Signature

Date

Fourth/1: movable properties of declaration submitter

(does not include furniture and home requirements)

Number	Asset type	Asset description	Notes

Signature

date:

Fourth/2: movable properties of declaration submitter's spouse

(does not include furniture and home requirements)

Number	Asset type	Asset description	Notes

Signature

date:

Fourth/3: movable properties of declaration submitter's minor children

(does not include furniture and home requirements)

Number	Asset type	Asset description	Notes

Signature

date:

Fifth/1: Money possessed by declaration submitter at submitting this declaration

Number	Amount	Currency	Place deposited at

Signature

date:

Fifth/2: Money possessed by declaration submitter's spouse at submitting this declaration

Number	Amount	Currency	Place deposited at

Signature

date:

Fifth/3: Money possessed by declaration submitter's minor children at submitting this declaration

Number	Amount	Currency	Place deposited at

Signature

date:

Declaration:

I ----- undersigned,
testify that all the data I submitted is true and hold full responsibility for any counter proof of that.

Name:

Signature:

Date:

ANNEX III: LAW NO. 30/2006

[unofficial translation by TI]

Republic of Yemen

Logo

Ref:

The Supreme National Authority for Combating Corruption

Date:

Asset Declaration Law

Law number (30) of 2006 regarding asset declaration

And the law included (32) articles distributed in five sections: Some sections include name, definitions, objectives, scope of implementation, and general rules; as well as asset declaration, the procedures of declaration submittal, penalties, and concluding rules. Here is the full text of the law:

In the name of the people:

The president of the Republic:

Having reviewed the constitution of the Republic of Yemen.

And after the approval by the Parliament...we issue the following law:

First Section

First Chapter

"Name and Definitions"

Article (1): this law is named (Asset Declaration Law).

Article (2): the following words and terms shall have the meanings specified against each of them unless the context or presumption implies otherwise:

- Asset Declaration: Declaring what the person possesses of financial and in-kind rights
- Asset: All what can be possessed and utilized for profit including goods, money, animals, real estate, land or machinery or other properties.
- Public funds: Every property of the state or any legal personality which is designated for public benefit.
- Public office: public service in a state facility and is entrusted in a public official.
- Public official: everyone who is entrusted for a public office in a public facility whether permanent or temporary.

- Minors: persons under legal age.

- The commission: The National Supreme Commission for Combating Corruption concerned with implementing this law.

Second Chapter

“Objectives and Scope of Implementation”

Article (3) This law aims at:

5. Protection of public funds.
6. Enhancing trust in the state agencies and its officials and safeguard the dignity of the public office.
7. Combating illegal gain and reducing tempering public office values and ethics.
8. Enhancing monitority on whoever holds a public office and is subject to this law.

Article (4) All employees in public service units are subject to the provisions of this law, as follows:

A- High Authority offices:

1. President of the republic
2. Vice President
3. Head of parliament and members of Parliament presidency body and parliament members
4. Prime minister and deputies and members of the ministerial council and their deputies and all those in their rank
5. Head and members of supreme judicial council
6. Heads and members of judicial authority and public prosecution.
7. Head and members of *Shoura* council presidency and members of the council.
8. Head and members of high commission of elections.
9. Head of the republic presidency bureau and his deputies
10. Universities presidents and their deputies
11. Heads of governorates administration units (governors) and secretary generals of local councils in governorates.
12. Chief of staff and his deputies.
13. Commanders and brigades chiefs of staff and heads of military operations of military districts and sub districts.
14. Heads of diplomatic missions abroad

15. Advisors of the president
 16. Advisors of the presidency of parliament and *Shoura* council
 17. Advisors of the ministerial council
 18. Secretary generals and their assistants in:
 - a. Republic presidency
 - b. Parliament
 - c. Ministerial council
 - d. *Shoura* council
 - e. High commission of elections
 19. Office directors of heads of parliament and ministerial council and *shoura* council and their deputies
 20. Head of the central body of monitory and accountability and deputies
 21. Central Bank of Yemen governor and deputies
- B- High administration offices:
1. Undersecretaries and their assistants of ministries, governorates and those in their ranks; and heads of agencies, bodies, and institutions; and public and mixed companies and banks and their deputies; and agents of the central body of monitory and accountability and their assistants.
 2. Directors of units in: Parliament, republic presidency office, prime minister office, supreme judicial council, supreme court, public prosecution, and *Shoura* council.
 3. Members of diplomatic and consular corps
 4. Chief executive officers of public funds and projects
 5. Directors of departments affiliated to the Ministry of Defense and General Staff office in armed forces.
 6. Directors of Ministry of Interior departments
 7. Directors- general of general directorates in ministries, governorates, districts, and in agencies, bodies, and institutions; and public and mixed companies and banks and public projects and funds, and in universities and colleges affiliated to them and community colleges and higher institutes.
 8. Directors-general in: Parliament, republic presidency, ministerial council, supreme commission of elections, and the central body of monitory and accountability.
 9. Commanders and chiefs of staff and heads of operations in military and security brigades.

10. Heads of security in governorates and districts
11. Members of administration in local councils in governorates and directors-general of local councils in districts
12. Heads and members of administration councils appointed by presidential decrees.

C- Financial offices:

1. Directors-general of financial affairs, account managers, treasurers, and managers of procurement and stores in ministries, governorates, directorates, agencies, institutions, banks and independent and affiliated funds, and in parliament, republic presidency, ministerial council, *Shoura* council, supreme judicial council, supreme court, public prosecution, high commission of elections, the central body of monitoring and accountability, and universities and colleges affiliated to them and community colleges and higher institutes.
2. Heads and members of bids, tenders and purchase committees, and officials of licensing and exemptions centrally and locally.
3. Any other offices of the above mentioned offices level whom the ministerial council decides to make subject to this law.

Second Section

General provisions

Article (5) Any movable or immovable asset or right to benefit in Yemen or abroad a person subject to this law gains for himself or for others by exploiting his public office or status IS considered illegal gain.

Article (6) A case of illegal gain is realized against a person subject to this law among those occupying state high authority offices if practicing any of the acts they are forbidden to practice according to the provision of article (126) of the Constitution and enforced laws whether directly or indirectly.

Article (7) The commission, according to the provisions of this law, can take all measures in connection with analysing the asset declarations and referring to justice those found violating the provisions of this law.

Article (8) with consideration of the content of previous article, any increase in the value of the assets of any of the persons subject to the provisions of this law, whether through personal or in-kind gain or benefiting from any of the state movable or immovable assets, and that was through utilizing the status or office in an illegal way, as well as any decrease of his financial obligations, whether this increase or decrease was directly or indirectly, all are considered illegal gain.

Article (9) the commission can establish a committee or more to examine the asset declarations and examining the related data as well as any changes in them.

Article (10) the commission is entitled to ask the declaration submitters or any other party for data and documents.

Article (11) if the commission finds, during examining and auditing the asset declarations, clear evidence of illegal gain it should refer the case to justice for summary procedure.

Article (12) The right to look in the asset declarations and data, explanations, documents and examination and study procedures is exclusive to the commission and investigation parties.

Article (13) an illegal gain case is not dropped with the end of the office or status of the persons subject to the provisions of this law except according to enforced laws.

Article (14) all submitted declarations from all categories subject to this law are fully confidential, it is prohibited to circulate them except in the limits illustrated in this law.

Third Section

“Asset Declaration”

Article (15) Every person of the categories stated in article (4) must submit an asset declaration of his property and properties of his spouse and his minor children of movable and immovable assets inside and outside Yemen in sixty days time of the issuance date of this law or the date of joining any of the categories subject to this law.

Article (16) Everyone subject to this law must periodically submit an asset declaration two years after submitting his previous declaration, or upon request by the commission all over the period of being subject to the provisions of this law, and must submit a declaration two months prior to end date of his service or the end of being subject to the provisions of this law in other situations, and if his service or being subject to this law end before submitting the declaration he must submit his declaration in a two-month period of leaving his work for any reason.

Article (17) If both husband and wife are obligated to submitting the declaration stated in article (15) of this law, each of them is obligated to submit a separate declaration, and [male] public official should submit the declaration of his minor children with his declaration.

Fourth Section

“Procedures of submitting the declaration”

Article (18) all asset declarations are submitted to the commission which is in charge of receiving, following-up, examining, and analysing declarations of the categories included in this law.

Article (19) the asset declaration must be written on the form designed for this purpose and the filled-in data should be correct and signed by declaration submitter, the executive regulations delineates the details of data to be included in the form.

Fifth Section

First Chapter

“Penalties”

Article (20) without prejudice of any stronger penalty stated in any other law...anyone who had provided false data or information about illegal gain aiming at causing harm to any third person is punished with a fine equals to the size of the harm or imprisonment for a period not more than three years.

Article (21) without prejudice of any stronger penalty stated in any other law... anyone who had gained illegal gain or facilitated that to another person is punished with imprisonment for a period not more than five years in addition to obliging him return what he gained as a result of that.

Article (22) The competent court should order the third person who benefited from illegal gain to return from his money to the public treasury all what he gained because of that.

Article (23) without prejudice of any stronger penalty stated in any other law... anyone who had provided false data in the asset declaration is punished with imprisonment for a period not more than a year.

Article (24) anyone who had abstained without a legal excuse or refrained from submitting the asset declarations after being informed about that according to the provisions of this law, will be punished with imprisonment for a period not more than six months, and in the case of repeating this the penalty will be dismissal from office, without violation of enforced laws.

Article (25) Everyone, who is responsible for the confidentiality of the asset declarations, and had disclosed declarations of those who are included in asset declaration, or disclosed data or illustrations or anything related to the confidentiality in this work, is punished with imprisonment for a period not more than a year and a compensation equal to the size of harm.

Article (26) the declarations and all documents and information related to them are considered confidential and it is allowed to copy or disclose them or make them seen by a third person whoever except the parties that are determined by the law.

Article (27) all those included in article (4) must send their declarations in sealed envelopes to the designated party that is legally authorized to receive them in a month time period of the date they became subject to the provisions of this law.

Article (28) If any increase happens in the assets of a person subject to this law as a result of utilizing the office or status or the work he is in charge of, he is to be referred to the parties authorized by the enforced laws for investigation and taking legal procedures.

Article (29) the Commission can have chapters or offices in the governorates, a presidential decision is to be taken for establishing them based on a suggestion from the head of the commission.

Article (30) the head of the commission issues administrative decisions and instructions and forms necessary to implement this law and its executive regulation.

Article (31) the executive regulation of this law is issued by a presidential decision.

Article (32) this law is effective on the date of issuance and is to be published in gazette.

Issued at republic presidency

On 25 Rajab 1427 h

19 August 2006

Ali Abdullah Saleh

President of the Republic

ANNEX IV: GUIDELINES ON ASSET DECLARATIONS

[unofficial translation by TI]

Republic of Yemen

Logo

Ref:

The Supreme National Authority for Combating Corruption

Date: [undated]

Guidelines

This asset declaration form includes (18) pages designed as follows:

Page number (1): A cover page that includes the name of the declaration submitter and the reference number for filing.

Second page: Instructions about writing the declaration that should be known before starting writing in order to avoid any mistakes. It is preferred to write data on an external paper before filling the form, and after making sure that the data to be declared is correct, the data is to be filled in the form in clear hand writing or typed in the provided spaces and each page should be signed by declaration submitter himself.

Page (3): Personal data of declaration submitter himself and his spouse and adult and minor children. In this page data should be written in full and details while it is enough to write name and work for the spouse, for children it is enough to write down the names of adult ones in the right side of the page and the names of the minor ones in the left side. It is meant by children both males and females listed in sequence according to age.

Fourth page: Includes data of income sources for the declaration submitter and should accurately be explained, and the cell where the declaration submitter has no income it should be written 'no income'. When adding any other incomes, it should be written in the space following 'other incomes' term and should be explained in name, currency and value, then the space should be closed by putting a closing line after writing down the data.

Page (5): Data about the income sources of the spouse of the declaration submitter, if she has incomes according to the explained data, the sources should be checked (ticked), and if there are other sources they should be written in spaces and if there are not any a 'there is no' term should be written for every type, then the page should be closed.

The same for page (6) of minor children.

Pages (7), (8), (9), (10) and (11): Data about immovable assets (lands and real estate possessed by the declaration submitter as well as his wife or his minor children in which the type of estate is determined (land, villa, apartment, building, or any other type of building), and the location should be

determined in which city, which neighbourhood, or village, and the possession document that is the purchase bill or land lease contract or other means of ownership like inheritance or gift, then the specifications should be determined which are: building kind (of stone or mud or bricks or concrete) and the type of usage (residential or commercial or industrial or other), then the area of the land (in *lebneh*³¹, meter, mile, or *shekle*³² or other according to the region of the real estate), and when the area is not known it should be estimated and written with 'nearly' added, then the borders from the four directions, then any notes that he was not able to write down or the cells of notes did not take.

Page (12): Data on movable assets that are possessed by the declaration submitter, these movables do not include furniture and ordinary home requirements, and they include cars, agricultural or industrial tools and machines, and high valued masterpieces, and include shares in big transportation means like carriers, locomotives, airplanes, ships, and other machineries, apparatus and movables beyond furniture and home requirements. The same for pages (13), (14) regarding spouse and minor children of declaration submitter.

Page (15): Data on money possessed by the declaration submitter at the time of declaration explained by value and type either by local or foreign currencies or gold or silver and other money in country or abroad.

The same for page (16) regarding spouse and page (17) regarding minor children.

Page (18): A confirmation by the declaration submitter testifying that written data in the form is correct and concluded by clear name of the declaration submitter and his signature and the date of writing the data.

Law No. 63 of 2012 "On Establishing an Anti-Corruption Commission"

Establishing the commission

Article (1)

In accordance with this law a public commission is to be established named (anti-corruption commission) that has an independent legal personality and a financial liability and enjoys administrative and financial independence and to have its own budget in the general budget of the state.

Article (2)

The headquarters of the commission is to be in Tripoli, and it will have chapters inside Libya upon a decision of the commission administrative council.

Article (3)

The commission is to have bylaws that organize its work which are issued by the commission administrative council.

³¹ Land area unit in Yemen

³² Land area unit in Yemen

The commission objectives

Article (4)

The commission aims at the following:

- 1- Uncovering habitats of corruption in all its forms and types including financial and administrative corruption
- 2- Establishing effective policies to prevent corruption and combating it in coordination with relevant bodies inside and abroad.
- 3- Taking necessary measures to prevent corruption and recovering funds and returns produced by it.
- 4- Contributing to adding names to the lists of seizure in accordance of the provisions of law number 36/2013 and amendment of law 47/2012 in regard to the management of funds and properties of some persons.

Receiving **asset declarations** and keeping them and requesting any data or explanations in relation to them.

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