

Income and Asset Declarations:

Using Financial Disclosure to Prevent, Detect and Prosecute Corruption

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Standards for Asset Declarations

- Declarations should be:
 - Not complex – makes it difficult for filer and investigator
 - Ask for material information
 - Ownership vs. purchase that year
 - Limit the number of categories (shares, bonds and other investment instruments)
 - Provide minimums (e.g. less than ID 100,000)
 - Anchored to law/code of conduct
- Should be filed:
 - Regularly – every year or two years
 - Reviewed when filed
 - Clear procedures for dealing with:
 - Errors vs. lies
 - Missing or late forms
 - Incomplete forms
 - Administrative discretion (death or divorce)

Criminal Conflict of Interest and Illicit Enrichment

- Prima Fascia Evidence
- Criminal Conflict of Interest
 - Bribery, trading influence, abuse of functions, money laundering and obstruction of justice
 - C of I is a generic category
- Illicit enrichment
 - Can be used to detect or,
 - In place of illicit enrichment laws
- Problem: Reversal of burden of proof
 - Purposely lying on Asset Declarations is made a crime
 - Easier to prove and prosecute than normal corruption

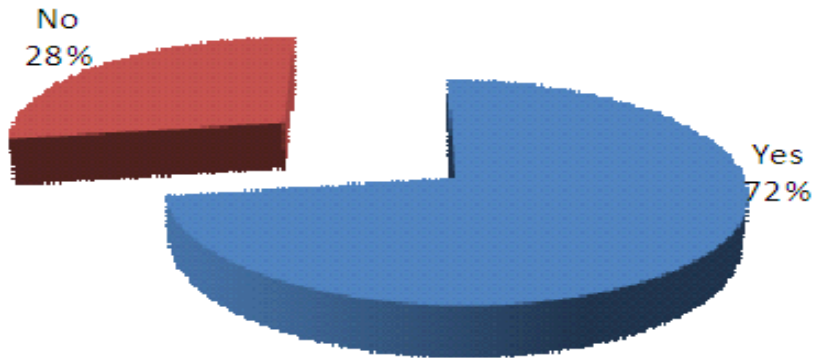
What is a Conflict of Interest?

- A person has a private or personal interest sufficient to appear to influence the objective exercise of his or her official duties as a public official.
 - Legal Obligations
 - Appearance of Conflict of Interest
- Parliamentarians:
 - Problem: A bundle of conflicts of interest
 - However, there must be a limit or boundary
- Judges and Prosecutors:
 - Balancing act between judicial independence and protecting judicial integrity
 - Duplantier, et. al vs. U.S. (1979)

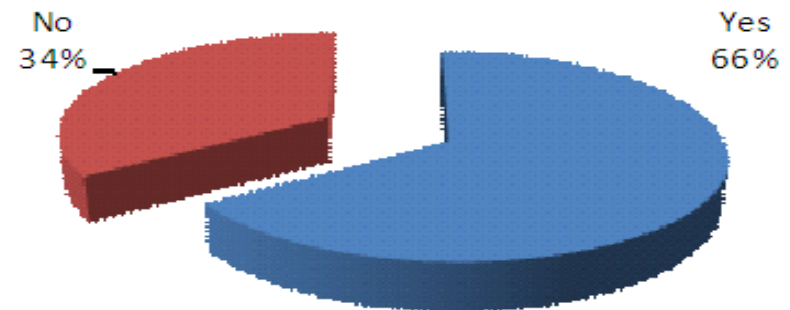
Data from ACA Study: 30 Authorities

[From study with F. Recanatini, Why Anticorruption Agencies Succeed and Why They Fail]

Financial Disclosure System to Help Prevent Conflicts of Interest



Is there a whistle-blowing legislation?



Freedom of information legislation



Does your country have conflict of interest legislation?



Objectives of an IAD System: preventing and detecting Illicit Enrichment (IE) & Conflicts of Interest (COI)

Illicit Enrichment

IE systems capture information about assets to monitor changes in wealth

IAD serves to flag unusual behavior and assist in the **prevention, investigation & prosecution** of underlying **corrupt acts**

Conflicts of Interest

COI systems work with officials to identify situations that present a risk of actual or perceived conflict of interest

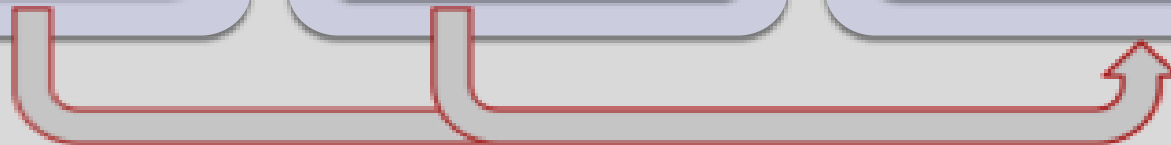
COI systems capture information about sources of income, membership of boards, ownership of shares etc

IAD serves to assist the filer in preventing potential COI.

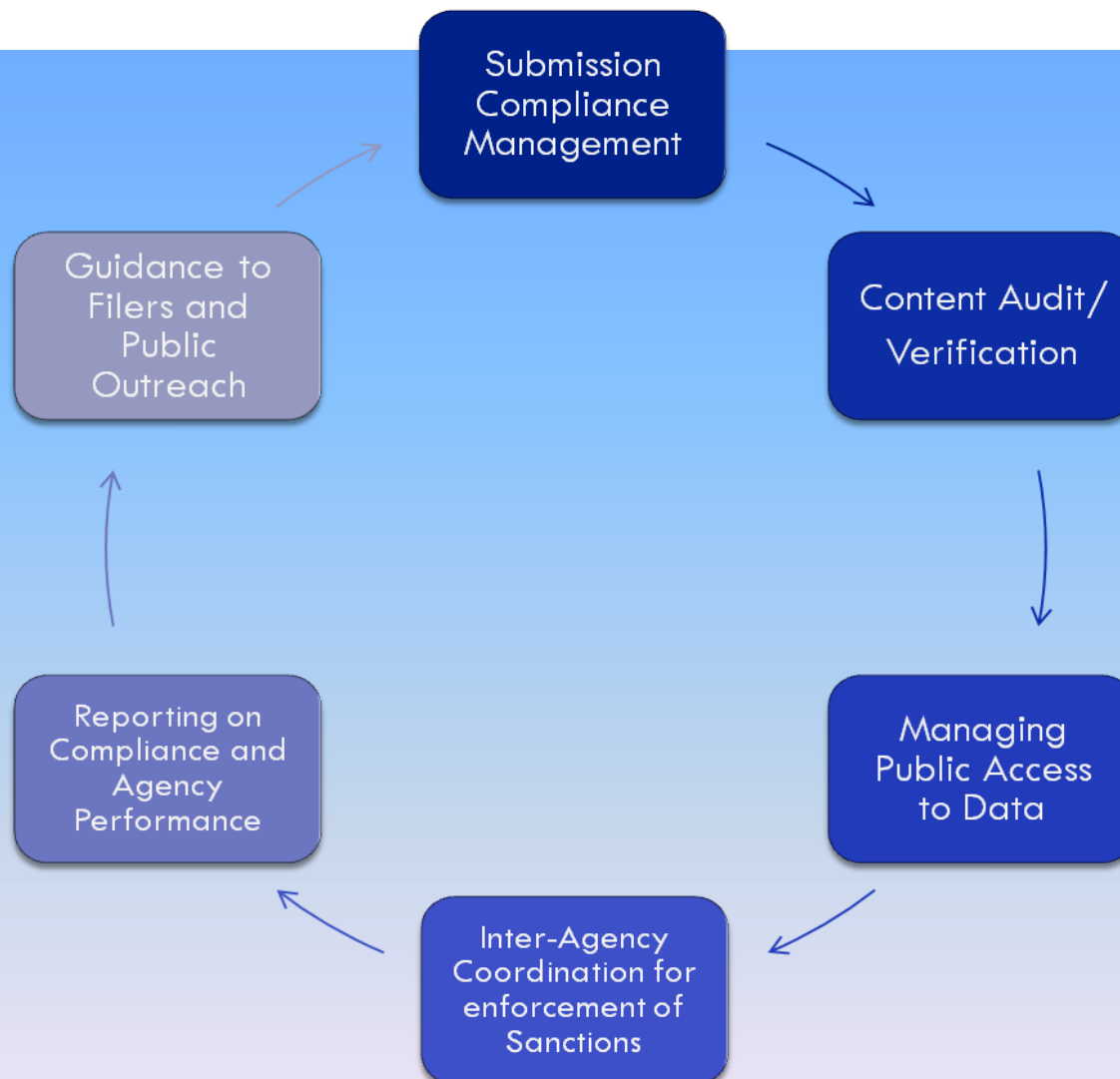
Dual Objective

Most systems combine elements of both COI and IE

Particular care must be taken not to compromise the advisory role of a COI system when implementing dual objective systems



Core Functions of an IAD Agency



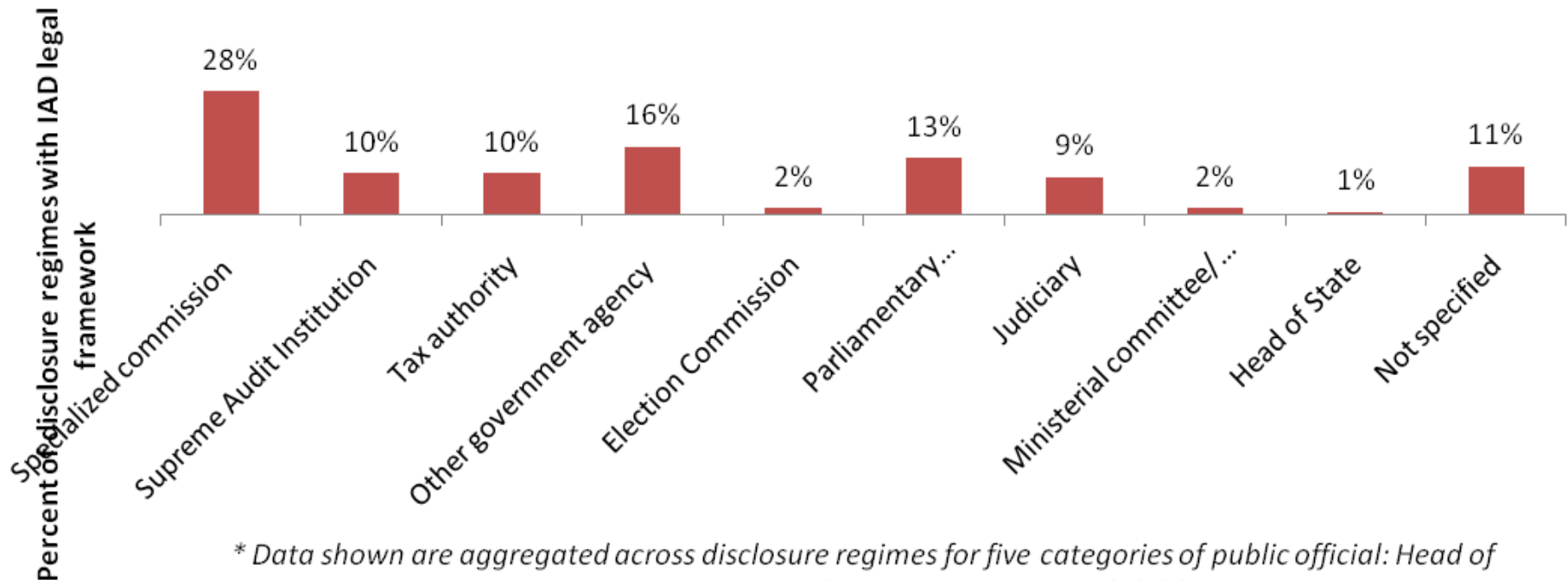
Types of Col Laws Applied to Different Categories of Filers:

Note Gap Between IAD and Col



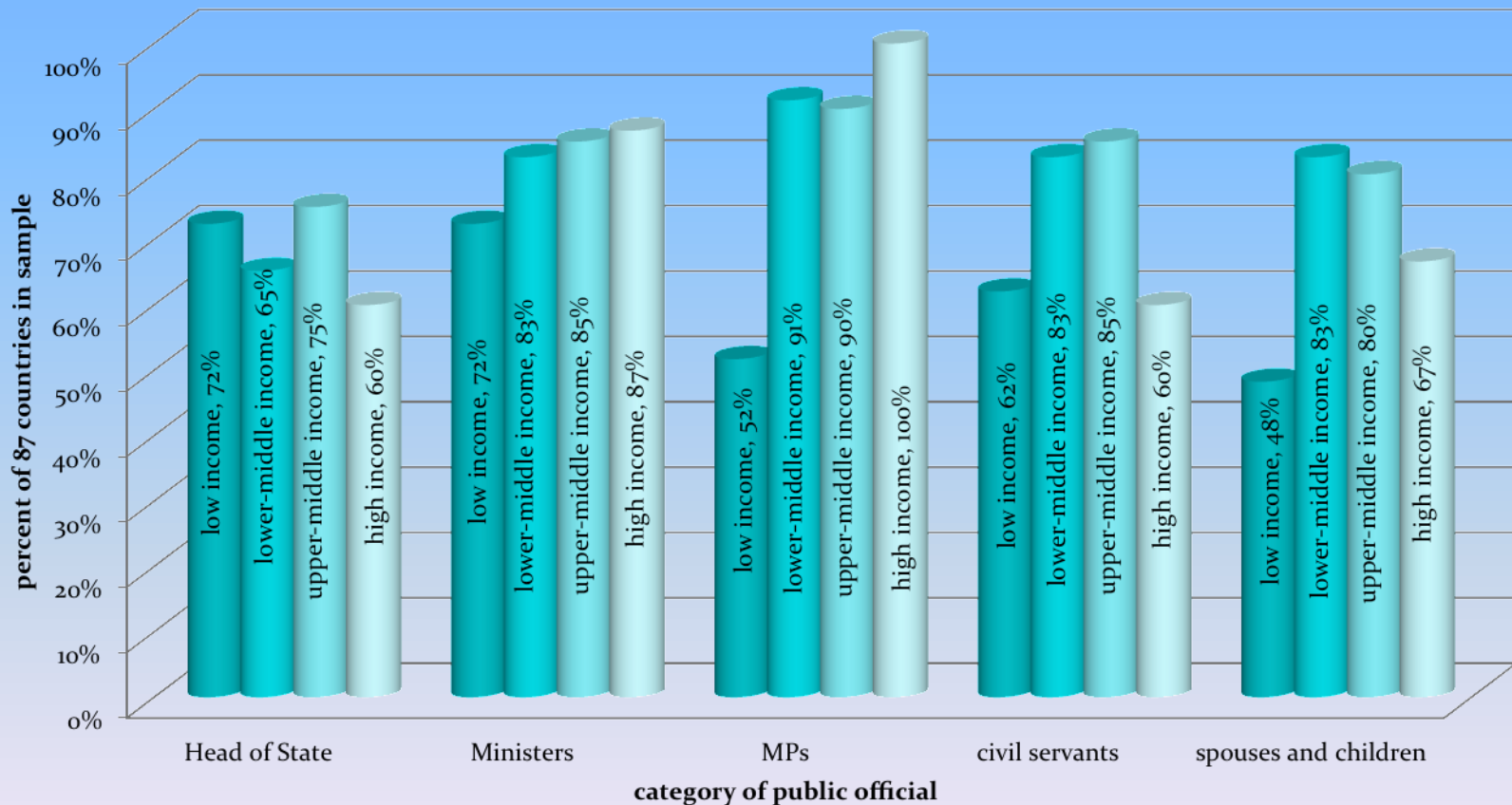
Types of Agency with Responsibility for Managing Declarations

Which agency is responsible for receiving declarations?*

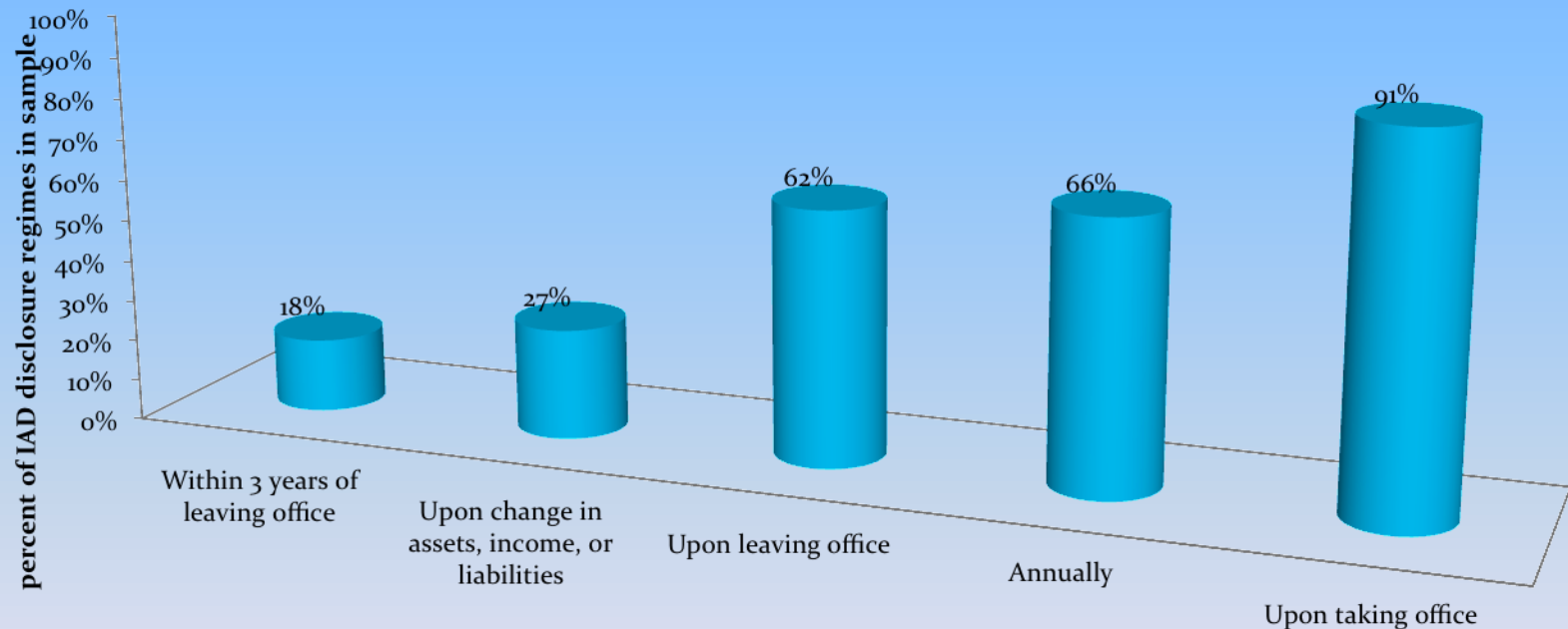


* Data shown are aggregated across disclosure regimes for five categories of public official: Head of state, Ministers, MPs, civil servants, spouses and children

Coverage of IAD Frameworks by WB Country Income Classification



Frequency of Filing requirement



Procedures for Submission and Receipt of Declarations (case studies)

	Argentina	Croatia	Guatemala	Hong Kong SAR	Indonesia	Jordan	Kyrgyz Republic	Mongolia	Rwanda	Slovenia	United States
Total number of declarations filed	36,000	1,800	12,000	N/A	116,451	4,117	18,000	52,800	4,900	6,300	19,000+
Administrative structure of submission process	Both	Centralized	Centralized	Delegated	Delegated	Centralized	Both	Delegated	Centralized	Centralized	Delegated
Filing form is available in hard copy (H) and/or electronically (E)	E	E	H	H	E/H	H	E/H	E/H	E/H	E	E/H
Declaration is submitted electronically through an online form	Yes	No	No	No	No	No	No	No	No	No	No
Type of IAD content stored electronically by agency	All information	None	All information	None	All information	Personal information	All information	Totals for categories	All content from audited cases	Personal information	Varies by agency
Whether IAD forms are subject to a check for completeness (upon submission)	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes

Information and Communication Technology Use (case study findings)

	Argentina	Croatia	Guatemala	Hong Kong SAR	Indonesia	Jordan	Kyrgyz Republic	Mongolia	Rwanda	Slovenia	United States
Form available online	P				P		P	P	P		P
Online submission	P										◊
Database management software used for verification	P				P		?	P			
Electronic data storage - personal data	P	P	P	P	P	P	P	P	P	P	
Electronic data storage - financial data	P	P	P		P		P	P	P		
Online publication - IAD data	P	P	?	P	?		P			P	
Online publication - compliance data	P			P			P	P	P	P	P
Note: ◊ Used in some agencies.											

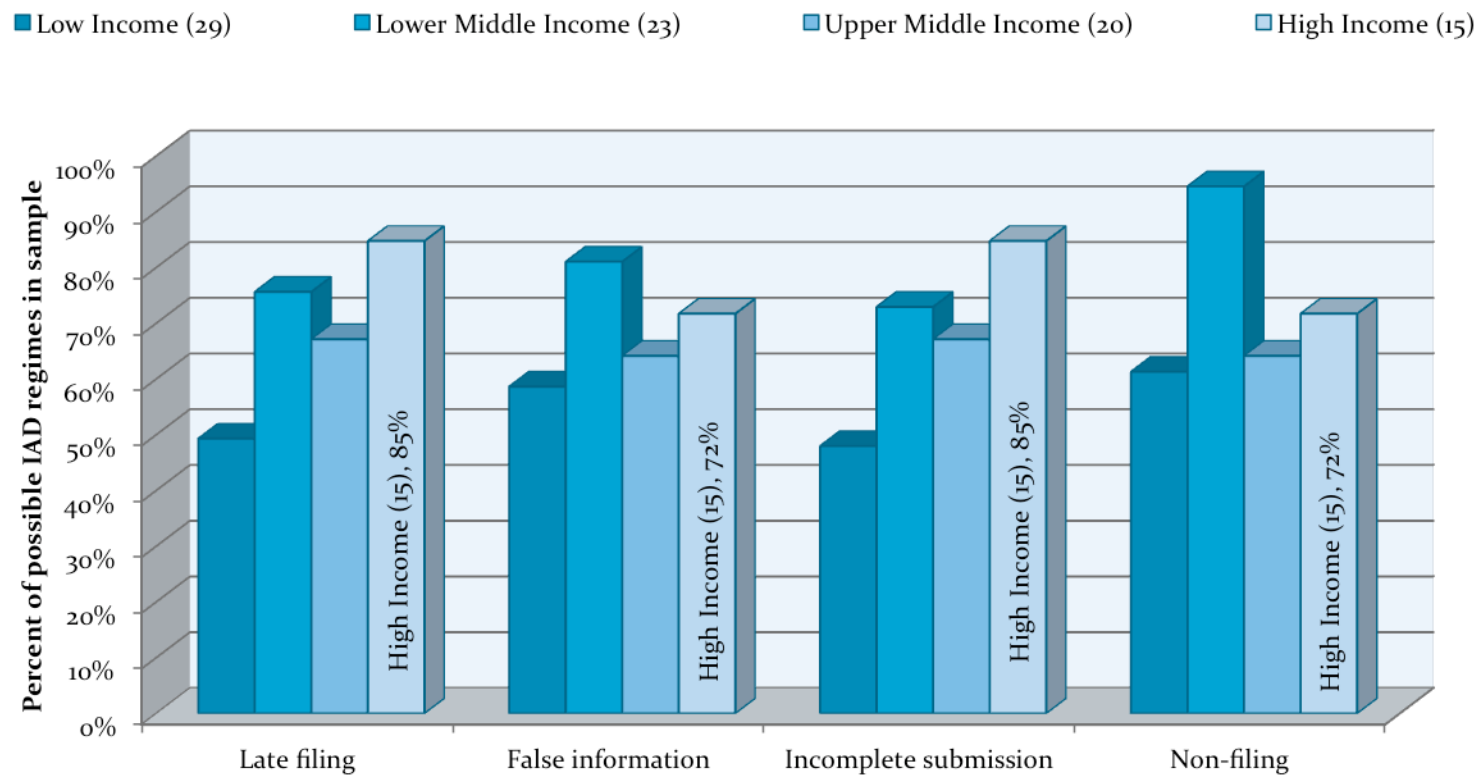
Approach to Verification: Case Study

	Argentina	Croatia	Guatemala	Hong Kong SAR	Indonesia	Jordan	Kyrgyz Republic	Mongolia	Rwanda	Slovenia	United States
Does the agency analyze declarations for conflicts of interest?	Yes	No	No	Yes	No	No	No	No	No	Yes	Yes
Does the agency systematically verify declarations for accuracy?	Yes	No	Yes	No	Yes	No	No	No	Yes	Yes	No
Method of selection for verification: Targeted or random	Targeted	—	Targeted	—	Targeted	—	—	—	Targeted / Random	Random	—
Declarations are verified for accuracy upon complaint	Yes	Yes	No	No	Yes	Yes	No	Yes	No	Yes	No
Total percentage of declarations that are systematically verified for accuracy (2008 / 2009)	7%	0%	0%	0%	1–5%	0%	0%	2%	6%	33%	0%
Ratio of total number of declarations to number of declarations automatically verified for accuracy	$\frac{36,000}{2,520}$	$\frac{1,800}{0}$	—	—	$\frac{116,456}{1,000-6,000}$	—	—	$\frac{52,800}{1,056}$	$\frac{4,900}{294}$	$\frac{6,300}{2,079}$	—
Does the system provide an opportunity for civil society to access declaration content?	Yes	Yes	No	Yes	Yes	No	Yes	Yes	No	Yes	Yes

Purpose and Methods of Verification in a Sample of IAD Systems (case study countries)

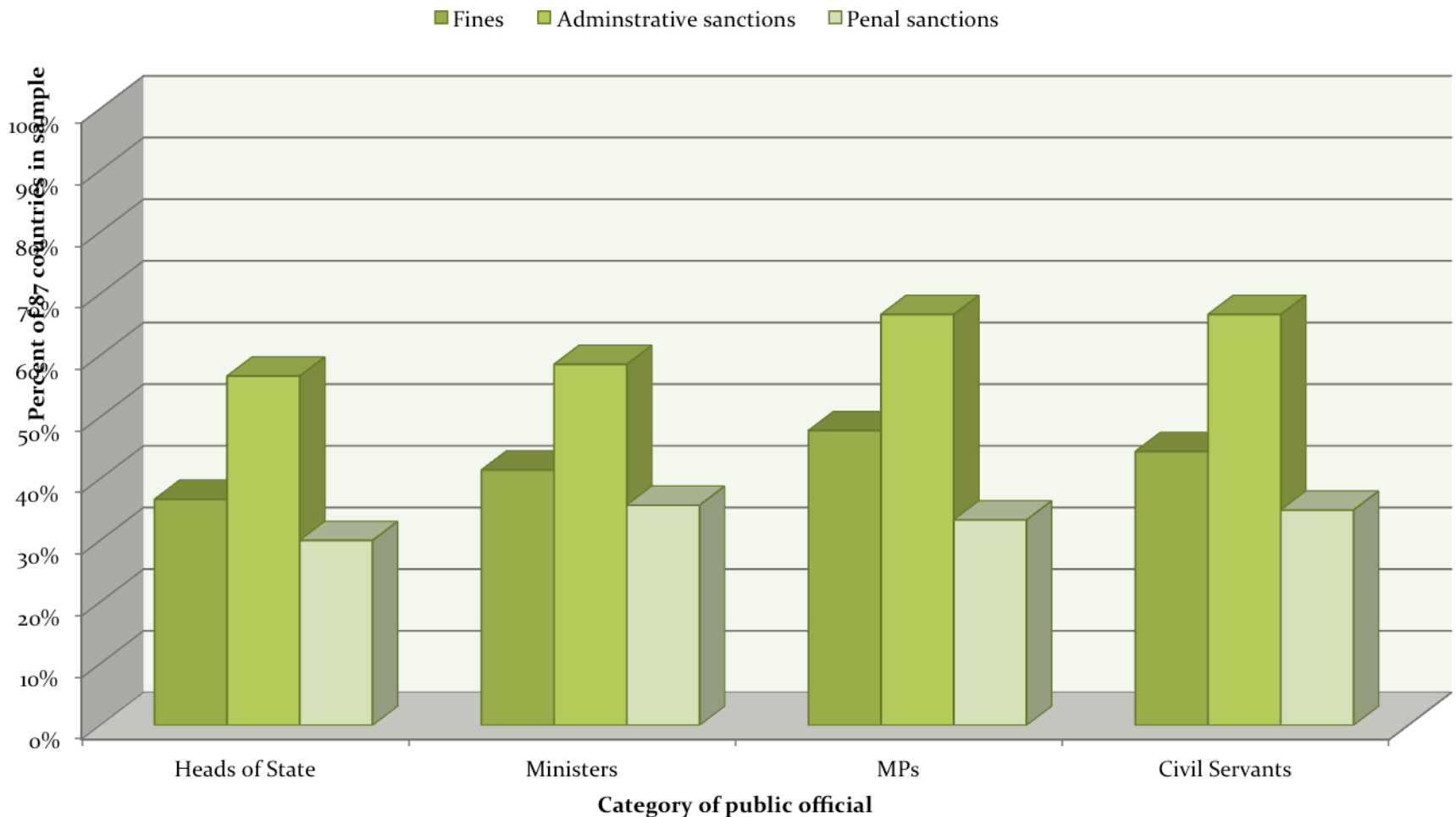
	Argentina	Croatia	Guatemala	Hong Kong SAR	Indonesia	Jordan	Kyrgyz Republic	Mongolia	Rwanda	Slovenia	United States
Check for incompatibilities of function	P	?	?	P	?	?	?	?	P	P	P
Check for internal consistency within one declaration	P	?	?	?	P	?	?	P	P	P	?
Compare over time two or more declarations from the same filer	P	?	?	?	P	?	?	P	P	?	?
Cross-check declarations with external records (vehicle and land registries, tax authority, etc.)	P	?	P	?	P	?	?	P	P	P	?
Conduct lifestyle checks	?	?	?	?	?	?	?	P	P	?	?
Use public access and allegations/complaints to trigger an investigation	P	P	?	?	P	?	?	?	?	?	?

Sanctions Stipulated by Law for Filing Violations (87 countries)



Sanctions Stipulated for Non-filing by Category of Public Official (87 Nations)

Sanctions stipulated for non-filing by category of public official



Sanctions for IAD violations

A violation of the IAD requirement should result in sanctions. These should be:

Proportional

A range of sanctions (administrative and criminal) should be applicable and proportional to the offense

Enforceable

Sanctions should be enforceable and consistently enforced
A range of serious administrative sanctions may be preferable in countries where the courts are slow or unwilling to prosecute corruption cases

Visible

Data on the enforcement of sanctions should be communicated to filers and to the public

What does an Effective Asset Declaration System Look Like?

- The Country of Georgia:
- <http://csb.gov.ge/en/asset-declarations>
- 2013 United Nations Award Winner for Best Innovation in Public Service (UNPAN)

U.S.A. Approach to Disclosing Categories of Assets (SF-278)

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