

## **FROM PAPER TO PRACTICE: ENHANCING PUBLIC SECTOR ACCOUNTABILITY IN AFRICA THROUGH REFORM OF WEALTH DECLARATION REGIMES**

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### **ABSTRACT**

*Wealth declaration by public officials has been globally embraced as an accountability tool in public service. The United Nations Convention Against Corruption (UNCAC) requires member states to establish structures and frameworks for assets disclosure by public officials. This is an accountability mechanism geared towards enhancing good governance and the fight against corruption across the continent and within the African states. Globally, African countries have maintained a conspicuous lead in the ratification of UNCAC and subsequent establishment of wealth declaration systems. Despite continued implementation of these frameworks in the pursuit of public sector accountability, corruption and low levels accountability in the public sector remain a dominant challenge in most African countries. This raises the question of the effectiveness of the wealth declaration systems including their design and mode of application. This paper seeks to establish why wealth declaration systems have largely failed in Africa and recommends reform measures to enhance their accountability objectives, drawing best practice from countries that have registered notable success.*

*Key words: Africa Governance, public sector accountability, wealth declaration, grand corruption, assets disclosure, conflict of interest.*

### **INTRODUCTION**

The quest for public sector accountability in Africa has been elusive for decades. This is despite existence of an aura of elaborate legal, administrative and other mechanisms established to

address the accountability paradox. The subject continues to dominate the academic, political, legal and general public debates. One common thread in these debates is that there is no short supply of accountability mechanisms put in place and consistently reviewed by national government regimes of the African states. There is also a general consensus that whereas corruption is a serious governance challenge across the globe, it is more pronounced in African countries with little or no consequences for its practice.<sup>1</sup>

Poor implementation and enforcement of accountability mechanisms stand out as the main obstacle to the realization of good governance in Africa.<sup>2</sup> Notably, majority of countries outside Africa, with comparably less stringent accountability mechanisms, far much outweigh African countries in good governance practices. This points to a serious problem concerning the design and implementation of accountability mechanisms in African countries.

Wealth declaration systems constitute one of the key global accountability tools that have enjoyed universal application in Africa.<sup>3</sup> Despite the existence of wealth declaration frameworks in African countries, there has been little or no success in the quest to realize their intended accountability objectives. This is evidenced by the rampant cases of corruption in Africa which is the primary manifestation of low level of accountability in the public sector.<sup>4</sup>

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<sup>1</sup> Okoth-Ogendo, H.W.O. (1999) “The Quest for Constitutional Government,” in Goran Hyden, Dele Olowu and Okoth-Ogendo H.W.O. (eds) *African Perspectives on Governance*, 33–59, Trenton, New Jersey, Africa World Press.

<sup>2</sup> The World Bank (2013) “What is Good Governance?” at <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/MENAEXT/EXTMNAREGTOPGOVERNANCE/0..contentMDK:20513159~menuPK:1163245~pagePK:34004173~piPK:34003707~theSitePK:497024,0,0.html> (last accessed 20 May 2020).

<sup>3</sup> Pierrem, Jean Brun Larissa Gray, Clive Scott & Kevin Stephenson (2011) “*Asset Recovery handbook: A guide for practitioners*” The International Bank for Reconstruction and Development: Washington.

<sup>4</sup> Nicholls, Colin, Tim Daniel, Martin Polaine & John Hatchard (2004) “Corruption and Misuse of Public Office,” Oxford University Press, Oxford New York.

The prevalence of the scourge of corruption in Africa is evidenced by *inter alia* consistent poor rating in the global surveys conducted over the years. For instance, in the 2019 Transparency International Corruption Perceptions Index (CPI), Africa scored an average of 32 out of 100 points.<sup>5</sup>

This paper therefore, critically examines the wealth declaration systems in Africa vis-à-vis best practice in countries that have registered notable success with a view to establishing why wealth declaration has largely failed as an accountability tool in Africa. The gaps identified in the paper inform key recommendations for reform of the wealth declaration frameworks.

The countries under focus are cited for their various weaknesses or strengths, and they include Ghana, South Africa, Kenya, Nigeria, Niger, Rwanda, Tanzania, Cameroon and Uganda. These countries have arguably had in place comprehensive wealth declaration frameworks but the challenge of corruption continues to thrive. Like other African countries, they are consistently ranked poorly in comparison to countries such as France, USA, Hong Kong, Philippines, Romania and Ukraine which have registered relative success in the implementation of the wealth declaration strategy.

In the end, the paper draws lessons from a case study of the Ukraine's wealth declaration system which has been lauded as one of the most comprehensive systems and makes recommendations on the measures that are necessary to enhance effectiveness of wealth declarations in Africa.

The research method used in this study is qualitative analysis of available literature. This involved review of law and policy as well as literature from various books, book chapters,

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<sup>5</sup> Transparency International (2019) "Corruption Perception Index," [https://www.transparency.org/whatwedo/publication/corruption\\_perceptions\\_index\\_2018.Ac](https://www.transparency.org/whatwedo/publication/corruption_perceptions_index_2018.Ac) (accessed 20/3/2020). See also Transparency International (2018) "Corruption Perception Index," [https://www.transparency.org/whatwedo/publication/corruption\\_perceptions\\_index\\_2018](https://www.transparency.org/whatwedo/publication/corruption_perceptions_index_2018). (last accessed 20 March 2020). See also Patrick Lumumba "Corruption: The Bane of Africa" in Elizabeth Nduku and John Tenamwenye (ed), *Corruption in Africa: A Threat to Justice and Sustainable Peace* (2014), Globalethics.net Focus No. 14, Geneva, Pages 17-46.

journals, articles, Government reports and development blue prints that cover the subject and theme of the study.

### **THE CONCEPT OF PUBLIC SECTOR ACCOUNTABILITY**

Public officials hold their offices in trust for the citizens who have entrusted them with management of public affairs. They are therefore accountable to the citizens for their actions.<sup>6</sup> Indeed upon assumption of public office, the holders ought to consider themselves to be “public property”. This connotes that holders of public office are public trustees who only exercise delegated authority and as such, they are bound to champion public interest in all their undertakings.<sup>7</sup>

The question as to what exactly constitutes public sector accountability remains a subject of scholarly debate. Public accountability has been defined as “the requirement that those who hold public trust should account for the use of the trust to citizens or their representatives”<sup>8</sup>. It also refers to “sanctions and procedures by which public officials may be held to account for their actions.”<sup>9</sup>

This paper contends that for a public sector to be said to be accountable, at least five essentials must exist. First, that public services are delivered with reasonable efficiency, effectiveness, responsiveness, fairness and equity. Second, public officials uphold integrity in the discharge of those duties and consider themselves servants as opposed to rulers of the citizenry. Third, there are effective reward schemes for accountable public officials and sanctions for those who breach public trust. Fourth, public officials put public interest ahead of their private, sectarian or other interests. Fifth, there is continuous review of institutional systems to address emerging challenges and incorporate best practice from well performing jurisdictions.

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<sup>6</sup> Dele Olowu (1993) “Organizational and Institutional Mechanisms for Enhancing Accountability in Anglophone Africa: A Review,” in S Rasheed and D Olowu, eds. *Ethics and Accountability in African Public Service*. Addis Ababa. UNICA and AAPAM.

<sup>7</sup> OECD (2013) “Trust in government, policy effectiveness and the governance agenda,” available at [https://www.oecd-ilibrary.org/docserver/gov\\_glance-2013-6-en.pdf?expires=1586809772&id=id&accname=guest&checksum=487DABA31D1E496C5B31D8C3AB124EBF](https://www.oecd-ilibrary.org/docserver/gov_glance-2013-6-en.pdf?expires=1586809772&id=id&accname=guest&checksum=487DABA31D1E496C5B31D8C3AB124EBF) (last accessed 11 May 2020).

<sup>8</sup> Yousueng Han and Mehmet Akif “Accountability, Politics, and Power,” Springer International Publishing AG 2016.

<sup>9</sup> Mouftau Laleye (1993) “Mechanisms for enhancing Ethics and Public Accountability in Francophone Africa” in S Rasheed and D Olowe eds. *Ethics and accountability in African Public Service*. Addis Ababa. UNICA and AAPAM.

## **ROLE OF WEALTH DECLARATION SYSTEMS IN THE QUEST FOR PUBLIC SECTOR ACCOUNTABILITY**

Wealth declaration systems have been globally adopted as an accountability tool in public service.<sup>10</sup> This is in line with UNCAC which stipulates that all signatories to the Convention should put in place structures and frameworks to compel public officials to report “to appropriate authorities their outside activities, employment, investments, assets and substantial gifts of benefits.”<sup>11</sup> Different countries have therefore established diverse assets disclosure mechanisms although most of them bear similar core principles. The systems constitute a global accountability mechanism that is applied in the prevention of illicit enrichment by public officers using their positions of trust over public resources.<sup>12</sup> Whereas there are other public sector accountability measures such as monitoring financial transactions of public officers in foreign countries,<sup>13</sup> wealth declarations stand out as a universal mechanism.

The adoption of the United Nations Convention against Corruption (UNCAC) by the UN General Assembly in 2003 renewed international focus on public sector accountability. At the regional levels, Council of Europe Code of conduct for public officials requires that “a public official who occupies a position in which his or her personal or private interests are likely to be affected by his or her official duties should, as lawfully required, declare at regular intervals.”<sup>14</sup>

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<sup>10</sup> See World Bank, Public Sector and Governance Group (2013) “Financial disclosure systems declarations of interests, income, and assets,” at <https://agidata.org/pam/> (accessed 6 January 2020).

<sup>11</sup> Article 8 of the United Nations Convention Against Corruption (UNCAC).

<sup>12</sup> Mathew Jenkins (2015) “Income and Asset Disclosure Topic Guide,” Compiled by the Anti-Corruption Helpdesk, Transparency International. See also Dominic Burbidge (2015) *The Shadow of Kenyan Democracy: Widespread Expectations of Widespread Corruption*.

<sup>13</sup> For example in Kenya, monitoring of bank accounts held outside Kenya is provided for under Article 76(2)(a) of the Constitution as read with Section 19 of the Leadership and Integrity Act, 2012 (LIA) and Part IV of the Leadership and Integrity Regulations, 2015. Similarly, in Nigeria, public officers in are prohibited from operating or maintaining foreign bank accounts under the Code of Conduct Tribunal Act.

<sup>14</sup> Council of Europe (2000) “Recommendations (2000) of the Committee of Ministers to Member States in Codes of Conduct” available at <https://rm.coe.int/16806cc1ec> (last accessed 13 April 2020).

Similarly, the African Union Convention on preventing and Combating Corruption commits member states to *inter-alia* require ‘all or designated public officials to declare their assets at the time of assumption of office, during, and after their term of office in the public service, in order to combat corruption and related offences in the public service.’<sup>15</sup>

Different countries have therefore established diverse measures at the international, regional and domestic levels in the pursuit of public sector accountability. These initiatives are geared towards protecting public trust by championing both personal integrity of public officials and institutional integrity focusing on public service delivery systems.

Some of the key measures adopted across the globe include domestication of international conventions, enactment of anti-corruption laws and establishment of accountability institutions. According to World Bank, more than 150 countries have introduced a system of assets and or interest disclosure systems for public officials.<sup>16</sup> Assets and interests disclosure systems serve as an important tool to prevent conflict of interest and illicit enrichment, improve integrity and promote accountability of public officials.<sup>17</sup> It is acknowledged that wealth declaration systems, if applied properly, have the potential to deter public officials from engaging in corruption, and can serve as a reliable investigation tool to uncover and prosecute corruption and illicit enrichment. Notably, there are two types of disclosure systems: First, those which focus on declaration of conflict of interest in order to flag up and manage potential conflicts of interest among public officers.<sup>18</sup> Second, those which provide for disclosure of the income and assets of public officials as a mechanism for preventing illicit enrichment<sup>19</sup>

<sup>15</sup> Article 7 of the African Convention on Combating and Preventing Corruption.

<sup>16</sup> Rossi Ivana, Laura Pop, and Tamar Berger (2017) “Getting the full picture on public officials: A How –To-Guide for Effective Financial Disclosure” Stolen Asset Recovery (StAR) Series, Washington,DC. WorldBank.doi.10.1596/978-1-4648-0953-8.

<sup>17</sup> StAR (Stolen Asset Recovery Initiative) 2012 “Public Office, Private Interests. Accountability through Income and Assets Disclosure” Washington, DC: World Bank DOI:10.1596/978-0-8213-9452-6.

<sup>18</sup> Richard Messick (2009) “Income and assets declarations: Issues to consider in developing a disclosure regime,” Anti-Corruption Resource Centre, Paper prepared for Conference on Evidence-Based Anti-Corruption Policy organised by Thailand’s National Anti-Corruption Commission (NACC) in collaboration with the World Bank, 5 – 6 June 2009, Siam City Hotel, Bangkok, Thailand.

<sup>19</sup> Mathew Jenkins (2015) “Income and Asset Disclosure Topic Guide.”

The principal goal of income and asset disclosure systems is to combat corruption.<sup>20</sup> Assets declarations have been said to serve at least three inter related purposes: First, to increase transparency and the trust of citizens in public administration. Second, to help heads of public institutions prevent conflicts of interest among their employees and resolve such situations when they arise, in order to promote integrity within their institutions. Third, to monitor wealth variations of individual politicians and civil servants, in order to dissuade them from misconduct and protect them from false accusations, and to help clarify the full scope of illicit enrichment or other illegal activity by providing additional evidence.

Available literature indicates that an effective income and assets declaration regime can enhance the fight against corruption as it can control abuse of power and increase public accountability.<sup>21</sup> According to study reports, levels of corruption are perceived to be lower in countries where there are frameworks for disclosure of wealth and assets, subsequent verification and public access to the said declarations.<sup>22</sup> Prevention of illicit enrichment through wealth declaration is realized through monitoring of the periodic declarations by public officers through systematic analysis of the data collected from the declarations forms. This is a confirmation that wealth declaration systems accompanied with effective management can play a significant role in enhancing transparency and accountability, and reducing corruption.<sup>23</sup>

## **INTERNATIONAL BEST PRACTICE ON WEALTH DECLARATION SYSTEMS**

The United Nations Convention Against Corruption (UNCAC) which provides the foundation for wealth declaration systems does not prescribe any standards for universal application. There is therefore generally no best practice that can be identified for wealth declaration laws. Laws that anchor wealth declaration frameworks are tailored according to each country's specific

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<sup>20</sup> World Bank (2016) "Asset Declarations: A Threat to Privacy or a Powerful Anti-Corruption Tool?" available at <https://www.worldbank.org/en/news/opinion/2016/09/26/asset-declarations-a-threat-to-privacy-or-a-powerful-anti-corruption-tool> (last accessed 18 May 2020).

<sup>21</sup> Marie Chêne (2008) "African experience of asset declarations," *Transparency International*, at <https://www.u4.no/publications/african-experience-of-asset-declarations.pdf> (last accessed 12 April 2020).

<sup>22</sup> Richard Messick (2009) "Income and assets declarations: Issues to consider in developing a disclosure regime," Anti-Corruption Resource Centre, Paper prepared for Conference on Evidence-Based Anti-Corruption Policy organised by Thailand's National Anti-Corruption Commission (NACC) in collaboration with the World Bank, 5 – 6 June 2009, Siam City Hotel, Bangkok, Thailand.

<sup>23</sup> Ruxandra Burdescu, Gary Reid, Stuart Gilman and Stephanie Trapnell (2009) "Income and Asset Declarations: Tools and Trade-offs," World Bank Stolen Asset Recovery (StAR) Initiative, at [https://www.unodc.org/documents/corruption/Publications/StAR/StAR\\_Publication\\_-\\_Income\\_and\\_Asset\\_Declarations.pdf](https://www.unodc.org/documents/corruption/Publications/StAR/StAR_Publication_-_Income_and_Asset_Declarations.pdf) (last accessed 12 April 2020).

circumstances. The design of wealth declaration laws depends on different social, historical and political factors, as well as resources available in each member state to UNANC.

Globally, efficacy of wealth declaration regimes largely depends on the policy, legal and institutional frameworks that inform the regulation and management of the declarations. The law and policy inform how and when the declarations are submitted, agencies to manage declarations, storage, verification and access. The legal regime therefore, plays a key role in enhancing accountability and transparency of the declarations made by public officers.<sup>24</sup> There are no prescribed standards on what type of information should be disclosed, what type of agency to receive and verify the declarations and whether or not this information should be made available to the public.

Nevertheless, there are general principles core which can be learnt and adopted as best practice from countries whose wealth declaration regimes have registered relative success. Core principles adopted by countries with declarations regimes include: content of declarations, conflict of interest rules, frequency of filing declaration, type of information to be declared, monitoring and enforcement, sanctions and availability of information to the public.<sup>25</sup>

Countries have made various efforts towards ensuring that they wealth declaration regimes are effective. One of such methods to ensure effectiveness and efficiency is to embrace electronic filing (e-filing) system for declarations. The electronic system has been lauded for its numerous advantages, which include the fact that it is a simple means of verification. Electronic systems also cover broader types of declarants.<sup>26</sup> Moreover, an electronic system eases analysis and verification and improves data management and security.<sup>27</sup>

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<sup>24</sup> World Bank Public Sector and Governance Group (2013) “Financial disclosure systems declarations of interests, income, and assets,” available at <https://agidata.org/pam/> (accessed 6/04/2020).

<sup>25</sup> Richard Messick (2009) “Income and Assets declarations to consider in Developing Disclosure Regime,” U4 Ant-Corruption Resource Centre Publication.

<sup>26</sup> Blerta Cela (2018) “Electronic Asset Declarations for Public Officials – two years after its launch. A panacea against corruption?” available at <https://www.ua.undp.org/content/ukraine/en/home/blog/2018/the-expectations-and-reality-of-e-declarations.html> (last accessed 24 May 2020).

<sup>27</sup> Dmytro Kotlyar and Laura Pop (2019) “E-filing Asset Declarations: Benefits and Challenges,” *International Bank of Reconstruction and Development, World Bank*.

Other benefits attributed to electronic filing include; convenience for declarants; better data and improved security; more effective review and enforcement; increased transparency and public accountability and ease of retrieval of forms and comparison. It has also been noted that an electronic system allows for easy monitoring of public officer's wealth, and provides quick notification on unusual increase on public officer's wealth which can easily trigger investigations. The misgivings expressed for the electronic system include; initial high costs for the system, capacity issues and privacy concerns. However, the benefits have been said to outweigh the concerns raised.

Among the countries that have digitized their wealth declarations include; Argentina, Bhutan, Chile, Costa Rica, Estonia, France, Georgia, Indonesia, Republic of Korea, Kyrgyz Republic, Latvia, Lithuania, Mexico, Mongolia, Serbia, Slovenia, Ukraine and USA, Rwanda and Uganda. Among the stated countries, USA, France and Ukraine have noted remarkable improvements and transparency in electronic filing. It is therefore, necessary to highlight the declaration regimes in the three stated countries.

In France, the Asset disclosure system is regulated by the 2013 law on transparency in public life administered by High Authority for transparency in public life. The online declaration was introduced in 2016 and declarant's mobile phone number and email number is used for registration. The online system has seen an increase in declarations from 10,000 to 15,800 declarations.

The United States has also embraced an electronic system, however, there is no centralized submission system and each branch of government uses its own system known as Integrity, under Ethics Government Act. The United States office of Government Ethics is responsible for establishing and supervising the public financial disclosure program for the Executive since 1978. However, the electronic filing system was introduced in the year 2012 and has been embraced by one hundred government agencies.

Experience from wealth declaration frameworks that have been identified as effective reveals that the systems have mechanisms for monitoring of any unusual fluctuation of wealth and acquisition of large investments by public officers. This facilitates timely detection of corrupt acquisition of property and timely remedial measures as opposed to where law enforcement

agencies would wait until the next declaration year in order to detect irregularities.<sup>28</sup> For instance, in Hong Kong, a public officer is obliged to disclose a large investment within seven days of acquisition.

Similarly, in Ukraine, public officers are required to notify the National Agency in case of significant change in their assets situation within ten days from the receipt of income or purchase of property. The Hong Kong's disclosure regime which has been able to record 100 per cent compliance rate by public officials<sup>29</sup> is also recognized for designation of technical ethics officers to Government departments to implement the system. The system is directed by Civil Service Bureau (CBS) under oversight of the Independent Commission Against Corruption (ICAC). The Hong Kong's institutional framework ensures that Government departments and public officials are equipped with capacity to comply with the declaration requirements.

Ukraine has made significant milestones in the implementation of its assets disclosure system which is regarded as one of the most effective in the world. The regime was established in 2015 through enactment of the Law on Prevention of Corruption (LPC). This legislation focuses on prevention of conflict of interest of public officials, monitoring of variations of wealth and detection of illicit enrichment. The wealth declaration system is managed by the National Agency for Corruption Prevention and has significantly increased transparency and accountability in Ukraine.<sup>30</sup> The Ukraine's system has been lauded as comprehensive in design and has achieved notable success thus making it a good case study for African countries.<sup>31</sup>

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<sup>28</sup> See Richard Messick (2009) "Income and assets declarations: Issues to consider in developing a disclosure regime," Anti-Corruption Resource Centre, Paper prepared for Conference on Evidence-Based Anti-Corruption Policy organised by Thailand's National Anti-Corruption Commission (NACC) in collaboration with the World Bank, 5 – 6 June 2009, Siam City Hotel, Bangkok, Thailand. See also Mathew Jenkins (2015) "Income and Asset Disclosure Topic Guide."

<sup>29</sup> World Bank (2013). *Income-and-Asset-Disclosure-Case-Study-Illustrations*. <http://documents.worldbank.org/curated/en/664561468340842190/pdf/Income-and-asset-disclosure-case-Study-illustrations.pdf> (last accessed 23 December 2019).

<sup>30</sup> Kateryna Boguslavska (2016) "Full Disclosure: Tackling Public Corruption in Ukraine" available at <https://www.chathamhouse.org/expert/comment/full-disclosure-tackling-public-corruption-ukraine> (last accessed 24 May 2020).

<sup>31</sup> Alessandra Prentice (2016) "Ukrainians shocked as politicians declare vast wealth" (October 31, 2016), available at <https://www.reuters.com/article/us-ukraine-crisis-corruption/ukrainians-shocked-as-politicians-declare-vast-wealth-idUSKBN12V1EN> (last accessed 24 May 2020).

## **CASE STUDY OF THE WEALTH DECLARATION SYSTEM OF UKRAINE**

Ukraine's wealth declaration system embodies significant unique features from which useful lessons could be drawn for majority of African countries in the quest to revamp their weak declaration systems. The wealth declaration system of Ukraine is anchored under the Law on Prevention of Corruption (LPC) which was adopted in Ukraine in October 2015.<sup>32</sup> Most outstanding are the following ten (10) lessons.

First, Ukraine's law on wealth declaration serves two purposes: preventing and detecting illicit enrichment, and preventing conflicts of interest among public officials. This is in contrast to most African countries where the wealth declaration systems mainly focus on detecting illicit enrichment without any regard to conflict of interest, a critical accountability issue. Anchoring conflict of interest disclosures in the wider assets disclosure regimes deters public officials from the temptation to use their positions of trust to confer benefits to themselves. Using their positions of privilege could compromise transparency and accountability thus breeding corruption.

Second, Ukraine has deployed technology in the management of its declaration system. It is remarkable that Ukraine handles about 1 million electronic submissions per annum, reflecting their effectiveness of ICT in ensuring a robust framework for a wealth declaration system.<sup>33</sup> Declarations are submitted, managed and monitored electronically and from a unified electronic register. An electronic asset declaration system is important in that it serves as an easy storage for voluminous records; enables quick retrieval of files from the system; facilitates effective monitoring and detection of unusual upsurge in one's wealth; enables comparison of

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<sup>32</sup> Ukraine's Civil Convention on Drive Against Corruption (The Law of Ukraine of 16.03.2005 No. 2476-iv). See also Ukraine's Law on Prevention of Corruption (Law of Ukraine of 14.10.2014 No. 1700-VII).

<sup>33</sup> Dmytro Kotlyar and Laura Pop (2019) "E-filing Asset Declarations: Benefits and Challenges," *International Bank of Reconstruction and Development, World Bank*.

declared data with information held by other agencies, and creates a culture of conscientiousness that encourages timely filing of declarations.<sup>34</sup>

This is therefore a useful lesson for African states where public officers make and submit their declarations manually. Storage, analysis and retrieval are also manual thus making the systems ineffective. In African countries, wealth declaration is largely a ritual involving mechanical submission of declarations with no notable subsequent action thus adding little value to the accountability discourse.

Third, in relation to what public officers are required to declare, the Ukraine law specifies ceilings for expenditures of a public officer and value of movable assets that a public officer should declare. It is not open ended like in the case of most African countries such as Kenya where public officers declare everything they own including low level items such as clothing, mobile phones and household goods. The Ukraine's case is a unique feature in the law that addresses the challenges associated with dishonesty in declarations.

Fourth, declarations include both financial and non-financial interests such as employment and memberships in order to detect conflicts of interest. This aspect of disclosing non-financial interests is largely missing in the declaration regimes for most African countries. As a result, law enforcement agencies in most African countries have to seek collaborations with other national agencies such as revenue Authorities, Company Registries and land offices in order to unmask the actual interests of public officers.

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<sup>34</sup> Conchita, Carpio Morales (2017) "Reinforcing a Culture of Integrity: Enhancing Asset Declaration System through Technology," a paper presented at a Special Event titled 'Interest and Asset Disclosures by Public Officials: What Works and What Does Not? Latest Insights from Anti-Corruption Monitoring Bodies' held at Press Room, Vienna International Center on 8 November 2017 by the Conference of The State Parties (COSP) to The United Nations Convention Against Corruption (UNCAC) at <https://rm.coe.int/cosp-side-event-8-11-2017-c-carpio-morales-reinforcing-a-culture-of-in/1680765ece> (last accessed 29 March 2020).

Fifth, public officers in Ukraine are required under the law to notify the National Agency in case of any major change in the public officer's assets within ten days from the receipt of income or purchase of property by writing to the National Agency. This enhances transparency and ensures early detection of any irregularity nor potential corruption. In contrast, annual or biennial declaration intervals mean that a law enforcement agency gets to know about any changes in wealth resulting from unlawful acquisition next declaration period, several years later.

Sixth, the Ukraine law requires public officers to notify the National Agency within ten days if one of their family members opens a bank account in foreign country. This discourages public officers from transferring ill-gotten wealth to save havens abroad.

Seventh, verification of declared content is a salient feature of the Ukraine's law. The National Agency responsible for wealth declaration conducts thorough verification of all declarations submitted.<sup>35</sup> To facilitate this, the Agency is empowered under the law to access to databases of other state agencies with custody of relevant information on the wealth of public officials. The Agency also has a right to relevant information held by citizens, associations, business organizations and entities. Verification includes full audit by making comparison of declared data with other sources of databases. This wide scope of verification of declarations is unavailable African countries whose declaration systems are designed with restrictions on access to relevant information with requirements for court orders before a law enforcement body can access crucial information held elsewhere.

Eighth, the law in Ukraine has provisions for lifestyle audits through proactive monitoring of the lifestyle of the public officers who have made declarations. This serves to ensure conformity between the living standards of the officers as well as their family members, and the declarations made. Such initiative is unavailable in Africa hence a critical lesson to draw.

<sup>35</sup> Dmytro Kotlyar and Laura Pop (2016) "Asset Declarations: A Threat to Privacy or a Powerful Anti-Corruption Tool?" available at <https://www.worldbank.org/en/news/opinion/2016/09/26/asset-declarations-a-threat-to-privacy-or-a-powerful-anti-corruption-tool> (last accessed 23 May 2020).

Ninth, the Ukraine law provides for on-site-inspection and observation of properties declared by public officers to verify the actual value of the property as compared to what has been declared. These guards against undervaluation of declared property in a bid to hide the actual assets worth of an individual. Such provisions are not contemplated in the wealth declaration regimes in African countries which further dents the credibility of declarations made.

Tenth, Ukraine's wealth declaration law permits a declarant to submit a corrected declaration within 7 days of submission of the required declaration, in cases where a declarant may notice omissions in the earlier submitted declaration. This gives an opportunity for a public officer to disclose any forgotten information. To the contrary, most wealth declaration systems in Africa have no room for such corrections after closure of the declaration period.

### **WEALTH DECLARATION SYSTEMS IN AFRICA**

In many African countries, assets of public officers are often found to be excessive in relation to their income while in public office. This often leads to speculations on how the public officers in question acquired their assets.<sup>36</sup> Wealth and asset declaration therefore becomes an important tool in identifying the legality of the assets so acquired. Indeed, many African countries have adopted ethics and anti-corruption laws that require public officials to declare their assets and income, including those of their spouses and dependent children.

As compared to developed countries, African countries have maintained an eminently conspicuous lead in the adoption of international accountability mechanisms. As at 29<sup>th</sup> October, 2019, 43 African states had ratified UNCAC. Some of the countries which were yet to ratify the treaty include Cameroon, Central Africa Republic, Cape Verde, Djibouti, Eritrea, Morocco, Somalia and South Sudan.<sup>37</sup>

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<sup>36</sup> Transparency and Accountability Initiative (2011) "Asset disclosure: A guide to best practice in transparency, accountability and civic engagement across the public sector".

<sup>37</sup> African Union (2019) "List of Countries Which Have Signed, Ratified/Acceded to The African Union Convention on Preventing and Combating Corruption," available at <https://au.int/sites/default/files/treaties/36382-sl.AFRICAN%20UNION%20CONVENTION%20ON%20PREVENTING%20AND%20COMBATING%20CORRUPTION%20%281%29.pdf> (last accessed 26 March 2020).

Wealth declaration systems in most African countries provide for various sanctions in the event of breach. The sanctions vary from country to country and range from fines, suspension of salary, dismissal, imprisonment as well as reputational sanctions such as publication of the names of the public officers in the institutional websites.<sup>38</sup> Additionally, some of the measures to manage the conflict of interest and declarations include; divestment or liquidation of interest by public officers, recusal from decision making situations in matters officer has an interest, restructuring of functions and transfers, re-arrangement of duties, using blind trust corporations and resignation.<sup>39</sup>

The existence of the wealth declaration regimes is, however, not proportionately reflected in the governance practices in most African countries.<sup>40</sup> Effective implementation remains elusive with the African states perennially leading from the bottom in the history of global surveys on corruption.<sup>41</sup>

## **OBSTACLES TO EFFECTIVE IMPLEMENTATION OF WEALTH DECLARATION SYSTEMS IN AFRICA**

This part explores the weaknesses in Africa's wealth declaration systems as measured against the best practice earlier discussed in this paper. Among the key gaps include limited scope of coverage, requirement for big category of declarants, huge declaration intervals, inadequate verification, limited access to declarations, paper-based submission and manual management of the declarations, poor enforcement and ineffective sanctions.

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<sup>38</sup> World Bank (2013) "Income-and-Asset-Disclosure-Case-Study-Illustrations," <http://documents.worldbank.org/curated/en/664561468340842190/pdf/Income-and-asset-disclosure-case-study-illustrations.pdf>. (last accessed 20 March 2020).

<sup>39</sup> OECD (2003) "Managing Conflict of Interest in the Public Service: OECD Guidelines and Country Experiences," OECD publishing.

<sup>40</sup> World Bank Public Sector and Governance Group (2013) "Financial disclosure systems declarations of interests, income, and assets," available at <https://agidata.org/pam/> (last accessed 6 March 2020).

<sup>41</sup> Eric Ngumbi (2020), "Reconstructing the Elusive Fight against Corruption in Africa": The Quest for Re-characterization of Political Corruption as an International Crime. *The International Journal of Business and Management*, 8(2), 98-106. Available at SSRN: <https://ssrn.com/abstract=3579389>.

### **Limited scope of coverage of declaration content**

The scope and coverage of the assets that public officials are required to declare varies from country to country depending on their declaration laws. There is a strong nexus between the content of the declaration forms and effectiveness of the declaration system.<sup>42</sup> For example, Kenya's Public Officer Ethics Act, 2003, which provides for declaration of assets and liabilities under part IV does not provide thresholds of the assets to be declared.

The impact of the open ended nature of the declaration requirements is that public officers end up declaring low value assets such as house hold items and clothing. This makes the system inefficient due to poor detection of incomplete or false declarations, as well as lack of standard declaration thresholds.

Any credible disclosure law or regulation needs to spell out clearly what assets, liabilities and public interest public officials must declare.<sup>43</sup> Generally, declarations should cover personal and business assets, sources of income, positions held in profit or nonprofit firms, debts, gifts, payments for travel, advances, reimbursement as well as assets and income of spouse and dependent children.<sup>44</sup>

The particulars regarding the assets to be declared are also insufficient in countries such as Kenya. Critical details such as dates of acquisition of each property, cost of acquisition and market value are not part of Kenya's wealth declaration form. Their incorporation would have made the declaration form more progressive.

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<sup>42</sup> Richard Messick (2009) "Income and assets declarations: Issues to consider in developing a disclosure regime," Anti-Corruption Resource Centre, Paper prepared for Conference on Evidence-Based Anti-Corruption Policy organized by Thailand's National Anti-Corruption Commission (NACC) in collaboration with the World Bank, 5 – 6 June 2009, Siam City Hotel, Bangkok, Thailand.

<sup>43</sup> Marie Chene (2008) "African experience of asset declarations," *Transparency International*, at <https://www.u4.no/publications/african-experience-of-asset-declarations.pdf> (accessed 15 May 2020).

<sup>44</sup> Ruxandra Burdescu, Gary Reid, Stuart Gilman and Stephanie Trapnell (2009) "Income and Asset Declarations: Tools and Trade-offs," World Bank Stolen Asset Recovery (StAR) Initiative, at [https://www.unodc.org/documents/corruption/Publications/StAR/StAR\\_Publication\\_-\\_Income\\_and\\_Asset\\_Declarations.pdf](https://www.unodc.org/documents/corruption/Publications/StAR/StAR_Publication_-_Income_and_Asset_Declarations.pdf) (last accessed 12 April 2020).

The Kenya Public Office Ethics Acts, 2003 has indeed been criticized for failing to establish with clarity what assets, liabilities and interests public officials are to disclose among other weaknesses.<sup>45</sup>

### **Large scope of application of declaration requirements**

Some countries require declaration of wealth by all public officers while in other countries, declaration requirements only apply to the political class and top Government officers. The latter approach where declaration is only limited to senior officers is informed by the fact that these are persons with access to public resources.

Analysts agree that countries whose declaration systems apply to all public officers face more severe implementation challenges. Kenya, Uganda, Nigeria, and Cameroon are examples of such countries. On the other hand, South Africa has addressed this issue by requiring only elected officials, senior public servants, Members of Parliament and Cabinet to declare their wealth.<sup>46</sup>

Similarly, in Rwanda, only top government officials are required to make declarations of their wealth. The declaration requirements apply to the President, Members of Parliament, Ministers, selected high ranking civil servants, together with their spouses and children under 18 years of age to declare their income and assets.<sup>47</sup> It is not left open to all public officers to declare. The focused approach bolsters efficiency in the administration of the system to promote its accountability objectives. The World Bank has partly attributed Rwanda's relative success in the fight against corruption to an effective Income and Asset Declaration (IAD) system.<sup>48</sup>

Attempts to ensure a focused approach in application of the declaration requirements has also been made in Tanzania. The Tanzania's Public Leadership Code of Ethics Act categorizes a section of the public officers to be public leaders.

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<sup>45</sup> Makau Mutua (2019) "Arrest and charge officials who sneer at asset declaration laws, *The Standard*, Nairobi, 10 February 2019, at <https://www.standardmedia.co.ke/article/2001312602/arrest-and-charge-officials-who-sneer-at-asset-declaration-laws> (last accessed 30 January 2020).

<sup>46</sup> Article 7 of South Africa's Code of Conduct for Assembly and Permanent Council Members and Chapter 3 of the Public Service Regulations of 2001.

<sup>47</sup> Rwanda's Law No. 25 of 2003.

<sup>48</sup> World Bank (2013) "Income and Asset Disclosure Case Study Illustrations," available at <http://documents.worldbank.org/curated/en/664561468340842190/pdf/Income-and-asset-disclosure-case-study-illustrations.pdf> (accessed 20 March 2020).

These are the top officials in the executive, judicial and legislative arms of the Government. The wealth declaration requirements apply to these officials and any other public officer who the President has by notice in the Gazette designated to be a public leader.<sup>49</sup> This is a laudable approach which however cannot on its own guarantee efficacy of the wealth declaration system. Effective enforcement and strengthening of other aspects of the wealth declaration system are necessary.

Further, declaration requirements also extend to the spouses and children in almost all existing declaration regimes. The practice of compelling public officer to declare their assets and those of their spouses and dependent children is common in most African countries including Kenya, Tanzania, Uganda, and Nigeria. Only separated spouses and married/independent children are excluded from such regimes.

Those who support the notion that public officers should not only declare their assets but also those of their spouses and dependent children have rightly argued that this helps in preventing dishonest officials from hiding their assets in their spouse or relatives' names and that any person who is not willing to disclose his property should not join the public service in the first place.<sup>50</sup> In the alternative, they can exit public service if they were already serving when the law on wealth declaration came into force.

There are those who also argue that since spouses and the children are not parties to the employment contract of the public official, the official's assets declaration should not extend to them. In Ghana, for instance, Act No. 550 of 1998 requires all public officers to declare their assets and liabilities. However, the law leaves out spouses and dependent children. This has been identified as a major weak link in Ghana's wealth declaration framework.<sup>51</sup>

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<sup>49</sup> Section 9 of The Tanzania's Public Leadership Code of Ethics Act.

<sup>50</sup> Edward Agyeman (2016), "Fighting Corruption in the Public Sector of Ghana: The Role of Assets Declaration" The Institute of Economic Affairs (IEA), Ghana, available at [https://media.africaportal.org/documents/Fighting\\_Corruption\\_in\\_the\\_public\\_Sector\\_of\\_Ghana\\_18-5-17.pdf](https://media.africaportal.org/documents/Fighting_Corruption_in_the_public_Sector_of_Ghana_18-5-17.pdf) (accessed on 23 April 2020).

<sup>51</sup> Edward Agyeman (2016), "Fighting Corruption in the Public Sector of Ghana: The Role of Assets Declaration" The Institute of Economic Affairs (IEA), Ghana, available at [https://media.africaportal.org/documents/Fighting\\_Corruption\\_in\\_the\\_public\\_Sector\\_of\\_Ghana\\_18-5-17.pdf](https://media.africaportal.org/documents/Fighting_Corruption_in_the_public_Sector_of_Ghana_18-5-17.pdf) (accessed on 23 April 2020).

Despite the extension of declaration requirements, a major loophole on this aspect still exists in all countries. The wealth declaration systems do not account that public officials could hide their illicit wealth through their siblings, close relatives and associates. Similarly, a public officer's wealth could still be held in trust for them by persons outside their household. This is a loophole for illicit enrichment and may hinder timely and effective detection of illegally acquired wealth.

This paper argues that in order to enhance efficiency, wealth declaration requirements should apply to public officers who are in high levels in terms of seniority or who occupy positions that offer opportunities for illicit enrichment. These include officers in charge of public procurement, public accounts, contract allocation, public audits, etc. They also include officials who have access to valuable confidential information or who enjoy important discretionary powers. Having only a few officers who wield power and influence, or elected officials or those working in corruption prone areas declare wealth ensures efficient and effective management and monitoring.<sup>52</sup>

In relation to application of the declaration requirements to other persons, the paper calls for widening of the scope to include other persons beyond spouses and children such as siblings, relatives, associates and any other person in whom assets are held in trust for the public officer in question. Cases of joint ownership of property should similarly be covered.

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<sup>52</sup>Eric Ngumbi (2019) "Viability of Lifestyle Audits as an Anti-corruption Strategy in Kenya: A Critical Assessment of the Policy, Legal and Administrative Framework," Nairobi, Kenya, available at [https://www.researchgate.net/publication/341286078\\_VIABILITY\\_OF\\_LIFESTYLE\\_AUDITS\\_AS\\_AN\\_ANTI-CORRUPTION\\_STRATEGY\\_IN\\_KENYA\\_A\\_CRITICAL\\_ASSESSMENT\\_OF\\_THE\\_POLICY\\_LEGAL\\_AND\\_ADMINISTRATIVE\\_FRAMEWORK?channel=doi&linkId=5eb90b3ea6fdcc1f1dd00623&showFulltext=true](https://www.researchgate.net/publication/341286078_VIABILITY_OF_LIFESTYLE_AUDITS_AS_AN_ANTI-CORRUPTION_STRATEGY_IN_KENYA_A_CRITICAL_ASSESSMENT_OF_THE_POLICY_LEGAL_AND_ADMINISTRATIVE_FRAMEWORK?channel=doi&linkId=5eb90b3ea6fdcc1f1dd00623&showFulltext=true) (last accessed 18 May 2020).

### **Long Declaration Intervals**

Declaration periods vary from country to country. The most common trends are annual and biennial declarations coupled with declarations before and after assuming office. In Kenya, the law prescribes three types of declarations namely initial declaration, biennial and final declaration. On the initial declaration, a public officer is required to declare their wealth within thirty days after becoming a public officer while the final declaration is made within thirty days of exiting public office.<sup>53</sup> Rwanda requires public officers to make declarations within one month upon assumption of office, annually thereafter and final declarations within 15 days of leaving office.

Uganda and the Gambia have a two year filing intervals. In Ghana, the law provides for disclosure in writing before taking office, at the end of every four years, and at the end of term of office.<sup>54</sup> Whichever way the one looks at it, long declaration periods mean that law enforcement have to wait for more than one year to detect any irregularities such as illicit enrichment. This minimizes the chances of detecting illicit wealth and hampers effective fight against corruption and offends the accountability objectives of the declarations.

### **Manual or Paper-Based Submission and Management Procedures**

In the majority of the African countries including Ghana, Nigeria, Kenya, South Africa and Tanzania, submission of wealth declarations is paper based, i.e., it is done manually. Manual submission of the declaration forms makes the process inefficient and time consuming. As compared to electronic submissions, manual handling of the declaration forms makes it difficult to accurately and efficiently monitor public officers' wealth. It is also impossible to effectively verify submitted data or undertake comparison with information held by other agencies. This is the practice in many other African states and it has contributed to the inefficiency of wealth declaration as a mechanism for accountability in the public sector.

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<sup>53</sup> Section 26 of the Kenya's Public Officer Ethics Act, 2003.

<sup>54</sup> Article 286(1) of the 1992 Constitution of Ghana and Ghana's Public Office Holders (Declaration of Assets and Disqualification) Act 1998.

Notably, due to the manual nature of the wealth declaration process, during the global crisis of COVID 19 pandemic in 2020, countries have had to close down public offices, and some countries such as Ghana put up notices suspending the collection of the Assets and Liabilities Declaration Forms.<sup>55</sup> The challenge of manual or paper filing in the COVID era is that it does not give room for business continuity in such a season. If submissions were electronic, such scenarios would not be witnessed.

### **Inadequate Verification of Declarations**

An effective enforcement regime requires an efficient asset declaration monitoring body that has a clear mandate, powers, capacity and resources.<sup>56</sup> The absence of a legal requirement for the verification of asset declarations renders the process a formal exercise that does not serve its accountability purpose.

In Kenya, the law mandates ‘responsible Commissions’, the agencies tasked with management of Kenya’s wealth declaration system for various categories of officers to verify the declarations made by public officers. In order to facilitate the verification process, responsible Commissions are mandated to request public officers to submit any clarifications required in relation to the wealth declarations. The verification process including processing of any clarifications received should be undertaken within 6 months from the date of the declaration. It is however noteworthy that in Kenya, once public officers submit their declarations, verification is not done in practice.<sup>57</sup> The declaration forms are stored without any significant actions thus making the declaration process a mere ritual. In most instances, the forms are filed and public officers who have submitted presumed to be fully compliant with the law at that

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<sup>55</sup> Ghana Audit Service (2020) “Submission of Assets and Liabilities Declaration Forms, available at <https://ghaudit.org/web/2020/03/24/submission-of-assets-and-liabilities-declaration-forms/> (last accessed 26 March 2020).

<sup>56</sup> Marie Chene (2008) “African experience of asset declarations,” *Transparency International*, at <https://www.u4.no/publications/african-experience-of-asset-declarations.pdf> (last accessed 3 March 2020).

<sup>57</sup> Ethics and Anti-Corruption Commission (2019), “Report on the status of compliance by responsible Commissions in submitting compliance returns,” EACC, Nairobi, (accessed 20 March 2020).

stage. This negates the essence of the wealth declaration system as a tool for transparency and accountability in public service.

In Cameroon, although Article 66 of the Constitution requires government officials and civil servants to declare their assets and property, reports are not verified effectively and incidences of false declarations are not sufficiently penalized. This practice can impede effective implementation of asset disclosure regulations.

The two examples of Kenya and Cameroon are a replica of the practice in most African countries.

### **Limited or Prohibition of Public Access to Wealth Declarations**

African countries such as Kenya, Nigeria, Zimbabwe, Gabon and Senegal do not provide for public disclosure of income and asset declarations. The Kenyan law prohibits access to the wealth declaration forms except with authority of the relevant responsible Commission. A person seeking access must demonstrate to the satisfaction of the responsible Commission that they have “a legitimate interest and good cause in furtherance of the objectives of the Act.” The law does not prescribe what standard would constitute “satisfaction” to the responsible Commission that a person seeking access to a declaration form indeed has the required legitimate interest.<sup>58</sup>

The Kenyan law further requires that a public officer whose declaration is sought should be granted an opportunity to make representations on the request. Since the law is silent on the substance of the representations to be made by the public officer, it is not farfetched to infer that such representations may include refusal of access. It cannot be logically expected that a person under corruption investigations will readily permit access to their declaration form that would incriminate them especially when there are no prescribed sanctions for refusing to grant such access.

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<sup>58</sup> Wesley Kipng’etich (2018) “Procedures for Declaration of Income, Assets and Liabilities: Best Practice, Emerging Issues and Challenges,” Presentation during a Capacity Building workshop for Managers of Declaration of Income, Assets and Liabilities, held at Mombasa Beach Hotel, on 5th September, 2018.

However, some African countries require public declarations for some or all their top officials, including South Africa, Liberia, Cape Verde, Sao Tome and Principe and the Central African Republic. In these countries, declarations can be made available to the public in a variety of ways, through the media, official gazettes or registers open to public scrutiny. Despite this, lack of mechanisms for enforcing full disclosure hampers effective realization of the accountability objective of the declarations.

Other countries have adopted hybrid schemes to balance public disclosure with the need to protect public officials from infringement of their privacy rights. For example, declarations in South Africa are kept in a register with two parts: one part that is private and another part that is public. The private part of the register entails confidential information that is not to be accessed by the public, including details of a taxpayer's spouse and children.<sup>59</sup> Similarly, in Niger, the register must have a confidential and public part.<sup>60</sup>

Although countries such as Rwanda have recorded relative success in the fight against corruption, access to declarations is only limited to law enforcement agencies as opposed to the general public. The Office of the Prosecutor General, Office of the Ombudsman and Police can directly use the information in the declarations of persons under investigations.

Limited or absence of provisions for public access to declarations denies law enforcement, civil society organizations, media and the public the opportunity to scrutinize the declarations as measure for enhancing transparency. It may also encourage corrupt public officers to make false declarations due to the apparent certainty that any incidence of illicit enrichment may not be easily detected.

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<sup>59</sup> South Africa's Public Service Regulations, 2001.

<sup>60</sup> Niger's Executive Ethics Code, 2000.

### **Poor Enforcement and Ineffective Sanctions for Breach**

Sanctions for failure to make declarations or for making false or misleading declarations need to be severe enough in order to have a deterrent impact. Public officials who engage in corrupt conduct would not easily reveal to law enforcement agencies the actual worth since it would be a tall order to explain possession of unexplained wealth. For this reason, many African countries criminalize both the failure to make declarations and the making of false declarations. However, just like in the case other accountability laws, levels of compliance remain low due to poor or complete lack of enforcement of the wealth declaration requirements. This is more common among the political class and senior Government officials.

Poor enforcement is also exacerbated by the challenges analyzed under this section especially lack of public access to the declarations. For instance, in Kenya, law enforcement agencies do not have direct access declarations forms despite the inherent importance of such declarations in the investigation of corruption related offences.

In respect to enforcement of declaration requirements, the Researcher herein found that no person in Kenya has ever been charged with the offence of failure to make declarations despite evidence of high levels of non-compliance since enactment of the relevant law in 2003.

In Tanzania, although the failure to submit a declaration is considered a breach of the Code, no punishment is stated in the law for public officials failing to declare their assets.<sup>61</sup> The Tanzanian law does not give the Ethics Commissioner powers to take steps for violations or impose penalties for breach of the code. In Uganda, the law provides that false, misleading or insufficient declarations can lead to dismissal/removal of office.<sup>62</sup> However, enforcement of this provision remains elusive despite clear incidences of breach.

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61 Tanzania's Public Leadership Code of Ethics Act, 1995.

62 Uganda's Leadership Code Act, 2002.

A few countries have made notable efforts to enforce the law relating to declarations. For example, Rwanda has managed to prosecute high-ranking officials for corruption based on investigations stemming from verification process of IAD. On the other hand, Nigeria's wealth declaration regime provides a variety of sanctions provided for in law including vacation of the individual from the public office. Indeed, Nigeria's former Chief Justice has been a casualty of false declaration in his assets declaration leading to his removal from office in April 2019.<sup>63</sup> This is an isolated case which marks a major milestone in the implementation of the wealth declaration legal regime in Nigeria.

However the reported milestones in the African countries generally are a drop in the ocean when compared with the entrenched corruption which could otherwise been contained through effective detection of illicit wealth through the wealth declaration system.

### **Conclusion and Recommendations**

As noted in discussion above, African countries do not suffer from poverty of accountability frameworks. The main challenge is twofold. First, that the existing frameworks for accountability of public officials are designed with monumental weaknesses that render them ineffective thus defeating the very objectives they were meant to achieve. Secondly, poor enforcement informed by a culture of impunity and political corruption. There is therefore need to not only review Africa's wealth declaration systems but also address external challenges that impede effective enforcement of laws.

Wealth declaration is crucial accountability with potential to tremendously increase good governance and integrity in the discharge of public duty. An effective wealth declaration system could tame the appetite of public officials inclined to enrich themselves from public coffers. This is because the officers would not have the motivation to possess wealth that they may not account to vibrant and functionally effective enforcement agencies.

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<sup>63</sup> Camillus Eboh (2019) "Nigerian Chief Justice sacked for false asset declaration," Reuters, 18/4/2019, at <https://www.reuters.com/article/nigeria-politics/update-1-nigerian-chief-justice-sacked-for-false-asset-declaration-idUSL5N2204FD> (last accessed 30 April 2020).

This paper concludes that although African countries have established legal frameworks that stem from Acts of Parliament, Codes of Conduct, Regulations and Rules to implement wealth declarations, the frameworks are inadequate. Even with the inadequate frameworks, many countries have done little towards ensuring their effective enforcement. At best, the wealth declaration systems of African countries exist in paper hence the need for a shift from paper to practice if the quest for real public sector accountability is to be realized.

The paper has also established that wealth declaration systems are useful tools and mechanisms for anti-corruption authorities in various countries to boost their capacity in investigations and fighting corruption. Although there are no international standards mandating how income, assets and liabilities should be declared and monitored, there are basic practices, structures and systems that underline an appropriate legal framework.

Flowing from the conclusion above, this study makes the following fifteen (15) recommendations:

First, there is need to anchor wealth declaration and key accountability measures in the Constitution, the supreme law in each country. This would help to insulate the legal and institutional frameworks from dilution through skewed amendments by Parliament, a common practice in Africa. The Constitutional safeguards would also avert legal challenges on grounds of alleged violation of individual rights such as the right to privacy.

Second, declarations should be made under oath as is the case in Philippines. This would militate against false or misleading declarations due to the legal consequences that attend to false statements made under oath.

Third, designation of specialized Ethics Officers in Government Department is necessary to coordinate implementation of declarations and other ethics frameworks to enhance compliance.

Fourth, incorporation of conflict of interest disclosures as part of the wealth declaration systems where they are not provided for in separate legislation.

Fifth, limitation of the scope of application of wealth declaration laws to ensure focused and efficient approach by targeting only Senior Government Officials who wield power and

influence, members of the political class and staff working in corruption prone areas as opposed to subject all cadres in the entire public service to the declaration requirements.

Sixth, extension of the scope of application of the declaration requirements beyond the public officers and their spouses and children, to include assets that may be held in trust for the public officer by other persons affiliated to them such as relatives and associates.

Seventh, Reduce intervals or declarations to a maximum of one year with a requirement for public officer to make declarations at any other time when so required by the enforcement Agency, and notify the Agency of any significant increase in their assets within a very short period. This paper recommends 7 days as a reasonable notification period.

Eighth, centralized coordination of the wealth declaration systems as opposed to fragmentation of functions to various bodies. The Central Agency should have power to delegate functions to Government entities as may be appropriate.

Ninth, wealth declaration systems to have comprehensive frameworks for verification of what has been declared, comparison with data held by other state agencies and continuous monitoring of changes.

Tenth, lifestyle audits to be incorporated as critical aspects to determine if they accord with the wealth declared. Similarly, the systems should have provisions for physical visits of the assets declared to verify accuracy of their value.

Eleventh, widening the scope of what is to be declared to cover all possible aspects including both financial and non-financial interests.

Twelfth, automation of the wealth declaration systems at all stages and where possible, linkages made to relevant databases of other state agencies.

Thirteenth, enhancement of sanctions for offences and breaches related to declaration, coupled with effective enforcement to make illicit enrichment a high risk venture.

Fourteenth, unrestricted access to the declarations by law enforcement, public, media, civil society and other stakeholders to enhance transparency and accountability through effective law enforcement and social accountability.

Fifteenth, effective implementation and enforcement of wealth declaration laws to ensure deterrence of corrupt conduct and enhance accountability.