



StAR

World Bank and UNODC

A Practical Guide to Using Financial Disclosure

December 3, 2009

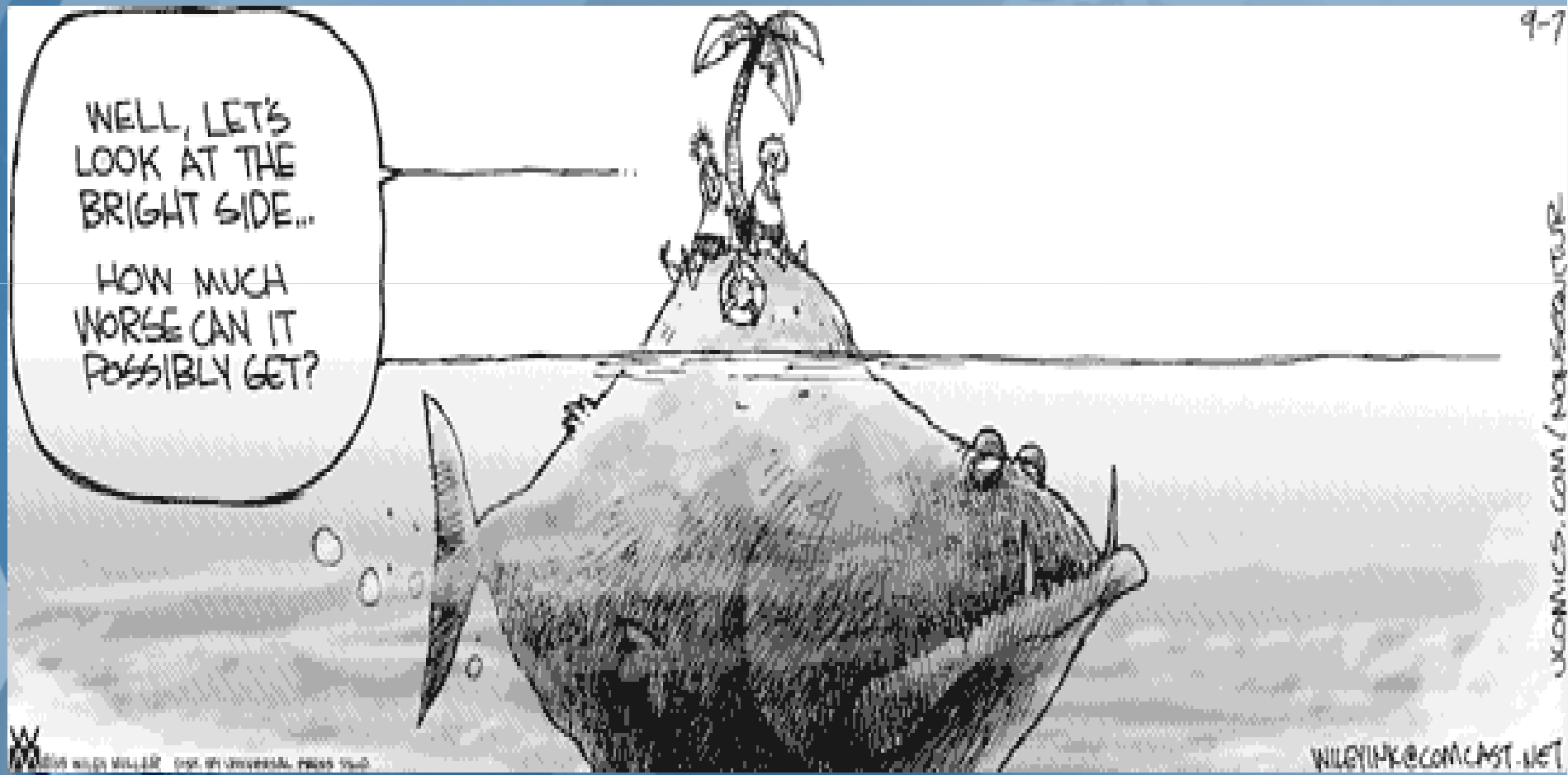
Stuart C. Gilman

StAR Secretariat



The Problem of Corruption Scandals

9-7





You can stop
CORRUPTION

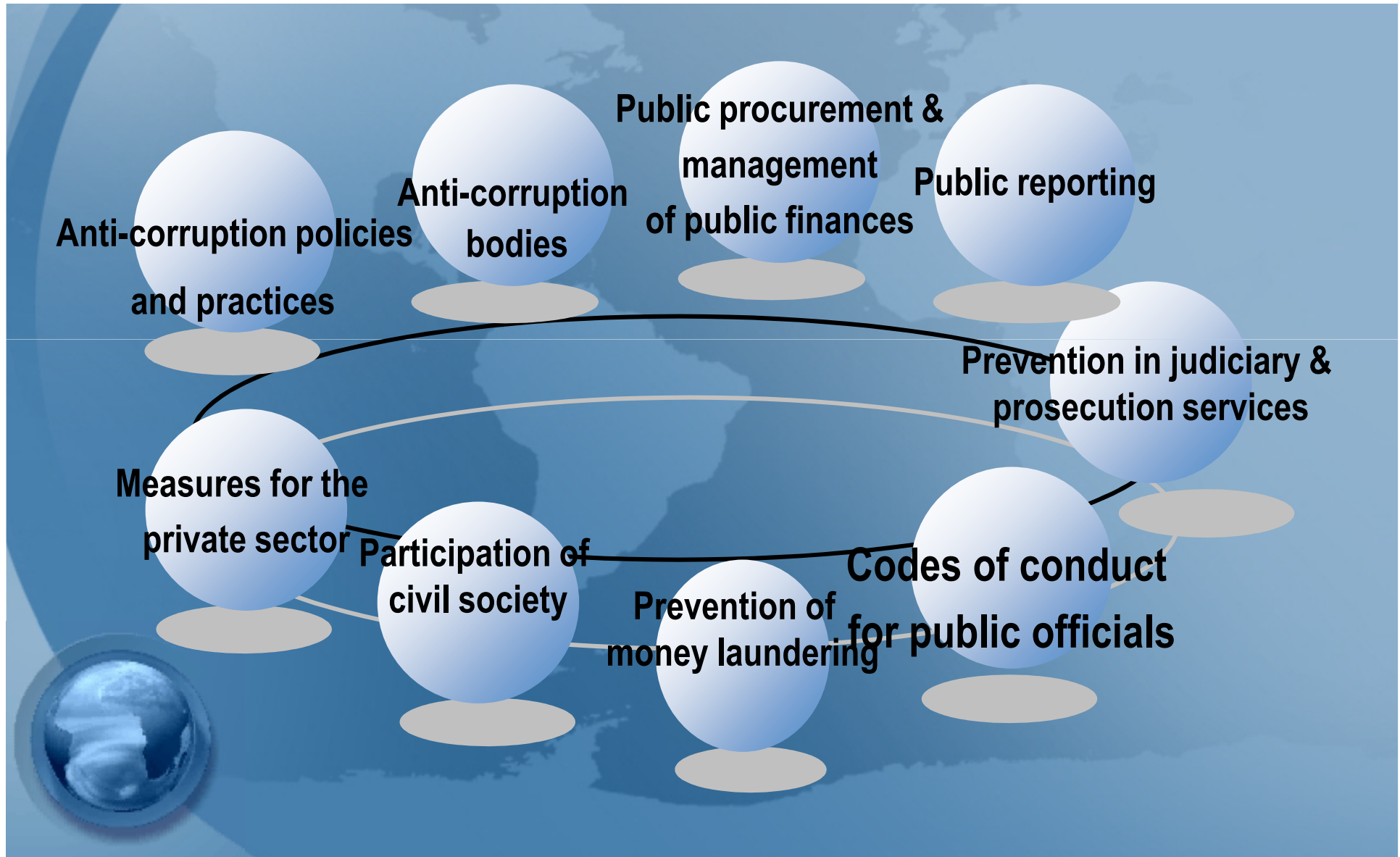
The Four Pillars of the UNCAC



Purpose: Integrity, Accountability and the Proper Management of Public Affairs and Property



Preventive measures





UNCAC AND ASSET DECLARATION

- ***Chapter 8 – Codes of Conduct***
 - ...systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.
- ***Chapter 52 Prevention and detection of transfers of proceeds of crime***
 - effective financial disclosure systems for appropriate public officials [Politically Exposed Persons –PEPs] and shall provide for appropriate sanctions for non-compliance. Each State Party shall also consider taking such measures as may be necessary to permit its competent authorities to share that information with the competent authorities in other States Parties

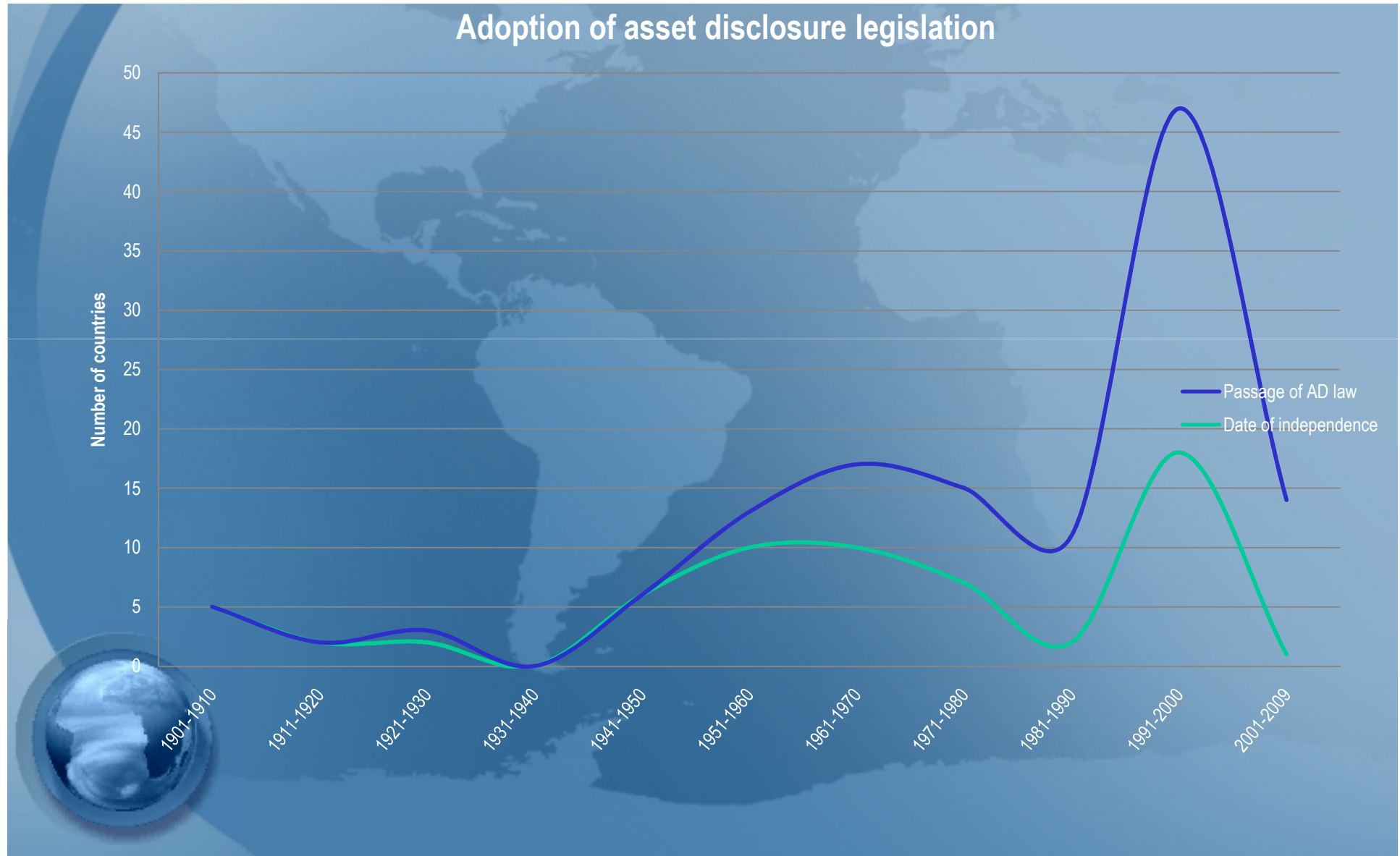


Asset Recovery and Asset Declarations

- Careful review of submitted documents can be an important early warning for potential asset plundering.
- Computerized asset declarations add another potential tool to detect illicit flows. Trained disclosure auditors can “data mine” disclosures potential corruption problems or governance gaps can be identified.
- Public disclosures can also add a layer of effectiveness to AD systems.
 - E.g., life style checks by the media and civil society.
- AD system also provides investigators and prosecutors an invaluable tool in investigating corruption and detecting the illicit flow of corrupt proceeds out of the country.
- A financial disclosure that provides inculpatory evidence can provide a critical element to justify *mutual legal assistance* for freezing or seizing those assets.
- disclosure systems that are respected, whether public or confidential, can build the trust of the average citizen in their government



History of Asset Disclosure Regulation in a sample of 74 countries .





Results of the AD Study

- Clearly defined goals are important
- Addressing conflict of interest vs. illicit enrichment
- AD systems are far from standardized: context matters
- Public availability of information vs. confidentiality
- Comprehensive vs. targeted coverage: an important trade-off to consider
- The importance of proportionate and enforceable sanctions for non-compliance
- AD systems need to be anchored in a Code of Ethics and/or Criminal Code
- Enforcement capacity
- Implementation of the AD system: institutional and technical considerations



Addressing conflict of interest vs. illicit enrichment

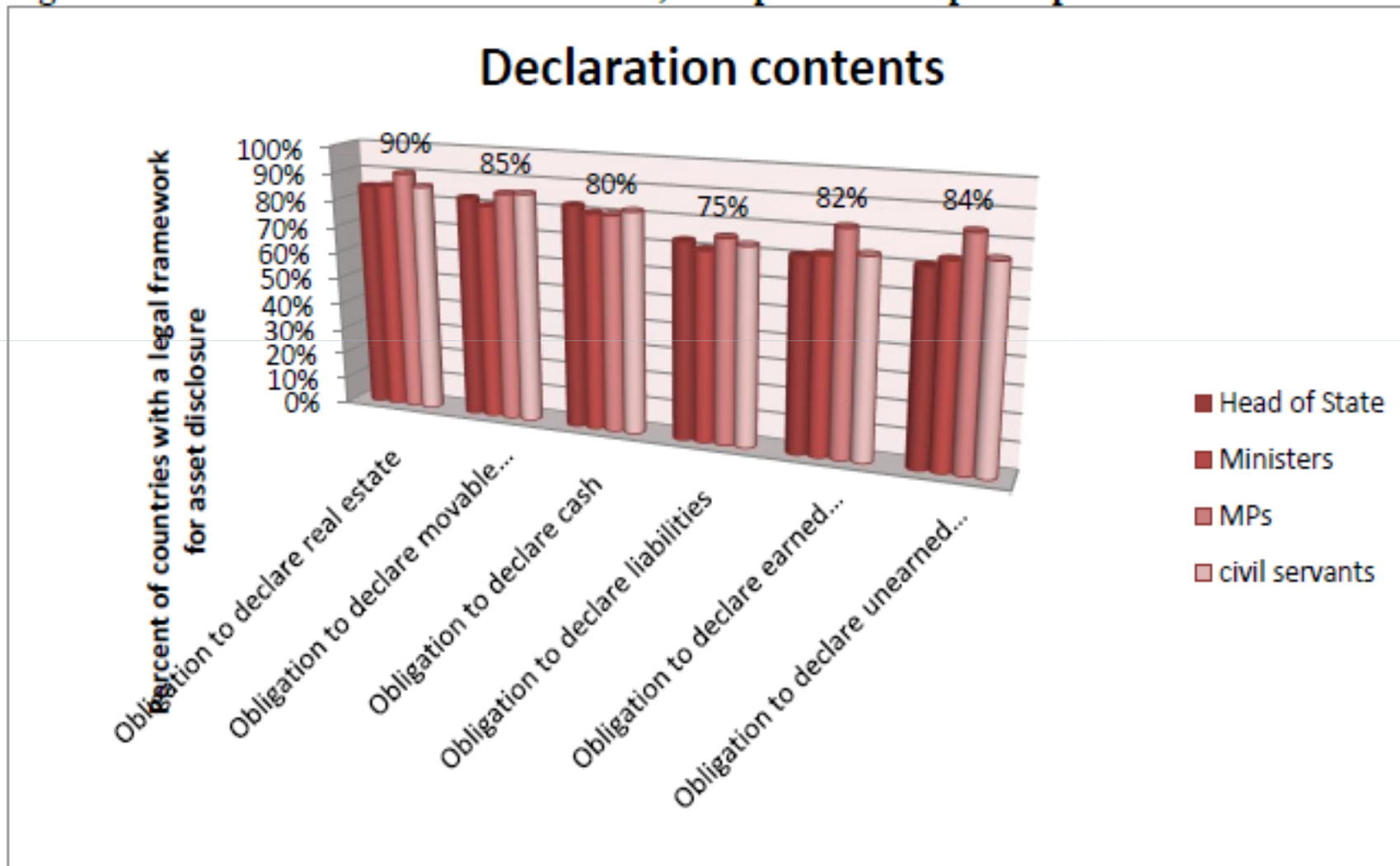
- ***Illicit enrichment.*** A model that focuses on the monitoring of officials' wealth, with the ultimate aim of detecting the concealment or consumption of stolen assets and punishing violators through administrative or criminal sanctions, including heavy fines.
- ***Conflict of Interest.*** Rather than focusing on the detection of wrongdoing, conflict of interest models concentrate on avoidance of those situations that may lead to unethical behavior.





AD systems are far from standardized: context matters

Figure 7. The content of asset declarations, with precise data points provided for MPs





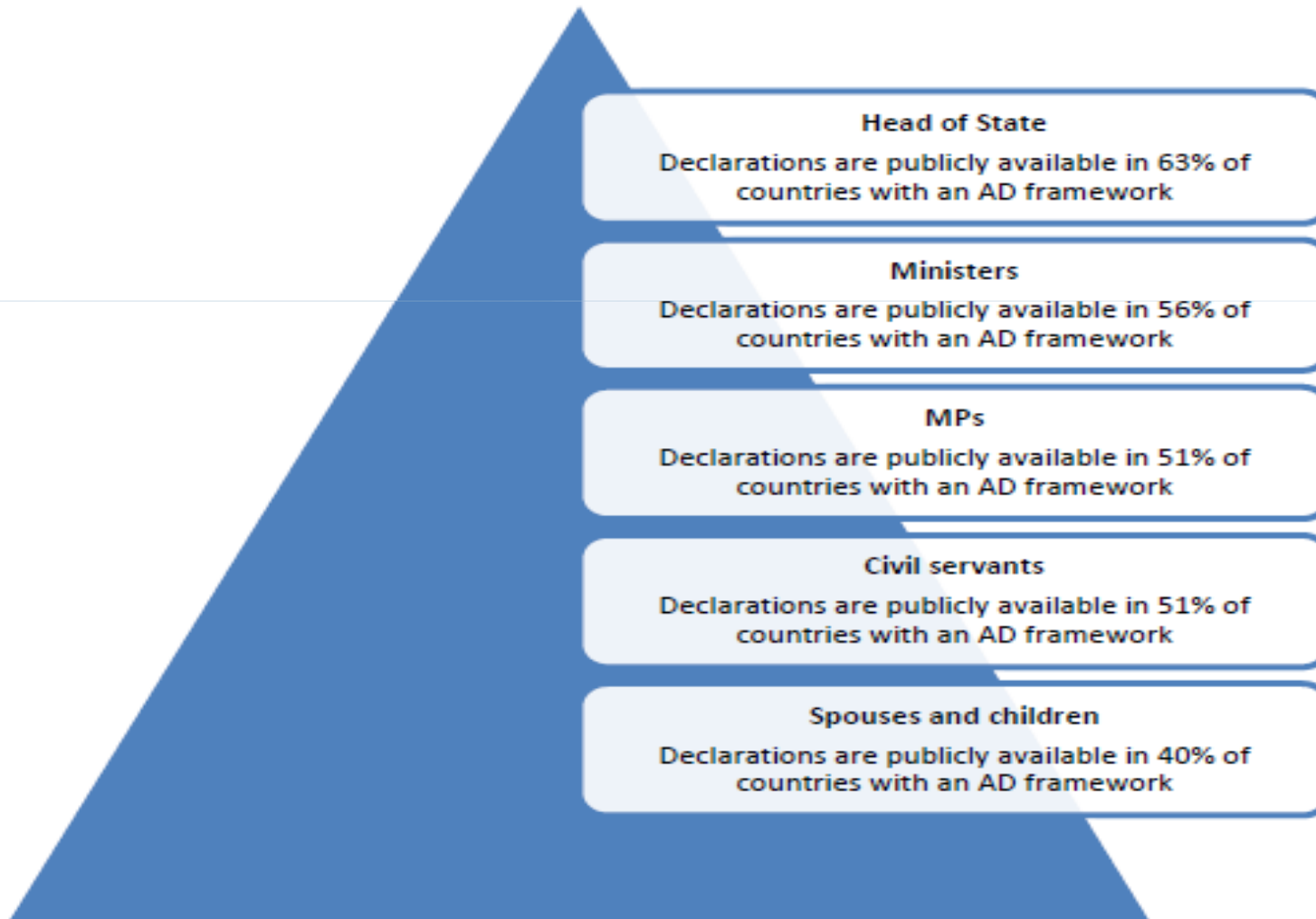
• U.S. Supreme Court Justice Stephen G. Breyer commented that “as much as I hate filling out disclosure forms they are a regular reminder of my ethical responsibilities and my accountability to the public.”





Public availability of information vs. confidentiality

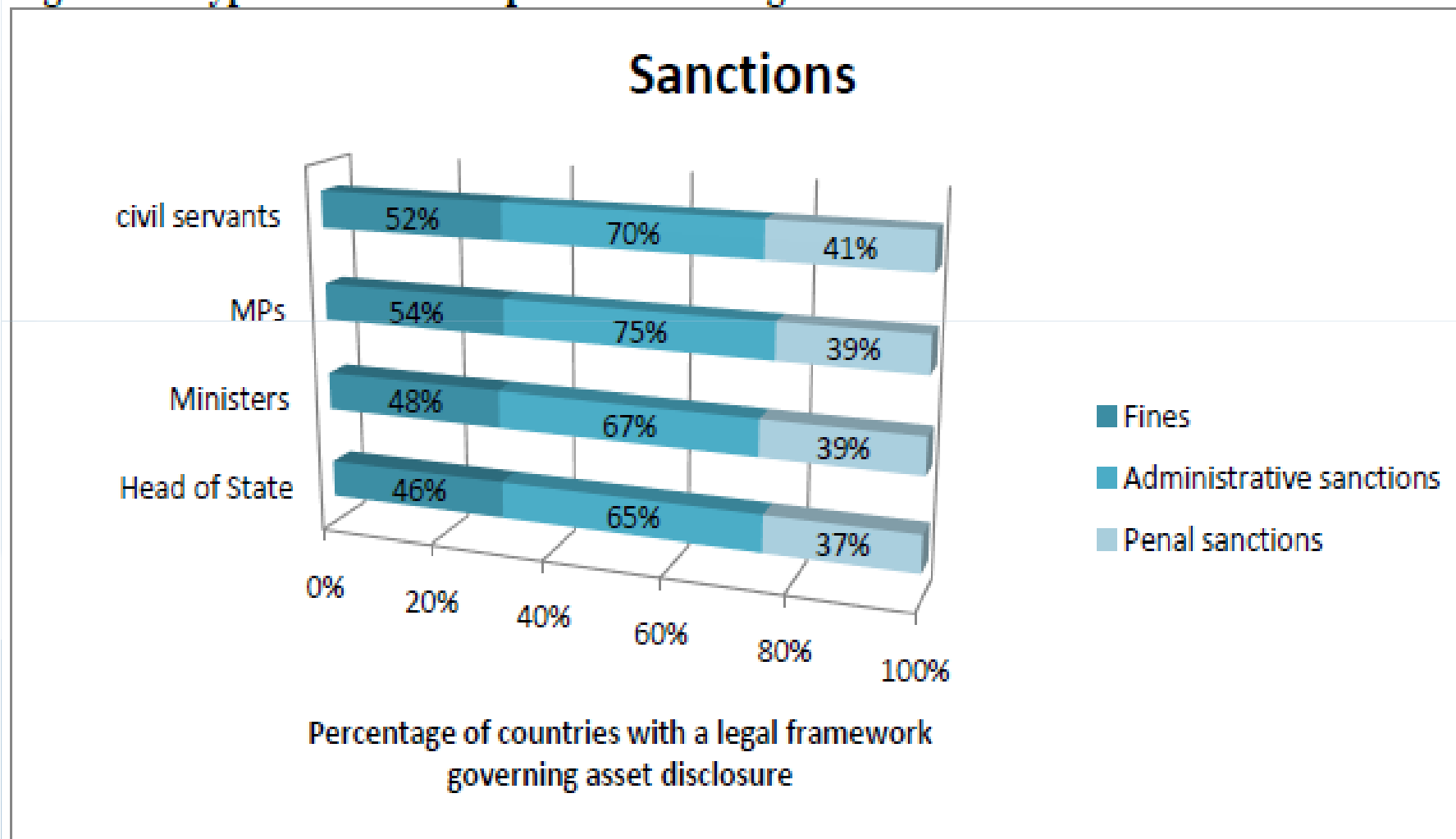
Figure 15. Public availability of asset declarations across category of public official





Proportionate and enforceable sanctions for non-compliance

Figure 12. Types of sanctions specified for filing violations

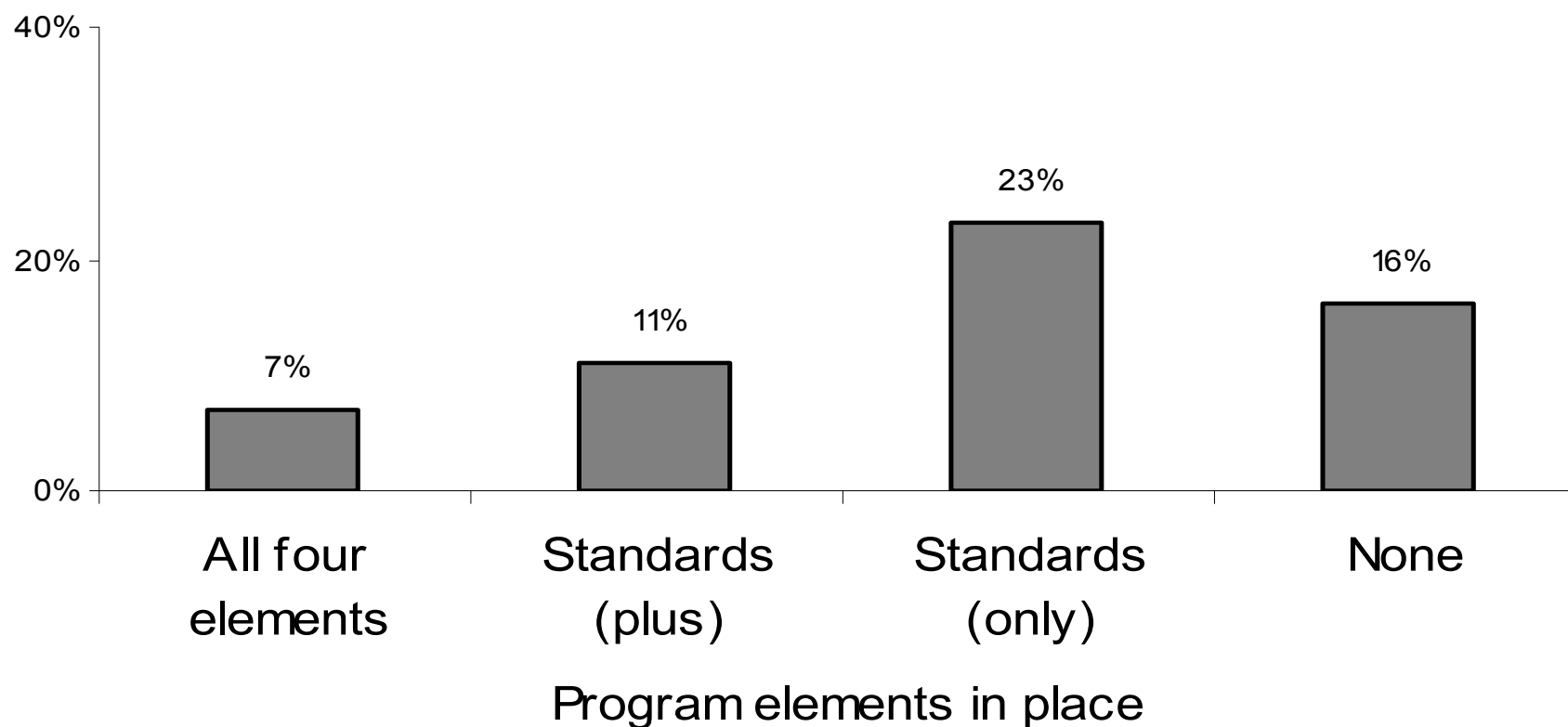




AD systems need to be anchored in a Code of Ethics

- “Anchoring” asset disclosure to norms in a code of conduct or a criminal code provides additional motivation to complete the form in a timely, complete, and accurate manner.
- Linking the asset disclosure system with an ethics or criminal code provides technical parameters for asset disclosure.
- “Anchoring” provides legitimacy for the enforcement of asset disclosure laws by creating an explicit link between the asset disclosure and the sanctions resulting from the prohibited unethical or criminal behavior.
- A code provides the predicate for requiring disclosure of sensitive personal information.
- “Anchoring” asset disclosure in a code of ethics or criminal provisions permits the asset disclosure system to continue to develop organically through the refinement of rules by judicial or administrative authorities.

Figure 5.9: Pressure to Compromise Ethics Standards by Key Program Elements (larger orgs.)





Enforcement capacity

Figure 14. Content verification of asset declarations

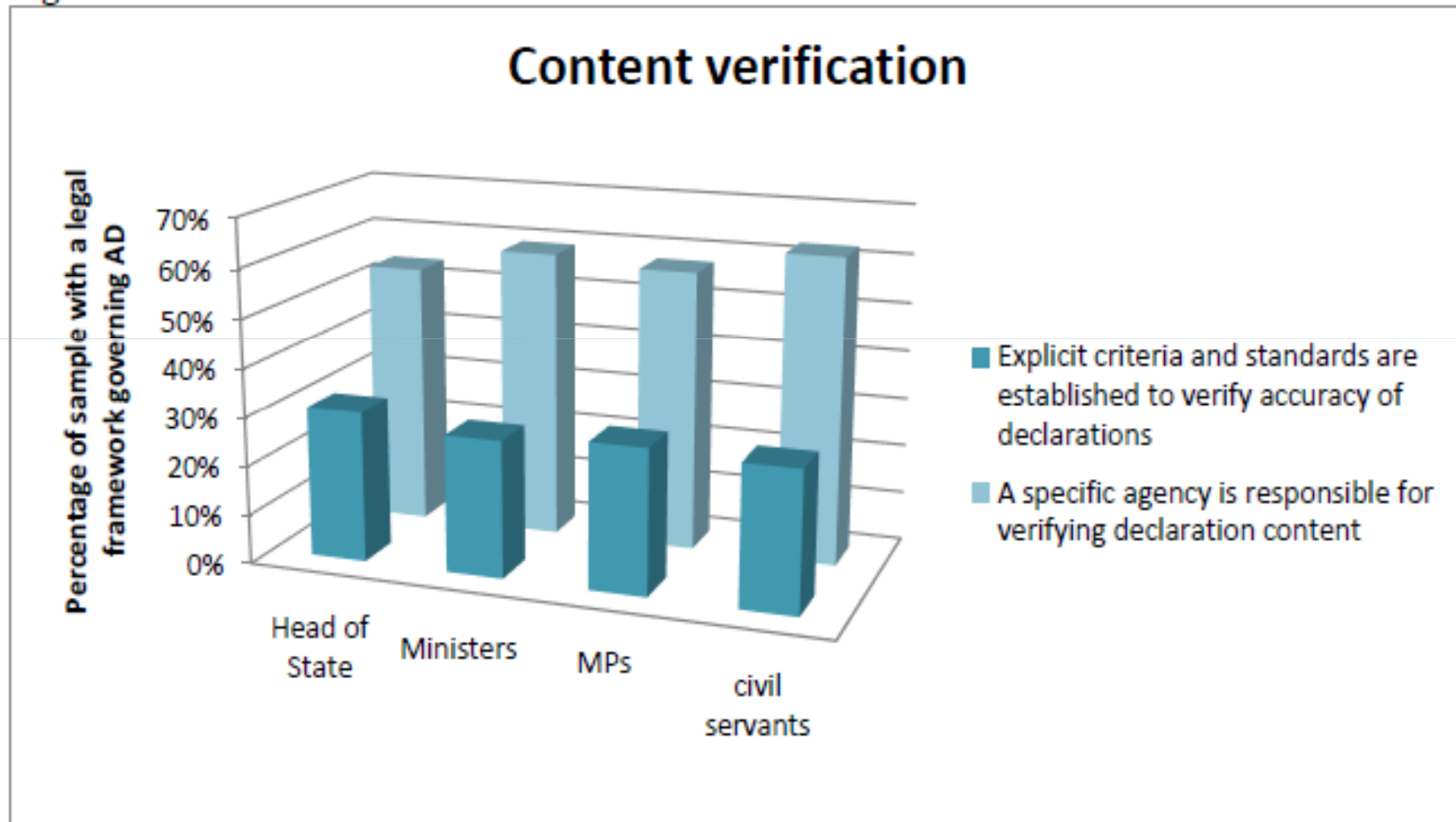
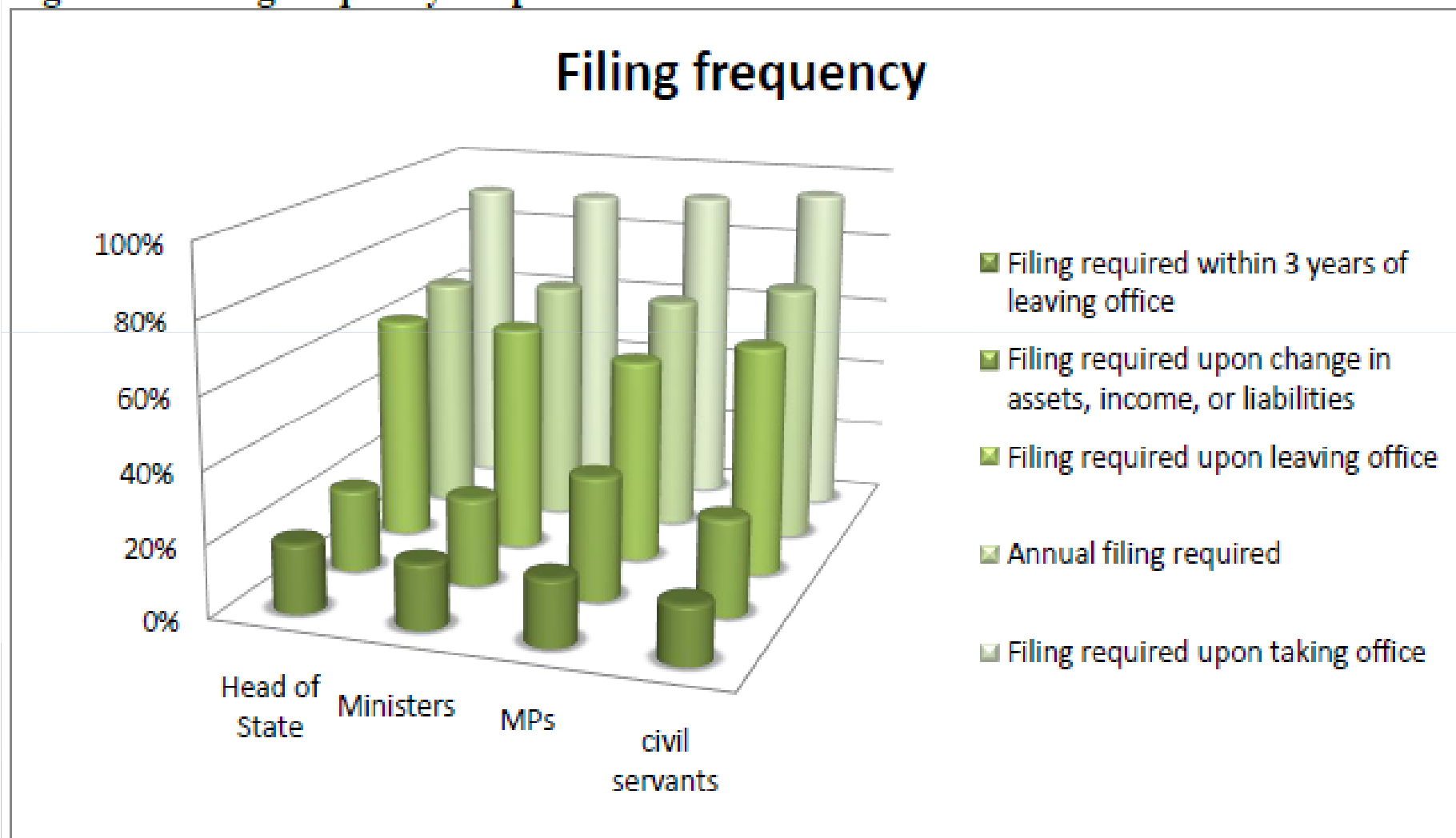


Figure 10. Filing frequency for public officials





Implementation of the AD system

- . . . the necessary independence . . . to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided. (UNCAC, Article 6)
- Implementation Decisions have to be made about:
 - *Facilities, Technology and Storage*
- A focus on content verification or investigations requires specific elements: investigative authority and a credible judicial body
- Public disclosure requires: active civil society, detailed information, and credible adjudication.



- **Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman.”**

Louis Brandeis





UNITED NATIONS
Office on Drugs and Crime



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UNITED NATIONS
Office on Drugs and Crime



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

**Register of
Members' Interest**

Form for the Disclosure
of Members' Interest

2008





2008

NAME OF MEMBER _____
Please Print

SIGNATURE OF MEMBER _____ DATE _____

PUBLIC DISCLOSURE SECTION

1. SHARES AND OTHER FINANCIAL INTERESTS. See Information sheet Note 1

NUMBER OF SHARES	NATURE	NOMINAL VALUE	NAME OF COMPANY

2. REMUNERATED EMPLOYMENT OUTSIDE PARLIAMENT. Must be sanctioned by your Political Party. See Information sheet Note 2

NAME OF EMPLOYER	TYPE OF BUSINESS

Signature of Whip _____ Party _____ Date _____

Name of Whip _____

3. DIRECTORSHIPS AND PARTNERSHIPS. See Information sheet Note 3

DIRECTORSHIP/PARTNERSHIP IN ANY CORPORATE BODY	TYPE OF BUSINESS ACTIVITY





4. CONSULTANCIES OR RETAINERSHIPS See Information sheet Note 4

NAME OF ORGANISATION	TYPE OF BUSINESS ACTIVITY	VALUE OF ANY BENEFITS DERIVED

5. SPONSORSHIPS See information sheet Note 5

SOURCE OF SPONSORSHIP	DESCRIPTION OF ASSISTANCE/ SPONSORSHIP	EXTENT

6. GIFTS AND HOSPITALITY See Information sheet Note 6

DESCRIPTION	VALUE	SOURCE





7. BENEFITS See Information sheet Note 7

SOURCE	DESCRIPTION OF BENEFIT

8. TRAVEL See Information sheet Note 8

SPONSOR	DESCRIPTION OF JOURNEY

9. LAND AND PROPERTY See information sheet Note 9

DESCRIPTION OF PROPERTY	LOCATION-AREA	EXTENT OF THE PROPERTY

10. PENSIONS See Information sheet Note 10

SOURCE	PUBLIC/PRIVATE



PART B

CONFIDENTIAL SECTION

2008

MEMBER'S NAME _____

1. SHARES AND OTHER FINANCIAL INTERESTS – Immediate Family

See Information sheet Note 1

NUMBER OF SHARES	NATURE	NOMINAL VALUE	NAME OF COMPANY

2. REMUNERATED EMPLOYMENT OUTSIDE PARLIAMENT - Member

See Information sheet Note 2

NAME OF EMPLOYER	EXTENT OF REMUNERATION

3. REMUNERATION : DIRECTORSHIPS AND PARTNERSHIPS - Member

See Information sheet Note 3

DIRECTORSHIP/PARTNERSHIP IN ANY CORPORATE BODY	EXTENT OF REMUNERATION

3. DIRECTORSHIPS AND PARTNERSHIPS – Immediate Family

See Information sheet Note 3

NAME OF ORGANISATION	TYPE OF BUSINESS ACTIVITY	VALUE OF ANY BENEFITS DERIVED





4. CONSULTANCIES OR RETAINERSHIPS - Immediate Family

See Information sheet Note 4

NAME OF ORGANISATION	TYPE OF BUSINESS ACTIVITY	VALUE OF ANY BENEFITS DERIVED

5. SPONSORSHIPS - Immediate Family

See Information sheet Note 5

SOURCE OF SPONSORSHIP	DESCRIPTION OF ASSISTANCE / SPONSORSHIP	EXTENT OF SPONSORSHIP

6. GIFTS AND HOSPITALITY - Immediate Family

See Information sheet Note 6

DESCRIPTION	VALUE	SOURCE

7. VALUE - Benefits Member

See Information sheet Note 7

SOURCE	DESCRIPTION OF BENEFIT	VALUE





7.1 BENEFITS – Immediate Family

See Information sheet Note 7

SOURCE	DESCRIPTION OF BENEFIT	VALUE

8. CONFIDENTIAL TRAVEL – Member Only

See Information sheet Note 8

SPONSOR	DESCRIPTION OF JOURNEY

8.1 TRAVEL – Immediate Family

See Information sheet Note 8

SPONSOR	DESCRIPTION OF JOURNEY

9.1 LAND AND PROPERTY – Immediate Family

See Information sheet Note 9

DESCRIPTION OF PROPERTY	LOCATION-AREA	EXTENT OF THE PROPERTY

10. VALUE OF PENSIONS – Member Only

See Information sheet Note 10

SOURCE	PUBLIC/ PRIVATE	VALUE