Misappropriation of assets: A decepticon of leakages in Malaysian public sector

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Abstract

Decepticon, true to its name, may transform into various disguise. The villain take many forms from a flashy luxurious cars to even military vehicles. Similar to Decepticon, the episodes of misappropriation of assets in government sector runs from small misuse of stationeries to misuse of official vehicles for personal interest. It is indeed a leakage of expenditure to the government because the authority has spent unnecessary costs to cater this type of crime. Many has regarded asset misappropriation as harmless. Though the incidences might not be significant, yet, if it is left untreated, the authority will spend more money than it should. Hence, the objectives of this study is to find the empirical evidence on awareness against fraud deterrence among Malaysian public servants. As propositions, this study resolved on the inspiration that resilience against frauds can be developed through trainings, effective enforcement and control. Barrier such employees' character should be considered as deterrence for fraud awareness. Based on Rules no.4.(2)(c) of *Peraturan-Peraturan Pegawai Awam (Kelakuan dan Tatatertib) 1993 (Pindaan 2002),* this research employed semi-structural interview method to capture details and descriptive data so that this study is able to get the comprehensive understanding on the missing link between government inspiration and practice. 4 public servants ranging from 1 to 20 years of service have been selected for our preliminary studies to validate our research propositions. In effect, despite of that the policy is massively available in the government's portal, the respondent claimed that they were not familiar with Rules no.4.(2)(c) and their decisions on the do's and don'ts are entirely dependable on their faith and internal strength. Mentality of public servants is identified as key barrier towards awareness of fraud deterrence. There were few studies on fraud deterrence in Malaysian public sector. This study focus on the same scenario, yet supplemented with a study on fraud awareness amongst the government servant.

Keywords: Misappropriation of assets, public sector

1. THE PLOT

The issues of leakages and inefficiencies have been long been trumpeted in the main stream media every time the Auditor General highlighted that the government's spending was not based on the 3Es; efficiency, effectiveness and economic. Instead, the expenditures were based on extravagance, wastefulness, and fraud (*Auditor General's Report*, 2011). Sadly, whenever the issues are brought up, many are quick to point fingers to each other and the government is also quick to give assurance to take actions against the offenders and to rectify the problems (The Sunday Star, 24 October 2010; The News Straits Times, 20 September 2010). Subsequently, the public demand to see something should be done to reinforce discipline and integrity among civil servants (The Sunday Daily, 8 October 2013, Berita Harian, 12 February 2015). As an appreciation to good governance,

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the government has taken the initiatives to undertake aggressive actions for fighting fraud and corruption in order to restore public faith towards public servants.

The Malaysian government as described by Wan Abdullah (2008), has made enormous efforts to curb corruption and mishandling of government assets by setting up the Anti Corruption Agency of Malaysia (ACA), Public Accounts Committee (PAC), National Integrity Plan (NIP) and the Integrity Institute of Malaysia (IIM), Public Bureau Complaints (PCB), and Disciplinary Board and Code of Ethics.

As there are numerous and increased regulatory enforcement to combat bribery, the actions have created a new prevalent misdemeanour which is easy to detect but hard to prevent, that is, misappropriation of government assets (PwC, 2010). In the survey, the report also shows that in certain circumstances, the unethical behaviour can be seen as acceptable, or even condoned by the management.

Perhaps, the relationship between the government and the management of government department is best explained by using agency theory. In this case the former is principal while the latter is the agent. Problems occur when the agent has different interest to maximise its own benefits whereas the principal cannot directly ensure that the agent is acting in its best interest. The Auditor General's reports have highlighted that the incidents of leakages and fraud happened in government department which confirmed that the agent is indeed exposed to fraud triangle. The real challenge surface when the agent itself comprises of three layers of managerial level which make it more costly to monitor. Problems occur when the inspiration of the government is not well disseminated throughout the department by the concerns managerial level. Even though motivation and rationalisation of fraudster are difficult to control, the least we could do is to strengthened the guardianship to make fraudulent activities become unattractive (Prabowo, 2011; Clarke, 2009)

A study conducted by Ab Majid and Mohamed (2012) in Malaysian local authorities has shown that not only misappropriation of assets is a major concern in the public sector but also has indicated that it is a common sight in the organisation. The study has cited that the usage of government vehicles for private use scores the highest while telephone usage is among the top four problem. The studies have authentic KPMG Malaysia report (2011) that there are three types of frauds that top the fraud list in the government sector; misappropriation of assets, corruptions and breach of trust. These should not be happening. The business of government cannot be separated from accountability and public servant has a moral responsibility to carry out government's programs with public resources (Ahmad Sarji, 1993). Despite of notable institutional mechanism and strategies to engage in the issues of professionalism and ethical conduct of public officials (Siddiquee, 2006), the government's efforts seem to produce mediocre results (The Sun Daily, 8 October 2013). This disappointment is in fact one the challenges of policy institution in an organisation. Siti-Nabiha and Scapens (2005) found in their studies that even though new policy was officially implemented in an organisation, often, the practice is merely for ceremonial purposes. That means, the realisation of the policy in the organisation is simply for the purpose of reporting and pressure from the top, nonetheless, activities and decision making remain unaffected (Siti-Nabiha & Scapens, 2005).

This paper is organised in the following fashion: In the next section, we outline the main concern of this study namely misappropriation of government assets. We name it as "the villain" to show the seriousness of the issues. In the succeeding section, we explain on the research framework, and the relevant government rules we are using. We called it as "the heroes". The research methodologies, we named it as "the weapons". In a further section, this paper discusses on the findings (the battles) which generally has demonstrated that the problem of misappropriation of assets are real and mentality of public servants are cited as a challenge. The paper concludes that lack of incapable guardian has become increasingly scarce particularly when implementing government's rules and regulations.

2.   THE VILLAINS

In 2008 Association of Certified Fraud Examiners Report to the Nation on Occupational Fraud and Abuse have classified that misappropriation of assets is the most common type of occupational fraud and defined them both theft and misuse of organisation's assets. The report added that the incidence of misappropriation of assets occurs when the government servants used the official vehicles, computers and facilities for personal interest. The episode runs from small misuse of stationeries to misuse of official vehicles (Orchard, Decker & Kiziran, 2007; Greenlee, Fischer, Gordon & Keating, 2007), therefore they are difficult to be detected (Chapple, Ferguson & Kang, 2007). Even though Ziegenfuss (2001) agreed that the presence of a strong ethical environment may contribute towards lower incidence of fraud, he has suggested few reasons that might cause the incident of frauds to increase. Among others are:

- Poor management practices;
- Weakened social values;
- Economic pressure;
- People not held responsible for their actions; and
- Inadequate training for those responsible for fraud prevention and detection.

In addition to that, KPMG Malaysia has also reported that the act of misappropriation of assets has become common sight, since the government employees have vague understanding in policy and procedures (KPMG-Malaysia, 2011). For that matters, the incident have cited that weak internal control, difficulty in verifying certain revenue streams, policies and procedures of public procurement, and trust issue among others are identified as the contributory factors (Douglas and Mills, 2000). As such, the incidents cannot be left untreated or otherwise the problems will lead to further leakages to the government expenditures (Orchard et al, 2007).

3.   THE HEROES

Hence, building a resilience against fraud is indeed a daunting task. By looking at the governance point of view, the problems should be seen as wastage of taxpayers' money and hence should be minimised. Moreover, we cannot solely rely on conventional enforcement agencies for it has evidently proven to be ineffective to curb frauds (Prabowo, 2014a). Pillay (2004) supported this motion by indicating sensational moral crusades and massive publicity through mass media do little to address the severity of the problem.

As such, Prabowo (2011) emphasised that good crime prevention strategy is to understand the real problem, fraud prevention policy and awareness, and legal deterrence. It is interesting to understand on why the problems subsist despite of the elaborated efforts made by the Malaysian government. The fact on how offenders rationalised their action into believing that they are actually not committing frauds is incredibly astounding. Perhaps, it is timely if we could mitigate the problems by looking at the other factors that contributes to the problems (Murphy & Dacin, 2011; Prabowo, 2014b; Ramamoorti, 2008).

3.1   OVERVIEW OF THE MODEL

We are enthusiast to extract an element of Luder's contingency model as a tool to build a fortress of frauds resilience that is, the producer of information. This model is chosen because it contends that optimal organisational changes are dependent (or contingent) upon various internal and external constraints (Lüder, 1992). The model consists of four components; the stimuli, social structural variable for the user of information, structural variable for the producer of information and implementation barriers. According to Luder, the stimuli initiates the process of changes (or innovation) to create demand of information from the user of information and increase the readiness of producer of information to supply the information (1992). He added that the attributes of structural variables may come from various background and that influence the basic behaviour for both user and producer of information (1992). User of information expect changes to happen, while producer of information must change their behaviour. Nonetheless, barriers of implementation should be taken into consideration as the circumstances might delay the desirable results. Inspired with that model, we have arrived to the following framework as our basis of this study. In this study, public servants are considered as the fundamental variable for producer of information.
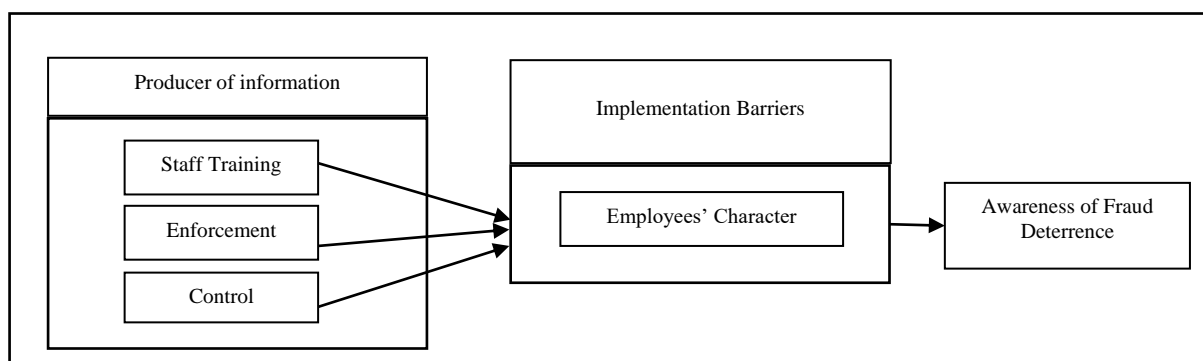

Figure 1. Research Framework (Amended)

The underlying arguments for this research framework are adopted from variables discussed by (Lüder, 1992). We concur that should proper training that covers on relevant code of conducts are carried out, the consequence

of incompliance is a significant factor towards basic attitude for producer of information. Trainings may provide knowledge and skills and thus help to ensure the success of building fraud deterrence. As such, we have developed the following propositions:

- Resilience against frauds can be developed through trainings, effective enforcement and control.
- Barrier such employees' character should be considered as deterrence for fraud awareness.

As mentioned earlier, the Auditor General has highlighted that the government expenditures were based on extravagance, wastefulness, and fraud since 2010. Hence, we will narrow the problem of fraudulent activities to misappropriation of assets which has caused leakages to government spending. Our analysis begins on the examination of circulars from the Prime Minister's Department which covers on the policy of Codes of Conduct. There is an immerse list of rules and regulations that govern the government servant, but we will choose Rules no.4.(2)(c) of *Peraturan-Peraturan Pegawai Awam (Kelakuan dan Tatatertib) 1993 (Pindaan 2002)* due to its relevancy to issues highlighted by the Auditor General. According to this rules,

> *"4.(2) An officer shall not –*
> *(c) Behave in any manner that might cause a reasonable suspicion that:*
> *(i) He has let his personal interest conflict with his public service so as to impair his position as a public officer; or*
> *(ii) He has used his public position for his own benefits such as;*
> - *Use and driving department's vehicle for personal use, such as going to and from the office, sending the children to school and other;*
> - *Obtained instalment and payment facility for the purchase of land from developer who has official relations with the public officer in the course of his official duties*
> - *Buying vehicle from company that has an official relationship with the public officer*
> - *To exempt imported goods from duties in hope to get personal benefits (bribes)"*
>
> (Source: www.e-tatatertib.jpm.gov.my)

Based on the above regulations, we looked at the execution and enforcement process for the concerned guidelines. We have studied on how the enforcements are being done such as to determine the types of trainings conducted or how the information (in this case, code of ethics) is disseminated. The next process included on identification of existing control and procedures, that is, the enforcements that have been and being taken. Given that all three measures are present, we hoped that the real challenges will be understood and hence improvement of fraud awareness can be developed. We have eliminated the elements of stimuli and user of information in assumption that both are constant. Meaning that the stimulus of the study is originated from the Auditor's General report and the user of information is the public. Since the issues are streamed on the integrity of public servant, we concur to take that segment (producer of information) as our research contender.

4. THE WEAPONS

Moving from our propositions to empirically testable hypotheses may create considerable problems. Methodologically, statistical test to measure the correlation between the stimulus and the fundamental variables is impractical and the results would appear questionable. Hence, our propositions to build fraud deterrence can only be achieved by employing qualitative method. This is because we are determined to capture details and descriptive data from interviews through focus group so that this study is able to get the comprehensive understanding on the missing link between government inspiration and practice. Moreover, this method provides flexibility and closer to subject matter. The interview questions are constructed semi-structurally which allows both interviewee and interviewer interact liberally without compromising the real intention of the study. 4 public servants ranging from 1 to 20 years of service have been selected for our preliminary studies to validate our research propositions. The public servants from the middle management level are chosen as respondents.

5. THE BATTLES

We have found an interesting pattern of responses during the interviews. All of our respondents agreed that using public position for own benefits is wrong and frauds are major concern in the public sector. Nonetheless, when asked whether it is acceptable to convert an entitled business air ticket into two economy class tickets (so that the government officer could travel with his/her spouse on the government expense for free!), all of them settled that the practice is not wrong so long it is within the budget. Conversely, they are all agreed that the action is not ethical. Then again, when we asked the respondents whether dispatching children to and from

school using department's car is acceptable, all of them agree that the incidents are wrong. One of the respondents however answered,

[… it depends whether I can bring home the car or not. If I am entitled to have the car, why I couldn't use it to dispatch my children if it is on my way to the office? Yes, I know the department is paying for the fuel and maintenance, but it is impractical if I have to switch cars].

5.1 Staff Training

Luder (1997) concurs that training of administrative personnel is vital to influence changes of behaviour for the producer of information. Even though different countries enforced different types of trainings for top fiscal positions in public sector, the ultimate objectives are to develop positive attitude towards more informative system. Here, we have identified and isolated codes and guidelines concerning the do's and don'ts for the government servants especially those relating to ethics, and fraud risk. Remarkably, even though the respondents claims that there is no trainings have been conducted concerning Rules No.4.(2)(c) of *Peraturan-Peraturan Pegawai Awam (Kelakuan dan Tatatertib) 1993 (Pindaan 2002)* nor on frauds, only one of the respondents indicated that the ability to determine what is wrong or right depends on one's faith and internal strength.

[… sebelum kita masuk tu kita kena fikir sendiri la.]
Translation: (...we must be able to think reasonably before joining the government force..)

These individuals or employees are generally honest and committed who make conscious efforts to comply with the organisation's policies and procedures. However, we must realise that the employees are also exposed to the risk of committing fraud particularly when almost everybody in the organisation has blurred understanding on the policy (Murdoch, 2008, KPMG-Malaysia, 2011). Fraud of committing frauds will grow when the management fails to document anti-fraud policies, provide training, and sanction unethical practices (Murdoch, 2008). In order to make frauds and corruptions as unacceptable to all, Pillay (2004) has suggested long-term education to raise a holistic awareness. Trainings per se is serious matter given that 30% companies fall victims for economic crime even though preventive actions have been taken (Murphy et al, 2011). Murphy et al (2011) have suggested three causes that might have led to the problems namely, lack of awareness among staff, intuition and rationalisation, and reasoning.

5.2 Enforcement

Here, we looked at the execution and enforcement process for the concerned codes. This will cover on types of trainings conducted or how the information is disseminated. We retrieved this code from the Prime Minister's Department's website. In response of the circulars outlined by the Prime Minister's Department that is, Rules no.4.(2)(c) of *Peraturan-Peraturan Pegawai Awam (Kelakuan dan Tatatertib) 1993 (Pindaan 2002)*, all of our respondents replied that they have not familiar with the code, despite that the information can be accessible by all government servants at large. According to one of the respondents,

[…Kita bukak website JPA tu bila kita nak guna website JPM tu sahaja (laugh). Kalau takde apa-apa memang tak bukak, (laugh) … Jadi adalah menjadi tanggungjawab pentadbiran untuk menyebarkan maklumat ini].
Translation: (…We only visit JPM's (Prime Minister's Department) website whenever there is a need and the needs are limited to the page that is only applicable to us. Hence, it is the responsible of the administration level to disseminate the codes…)

Iyer and Samociuk (2006) would certainly applaud the above respond since they have advised that the efforts of creating comprehensive and lengthy policy will be in vain if no one reads. They complemented the notion by saying that policy on fraud and corruption need to be short, easy to understand and applied by all employees across the organisation. Kovacich (2008) and Iyer and Samociuk (2006) also advocate that the responsibility to protect corporate assets should deem under the role of executive or senior management of the organisation. The expectation comes naturally from the owner of the corporation. In our study, the expectation comes from the user of information because the assets are bought using taxpayers money. Some of the executive management may emphasis that anti-fraud program is already permeated the organisation to safeguard assets as they have already engaged with internal and external auditors or corporate ethics committee (Kavacich, 2008). Even though the reasons given may be logical, the seriousness of the executive management to control fraud can be seen whether their anti-fraud program is given as top priority (Kavacich, 2008).

5.3   Control

Similar like staff trainings on fraud, the respondents have not heard any enforcement of punishment being done to those who have gone against Rules no.4.(2)(c) of *Peraturan-Peraturan Pegawai Awam (Kelakuan dan Tatatertib) 1993 (Pindaan 2002),* specifically in assets misappropriation. However, other offences involving other frauds and corruption are often heard in the main stream media. The responses are consistent with the efforts done by the Malaysian Anti-Corruption Commission which has put combating corruption as priority.

Below report (Table 1) is an evidence that fraud and corruption among the public servant are indeed a serious matter in Malaysian public sector. Even though cases involve public servants are relatively lower than the public, it is not a world of difference.

Table 1: Statistic of Cases Handled by Malaysia Anti-Corruption Agency

Year	Public Servant	Public	Number of Cases
2011	323	595	918
2012	288	413	701
2013	170	339	509
2014*	224	328	552

*Report is accurate until January 2015 (Source: www.sprm.gov.my)

Scholars might have argued that good internal control systems are sufficient to prevent errors and possible frauds in an organisation. Nonetheless, a study involving local authorities in Malaysia revealed that fraud exists despite of the existence of internal control (Jomitin, Mohamed, Haron, & Omar, 2013) (Ab, Mohamed, Haron, & Bahiyah, 2014). In the findings, not only the respondent knew what they did were wrong, no appropriate actions were taken on their wrong doings because their superiors have condoned to the act. Most of the time, fraudsters are aware that their acts are inappropriate in their course of duties, but somehow, they immediately able to rationalise their actions. This usually happens when the offenders are very familiar with the environment and routine (Graycar & Sidebottom, 2012). Being familiar, the offenders are able to find the possible loopholes to take advantage on the environment's shortfall whenever they are comfortable with their current positions.

5.4   Implementation Barrier

While other scholars will blame culture (Bierstaker, 2009), institutional weaknesses and bureaucratic traditions (Pillay, 2004) as the challenges, all of our respondents have considered employees' character as an important aspect that will bring down the efforts to enhance awareness of fraud among public servants. The responses are consistent with opinion given by Murdoch (2008) who has warned that employees' upbringing, culture, and ethical beliefs would determine the characters of employees into the organisation. Below are some of the responds.

[…Kita punya mentality tu kot. Maybe kita rasa macam semua orang buat so it is ok… Macam fraud triangle tu… ada satu part tu dia cakap pasal rationalisation kan. Orang lain boleh buat, kita pun boleh buat. Haaa. So mentality macam tu la kot.]
Translation*: (…I think it is the mentality. Maybe because we think that everybody is doing it, so it is ok. Just like the fraud triangle, the one with the rationalisation, since everybody is doing it, so we do the same thing…)*

[…Orang tu sendiri. Orang-orangnya. Saya rasalah. Sistem tu dah ok. Sebab sistem tu bukan orang, sistem adalah system. Dia dibuat oleh manusia dan sentiasa boleh diperbaiki. Tapi orang yang menjalankan system tu. Itu yang paling payah.]
Translation: *(…It is the people. The systems are already ok. The systems are not human being and are created by humans. Systems can always be improved. Problems come from the people who run the systems. So, it is the most difficult part…)*

[… there is possibility that the employees do not have the intention to improve the control. Even though they have identified the problems, they just put it on paper just only for report purposes, yet, there is no action taken because no one wants to hold the responsibility. Who wants to increase their workload?].

Interestingly, when asked about why the policy of assets misappropriation is not being enforced, one of the respondents said,

[… kita ni terlalu influenced by human factor. Terlalu kasihan. Contoh, tatatertib disiplin staff, sepatutnya ada tindakan yang di ambil, tapi staff tu boleh kata apa tau? Tak de apa-apa. (hands gesture of indicating nothing) See? Apa effect dia memang kita nampak iaitu dia tidak berubah, kerana tiada tindakan yang dilakukan.]

Translation: *(… (most of the time) we are too occupied by the human factor. It is too many discretion. For example, in staff disciplinary action council, no action is being taken to that particular staff. And the staff can proudly say "Nothing!". (hands flipping indicating of nothing) See? The effect is that s/he does not change, because there is no action taken…)*

6.   THE CONCLUSIONS

The responses in our findings said it all and problems of assets misappropriation are real. As mentioned earlier, even though the incidents seem trivial, yet, if it is ignored, will become major leakage to the government. It has to be noted that the act of fraud is contingent on three factors, namely the offender, the target and a lack of capable guardians (Graycar & Sidebottom, 2012). In this study, it is apparent that the do's and don'ts have been properly outlined and available to be reached by the government servants. The respondents who all consist of middle management level may generally committed with their works and make conscious efforts to comply with the organisation's policy and procedures. Somehow, there is a missing link that the government inspiration does not go down from top to bottom. Fraud and leakages in government spending are still happening. The efforts to safeguard government assets might be wasted due to the absence of capable guardians since it has created a space of opportunity for fraud to happen. Perhaps, long term education to raise a holistic awareness need to be developed in order to make frauds and corruptions as unacceptable to all (Pillay, 2004).

It is hoped that our proposition may highlight real challenges before kicking off the real objective; that is to implement a holistic environment where wastage is minimised and efficiency is maximised. This is important that when all the reasons are recognised, focal measurements can be implemented to minimize factors of opportunity, pressure, and rationalisation for fraud. We believe that if the challenges are not properly addressed, a holistic effort will fail to take effect as any implementation of frauds prevention and detection program will merely become ceremonial purposes only. This proposition is motivated by the need to directly address at the understanding the motivation and opportunity of frauds and inefficiency of asset management. Specifically, by understanding existing scenario and how potential offenders take advantage on current scenario. Trainings coupled with thorough enforcements and controls are hoped to be the best practiced to build deterrence against frauds. Information on the do's and don'ts for government servants should be properly disseminated, punishment should be enforced and control should be enacted. Understandably, the efforts may encounter with challenges such as hard-core traditions of doing things wrong, yet it is never too late to make things right. Besides, wrong is wrong even if everyone is doing it.

In conclusion, we believe that trainings, enforcement and controls need to be blended together so that a solid foundation to deter frauds can be successful. Nonetheless, the researcher does not intent to displace but rather to supplement the existing anti-corruption strategies and to highlight on the area which are currently underexploited. With the given focus, it is hoped that the best remedy could be prescribed on the knowledge to strengthen the institutionalisation of government policy to combat frauds in public sector and to instil the awareness that protection of public sector's revenue and assets is a full time job that every government servants should take seriously.

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