

EXPLAINING THE GAP BETWEEN POLICY AND PRACTICE WITH LUDER'S CONTINGENCY MODEL ON THE ISSUES OF MISAPPROPRIATION OF ASSETS AND CORRUPTION: IN THE PERSPECTIVE OF MALAYSIAN LOCAL AUTHORITIES

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ABSTRACT

The main objective of this research is to determine the challenges that fill in as the gap in the execution and implementation of Rule 4(2)(C) of the Public Officers (Conduct and Discipline) (Amendment) Regulations 2009 served in the Malaysian public sector. The rule, specifically incorporates misappropriation of assets and corruption as punitive disciplinary offences to the public sector employees. Nevertheless, misappropriation of assets and corruption incidents remain significant. Being the motivations, by using Agency Theory and Luder's Contingency Model as background, this research employed a combination of semi-structural interviews and open-ended survey involving 149 Malaysian local authorities. The responses from six semi-structured interviews and 199 open-ended survey were analysed, tabulated and themed, to capture the existing-experiences and being the descriptive data. Eleven main challenges were identified as the main concerning factors vis-à-vis fraud awareness: inefficient leader, attitude, weak enforcement, lack of internal strengths, ineffective training, lack of authority, opportunity due to lack of control, burden of proof due to bureaucracy, favouritism/ excessive discretions, organisational culture, and public perception. The findings also indicated that while participants were aware of corruption and misappropriation of assets occurring in their department, the matters were rarely reported. Subsequently, the perceived wrongdoing experiences of employees had become a blessed daily routine. Wherein the ambit of limitations of this study, the scope and findings contributed to the literature further insights into these holding ongoing matters of the local authorities shenanigans.

Keywords: Misappropriation of Assets, Corruption, Local Authorities

INTRODUCTION

Government expenditure has always been a big business, hence in consequential, the public demand civil services with high integrity. The ever fight against inefficiencies in administration and corruption has always been a priority concern for the Malaysian government. At the macro level, the Malaysian Federal Government had sanctioned various establishments in appreciation of good governance, extensive initiatives and achievements programs to upheld integrity and service delivery in the public sector. Within the micro level, the employees of Malaysian public service are governed by Article 4 of Code of Conducts for Public Officials (*Conduct and Discipline*) (*Amendment*) *Regulations 2009*. The Code set as a function for a holistic guideline on compliance and, whereby appropriate penalties are imposed; in order to create highly ethical public servants. Nonetheless, the issue of

inefficiencies in administration, corruption and misappropriation of assets are a common spotlight whenever the Auditor General produces their annual reporting.

In the context on this research, the examinations are focus in observing Rule No.4(2)(C) under the provision of Article 4 of *Public Officers (Conduct and Discipline) (Amendment) Regulations 2009* as a means of control, pertaining to the issues in relation of the abuse of power, misappropriation of assets and corruption conducts of the government employees.

Despite the enforcement of the Article 4, reports of missing in millions of monetarise amount, misappropriation or embezzlement, negligence, power abuse, corruption and misconduct among government employees, had become eminent in the Auditor General's Report (Auditor General's Report, 2010, 2012, 2013, 2014, 2016, 2017). This is further evident when Transparency International Malaysia (2018) reported that RM46.9 billion had lost through corruption within the public sector in 2017, of which the amount is cited to be estimated higher than RM44 billion collected through goods and service tax (GST). Chief Secretary to the Government, Datuk Seri Dr Ismail Bakar, provided that, government employees are being a high-risk group exposed to fraudulent activities, especially those involved in decision making and procurement, as 40 per cent of those detained by the Malaysian Anti-Corruption Commission (MACC) from 2011 to 2015, were civil servants (Berita Harian, 29 January 2019). Following the disclosures on the misconduct and negligence of errant civil servants, the objectives of this research is to describe the aggravating reasons that become the gap between policy and practice by using Agency Theory and Luder's contingency model.

Agency Theory as Lens

Since the government has provided elaborated efforts to curb issues of fraud, the authors have concurred to look at the issues from top to bottom by using agency theory. Principally, issues arise when both parties are working towards the same goal but do not share the same interests. The agent is hired by the principal to perform his/her work so that the principal's benefits can be maximised by giving agent the appropriate incentives (Eisenhardt, 1989; Fama & Jensen, 1983; Jensen & Meckling, 1976). This research employed the principles of accountability emphasized by (Nyman, Nilsson & Rapp, 2005) of whom have suggested that the management of the local government as principal while the agent is the operating staff. According to Nyman et al (2005), the management in local government are empowered to fiscal public resources and coordinates the entire operations hence, practice function as the principal. The management of local government is also expected to deliver federal government's policy and its inspiration for the benefits of both government and citizens. The operational staff is the subordinates to top management and thus acting as the agent. Therefore, in accordance to the principal and agency theory, operational staff is expected to act at the best interest of the principal and oblige to decisions made by the management (Nyman et al., 2005; Atilla, 2012). Hence, incentives and policing mechanisms are introduced to limit agent's discretions but naturally with some amounts of costs (Eisenhardt, 1989; Mitnick, 1973). However, such incentives and policing mechanisms will not achieve the desirable outcomes when there is insufficient monitoring by the principal (Atilla, 2012).

The Malaysian federal government has transpired the inspiration of good governance through Article 4 in *Public Officers (Conduct and Discipline)(Amendment) Regulations 2009* which serves as the guidelines to all government employees on ethical conduct. Rule No.4(2)(C) in Article 4 has specifically enlisted abuse of power, corruptions, bribery and misappropriation of assets as disciplinary offence. Rules obtained from this Article should be regarded as commodity by the government department. In some ways, the inspiration to curb fraud does not go down from top to bottom and the incidents of misappropriation of assets and

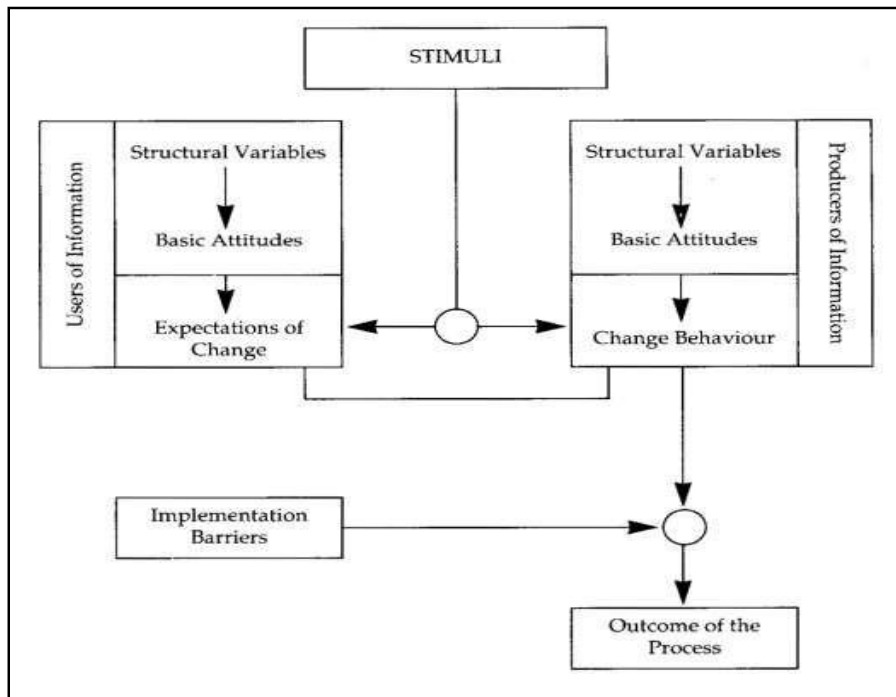
corruption still recur. While the pressure mounts to restore public faith and good perceptions towards government employees, the federal government has introduced numerous new policies and institutions. Nonetheless, practices and decision making activities remain unaffected since the principal have not fully monitor the doings of the agents (Siddiquee, 2005; Eisenhardt, 1989). It is fair to address that the heart of principal and agency theory lies on the concept of individuals with different preferences who are working together in cooperative manner. Given that both principal and agent could adopt opportunistic behavior, the suppose relationship between the principals and agents in this research however is lacking with evidences addressed by the Auditor's General. As an effect, there is a missing link on why the intended policies do not work as prescribed.

Luder's Contingency Model as Based Conceptual Framework

To help visualize the research phenomenon, the authors have employed Luder's contingency model of governmental accounting. The authors believe that this model can clearly define the basic understanding of information flows and needs between users of information and producers of information. The basic structure of the contingency model as depicted in figure 1, consists of four components; the stimuli, structural variable for the user of information, structural variable for the producer of information and implementation barriers.

According to Luder (1992), the stimuli initiate the process of change (or innovation) to create the demand for information from the user of information and increases the readiness of the producer of information to supply the information. Both the user and producer of information may have different attributes and priorities due to various backgrounds (structural variables) which may later influence their behaviour. In this model, the user of information expects changes to occur, while the producer of information must change their behavior in order to generate the changes. Lüder (1992) hypothesised that positive combinations between stimuli, the user of information and the producer of information would facilitate the innovations process. Nonetheless, barriers to implementation should be considered as the circumstances may delay the desirable results.

Luder's contingency theory provides a sufficient platform for the researcher to conduct the research with a more precise scope so that the phenomenon under study can be understood and described. By employing this model, the authors expect to understand the real challenges that is, the gap between policy and practice.



**FIGURE 1
LUDER'S CONTINGENCY MODEL**

By adopting Luder's contingency model, the authors have developed an amended version of the model which the fundamental stimulus of this study is based on the situation pertaining to fraud and public interest (Figure 2).

Here, the interests include; knowing the reasons for the frauds, leakages and wastages which have become the stimuli for this research. The stimuli also serve as the basis for the government (producer of information) to adopt necessary actions. Provided that the federal government has made an effort to curb the issues of fraud, leakages and wastages, the awareness of the issues should address all levels of employees, namely; the operational level, middle management level and top management level through policy control, training and effective enforcement. The user of information (stakeholders) may have different socioeconomic status and political background. Luder (1992) deliberated that socioeconomic status is related to the demand towards further information. Socioeconomic status can be described as the influence of economic and social background towards the information content of the public sector financial report (J. Chan & Rubin, 1987). Political culture also influences the publics' need for further disclosure of information in public sector financial management. Indeed, it means the higher participation of the public towards decision-making processes, the higher the expectation of a more informative form of reporting from the public sector. In Luder's framework, the users expect corrective actions to be undertaken and that the expectation is directed towards top management, middle management and operational staff of the affected area(s) (Harun, 2012; Lüder, 1992).

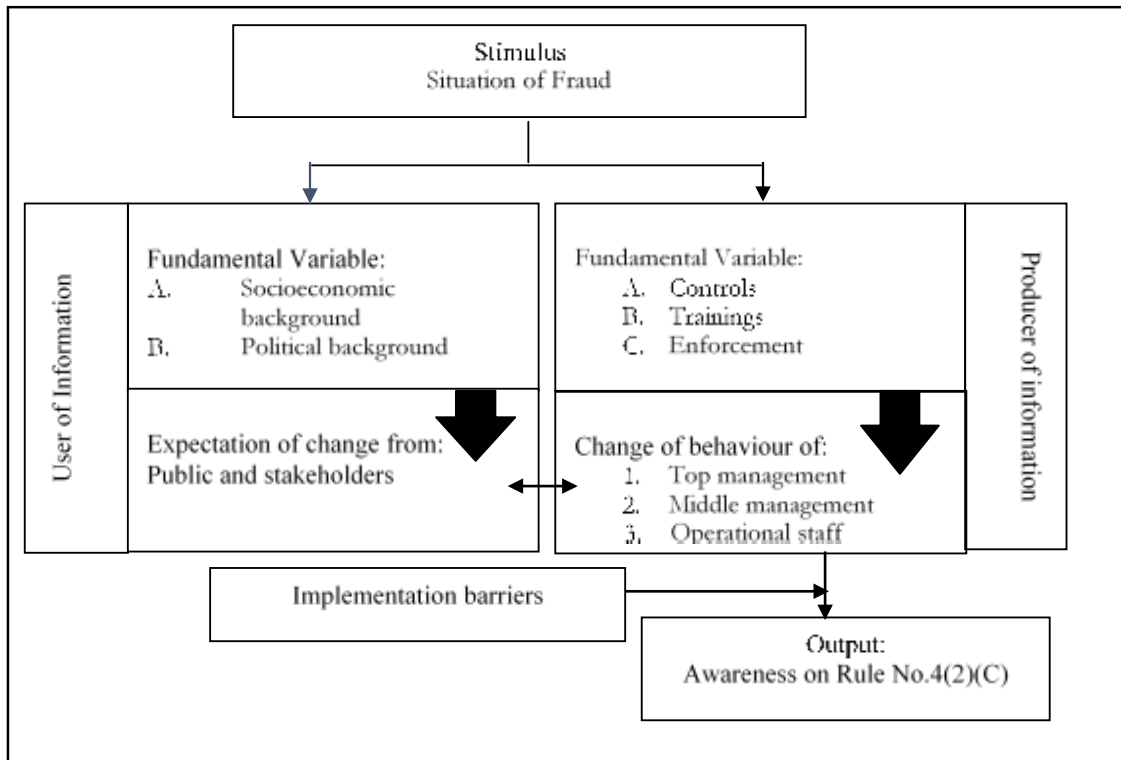


FIGURE 2
RESEARCH PHENOMENOLOGY IN VIEW OF LUDER'S CONTINGENCY MODEL

(amended from Lüder, K. G. (1992)).

The producer of information in this research is identified as the government employees. The components of the producer of information are divided by 2; (1) the fundamental variable, and (2) Change of behavior. The expectations of a change of the behavior by the stimuli and user of information on the producer of information will be influenced by the fundamental variables; control, training and enforcement. In this research, the producer of information is identified as; top management, middle management and the operating staff). Since this research is conducted looking through the lens of agency theory, top management and middle management will be recognized as the principal, while the operating staff will be viewed as the agent. Since the Malaysian government has presented elaborate strategies to curb problems associated with asset misappropriation and corruption, challenges relating to the awareness of fraud become the gap between what the government has inspired as policy and its practice. Moreover, the desired output on the awareness of Rule No.4(2)(C) is dependent on the implementation barriers.

RESEARCH MEYHODOLOGY AND DATA ANALYSIS

The authors have adopted qualitative phenomenological research approach because the primary objectives in this research is to capture participants' real life context in their own words. Moustakas (1994) & Creswell (2007) have reflected that this method disclose and expose the behavior of the people who has direct experience to the phenomenon; that is the incidents of misappropriation of assets and corruption in local authorities. This method provides in-depth understanding of the phenomena under study besides contains rich data from the experience and perspective of individuals. For that matters, the authors need bracket themselves, that is, to set aside their prejudgment, biases and preconceived ideas about the subject under study (Moustakas, 1994).

The primary research instrument is face-to-face interviews. In addition to the

interviews, this research also draws upon the open-ended questionnaires received from 149 local authorities in Malaysia in order to authenticate the lived experiences of the participants involved in the interviews relating to the issues of misappropriation of assets and corruption in their departments. From disseminating 900 open-ended questionnaires, 201 responses were received and 199 were accordingly used in this research.

For data analysis, the researcher follows six-phase guide suggested by Braun and Clarke (2006, p.16) as a framework. The first step of the analysis involves reviewing all interview transcripts to achieve a sense of entire experience (Broomé, 2011; Morrissey & Higgs, 2006). In the second stage of analysis, the authors examined the transcripts for potential themes and meanings to understand the participants' experiences by classifying relevant information into pre-determined codes. In the third stage, the researcher identified 10 themes that seemed to say something specific about the objective of this study. The themes serve as pre-coded theme. In the fourth step, after coding processes were completed, the authors review each interview transcript to reflect on further information whether the data really support the context of this study. In this stage, responses from the open-ended survey were transcribed into text, and later cross-tabulated these with the responses received from the responses received from face to face interviews. The primary purpose of this task was to seek consistency with the responses obtained from the face-to-face interviews. In the fifth step of the analysis the data is defined and refine to identify the aspect of the essence for each theme captured by ensuring that there are no sub-themes within a theme or the redundancy of data interpretation. The sixth step begins when final thematic analysis has been derived and report finding can be performed.

THE FINDINGS

Accordingly, the combination of instruments (face to face interviews and open ended survey) enabled the authors to identify the possible connections or links between the contextual and narrative elements in exploring the patterns and themes. Based on the analysis from face to face interviews, the authors discovered ten themes, (noted as challenges) which were perceived by participants as deterrence for the awareness of Rule No.4(2)(C). The same themes are used as basis to classify responses received from open ended survey. Table 1 depicts the themes and frequencies discussed by all participants and respondents involved in this study.

	Face to Face Interviews	Open Ended Survey
Attitude	-	50
Inefficient leader	18	25
Weak enforcement	15	16
Lack of internal strengths	11	9
Ineffective training	9	16
Lack of authority	8	9
Opportunity due to lack of control	8	3
Burden to proof due to bureaucracy	8	12
Favouritism/ excessive discretions	6	-
Organisational culture	5	16
Public perception	3	-

The inefficient leader was quoted 18 times while weak enforcement was cited 15 times. Lack of internal strength or sometimes referred to as abstinence was quoted 11 times. Lack of authority, opportunity due to lack of control and burden to proof due to bureaucracy

share the same quotation of 8 times. Favoritism, organizational structure, and public perception on government employees were quoted 6, 5 and 3 respectively.

The responses received from open ended survey are also analyzed to identify the most discussed themes for the purpose of cross-tabulation with the responses received from face to face interviews. From the results, it is interesting to observe that the attitudes of employees, have been cited as the most theme ($n = 50$) for fraud while it had not been revealed during the interview discussions. Some of the other answers worth highlighting are as follows:

Respondent 510102 wrote,

[... The biggest challenge is to educate the employees or to tell them what they are doing is fraudulent. Another challenge is the fraudulent act itself that has already become the norm in the organization because that thing (fraud) has been there since the people before them.]

Respondent 150701 reported,

[...The apathy of management or the light penalties enforced is also the cause of why the employees do not worry about committing fraud. Common fraud such as punching in others' working time sheet is normal here as they think that the action does not violate the rules.]

Respondent 850501 was quick to place the blame on the civil servants themselves by writing the next response.

[... The civil servants themselves do not have integrity. Furthermore, there are many disadvantages of working in an environment of civil servants in terms of facilities, salaries or entitlements. No wonder they carry out fraud.]

Respondent 1550301 wrote,

[...I think it is the mentality of the people. Maybe because we think that everybody is doing it, so it is ok. Just like the fraud triangle, the one with the rationalization...since everybody is doing it, so we do the same thing].

Respondent 1710109 wrote,

[...It is the people. The systems are already ok. The systems are not human beings and are created by humans. Systems can always be improved. Problems come from the people who execute the systems. So, it is the most challenging part].

Respondent 280112 wrote,

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

Most of the responses could be summarized by the response given by the following respondent. Despite all the policies and rules in place, actions could not be taken if all the employee's take apathy to what is happening. Respondent 980611 responded that, [... It is the attitude of "tak apa" (it is okay) for most employees. They would sooner not notify that irregularities are happening in their department because it is not their problem. Most of the staff are not serious about combatting fraud. Even the person-in-charge who is managing the assets does not take appropriate care or action to safeguard the assets. In fact, nobody cares even if an asset is broken because it belongs to others (the government), and is not his or hers]

The responses from open ended survey has shown that inefficient leader becomes the second most quotes theme with 25 times tailed by weak enforcement, organizational culture, and ineffective training of 16 times. Theme for burden to proof due to bureaucracy was discussed 12 times, followed by both lack of internal strengths and lack of authority ($n = 9$), and opportunity due to lack of control ($n = 3$). Themes of favoritism and public perception however, were not cited by the respondents. While attitude, inefficient leader, weak enforcement, ineffective training and organizational culture serve as the main contributors to

the challenges regarding the awareness of Rule No.4(2)(C) based on their frequencies, it is also worth addressing the other attributes (challenges). Even though some may have the least frequency count, (e.g. public perception) the challenges are real and cannot be ignored.

DISCUSSIONS

The authors have chosen the agency theory in explaining the perspectives of the main challenges that served as implementation barriers (gap) between government's policy and practice, along with Luder's contingency model for better explanations on the incidents of misappropriation of assets and corruption. This study discusses on how government's circular, Article 4 for government employees on conduct and discipline; *Public Officers (Conduct and Discipline)(Amendment) Regulations 2009* serves as a governance mechanism to prevent and reduce rationalization, opportunity or motivation of fraud. Rule No.4(2)(C) in Article 4 of government's code of ethical conduct has provided that bribery, abuse of power, and misappropriation of assets as disciplinary offence. Even though bribery, abuse of power and misappropriation are disciplinary offence under the provision of Rule No.4(2)(C), in some ways, the majority of the agent are not aware on the existence of the rule. Rule No.4(2)(C) which is supposed to be disseminated to all government employees in Malaysian local government appeared to be only one-sided. Only the principal is aware and understand the importance of Rule No.4(2)(C) but not the agent. From the research analysis, the issues on misappropriation of assets and corruption, particularly on Rule No.4(2)(C) are widespread between both the principal and agent and are not limited to the actions and attitudes of certain individuals in the government department. The challenges, however, to rectify these issues are daunting since the incidents of fraud; misappropriation of assets and corruption appear to be the most common perpetuated form of crime found in organizations. The reported cases on the misappropriation of assets are quite disturbing as the misappropriation of assets is reported as being the most common type of fraudulent activity with a median loss of USD\$125,000 per scheme while the cases involving corruption constitute 9.6 % of fraud cases (Association of Certified Fraud Examiners, 2016).

In the findings of the study, using department's vehicle for personal use and improper claims by far is the most common form of misappropriation of assets and somehow the perpetrator manages to get away from it. Unlike corruption, which the incidents may trigger some red flags in the local government, misappropriation of assets is perceived as normal since everybody is doing it. Anecdotes from the participants pointed out that, some issues on misappropriation of asset have addressed through reports or internal audit findings, but somehow, are dismissed systematically either by layers of bureaucracy or by the top management. The unhealthy scenarios are cited as the reasons of recurring fraud. With weak enforcement on disciplinary actions on hand, the issues persevere despite of criticism.

Founded from the responses received, among the few reasons that caused challenges in the awareness of Rule No.4(2)(C), the framework of this research is re-presented as Figure 3. Figure 3 shows the adjusted Luder contingency model which focused according to the research objectives, that is to understand the probable challenges that become the barriers (gap) towards the awareness of Rule No.4(2)(C) that is meant to tackle the issues of misappropriation of assets and corruption in Malaysian public sector. The model includes the challenges that may serve as implementation barriers to government policies, Rule No.4(2)(C); namely inefficient leaders, weak enforcement, attitude, lack of internal strenghts, ineffective training, lack of authority, opportunity due to lack of control, burden to proof due to bureaucracy, favouritism or excessive discretion, organisational culture and public perception.

In this study, focus is given to the producer of information, namely the government employees of whom their conducts are governed by Article 4 of *Public Officers (Conduct and Discipline)(Amendment) Regulations 2009*. Through the lens of producer of information, the

authors adhere to the concept of agency, which emphasised that the management of the government department should shoulder the burden to disseminate Rule No.4(2)(C) to the working level. Assuming that public interest on fraud issues (stimuli) and the demand of change from the stakeholders (user of information) remain unchanged, the authors have refined the issues into more appropriate conceptual framework for this research.

The fundamental stimulus of this research originates from the situation of fraud and public interest. Continuous reports and cases on corruption revealed by mainstream media have intensified the degree to which dishonest and illegal behaviour has infiltrated the public service. Indeed, what has been exposed in this instance, ranges from local government to the ministries; the entities entrusted with the taxpayers’ money. The number of government employees who were apprehended from all categories (representing government officials) from government departments is concerning.

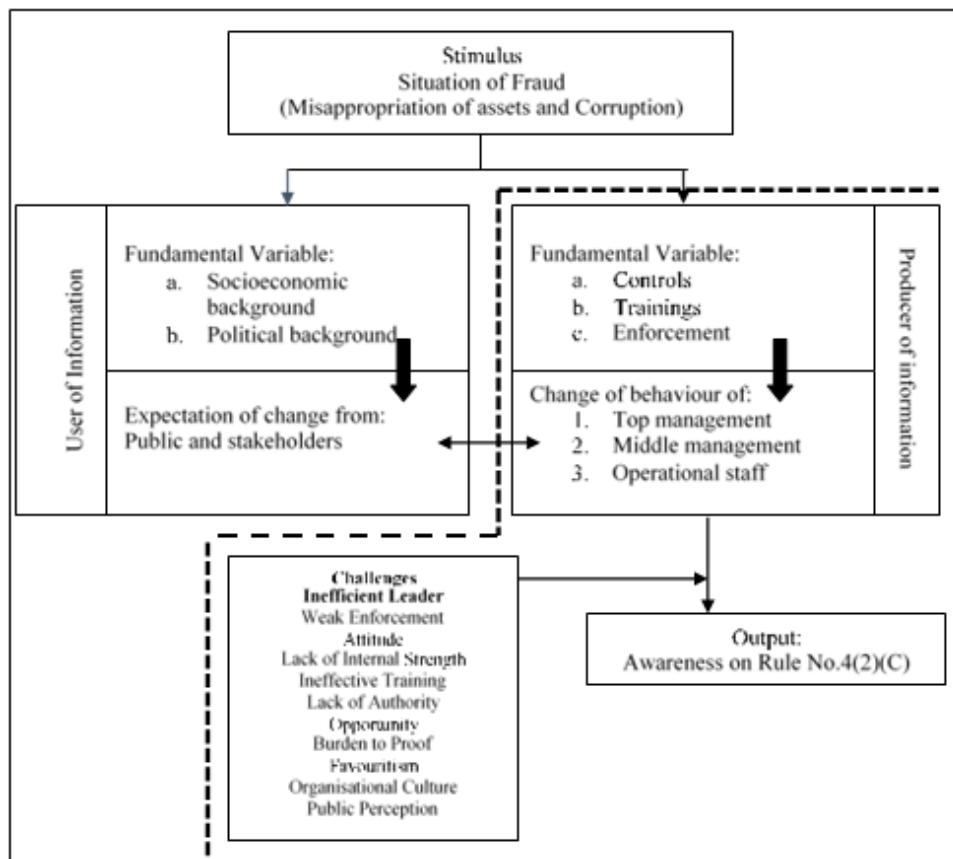


FIGURE 3
THE MAIN CHALLENGES FOR FRAUD AWARENESS AMONG EMPLOYEES OF MALAYSIAN LOCAL AUTHORITIES

Over time, the sums involved became breath-taking, including cash and luxury items. The common ‘red-flag’ in this example, highlighted the lifestyles of government officials including their personal assets, thereby indicating that they were living “beyond their normal means”. From the perspective of the agency theory, the authors of the view that the current situation in the government system in terms of control, training and effective enforcement needs to be strengthened. Despite the interest shown by the public, the expression, “only a few bad apples” in the public service appears irrelevant as such issues are giving the entire cohort a bad reputation. Rule No.4(2)(C) is meant to curb the incidents of misappropriation of assets and corruption. Given that the stimuli of this research are based on the occurrence of fraud and public interest, the stakeholders expected through control, training, and enforcement outlined by both Federal Government and local authorities would become the medium of behavioral

change for the producer of information. However, that is not occurring. The response from both the interviews and survey indicated that despite the present provisions on control, training, and enforcement on fraud in local authorities, the majority of the employees have a vague recollection of Rule No.4(2)(C) or its equivalent. The purpose and responsibility of disseminating information are assumed to be through top management. Notably, this is not happening as top management “assumes” that such regulations are already known by all. As a result, employees are entirely reliant on their self-abstinence in order to deter from acts of fraud. Subsequently, the expected behavioral change through these fundamental variables is futile as the agent (employees) continue to practice what they believe is right given this is what has and is practiced.

CONCLUSIONS

The intuitions of the research do not intend to replace their current anti-fraud and anti-corruption strategies but rather to supplement the existing strategies.

Even though the government has taken the initiatives to improve situation of fraud (misappropriation of assets and corruption), with the absence of training and enforcement, the agent’s attitudes towards the rules and regulations on the subject of interest are based on modelling the existing work culture. It appears that the participants and respondents in this research have viewed the control the incidents of misappropriation of assets and corruption, namely Rule No.4(2)(C), more in form rather than substance. Notably, this is something that the policymaker should avoid given that the public has perceived that every policy made by the government is merely ceremonial, with little meaning. Iyer & Samociuk (2006) would certainly agree with the responses given by both participants and survey’s respondents since they have advised that the efforts of creating comprehensive and lengthy policy would be in vain if no one reads them. Further, they complemented this notion by saying that the policy on fraud and corruption needs to be concise. Hence, it will be easy to be understood and be applied by all employees across the organization. Confusion over what is acceptable or not can often lead to fraud. The situation turns from bad to worse when the working culture is based primarily on loyalty and obligations to friends or superiors rather than on the said rules (Hooker, 2009).

The gap between policy and practice, which are identified as inefficient leaders, weak enforcement, attitude, lack of internal strengths, ineffective training, lack of authority, opportunity due to lack of control, burden to proof due to bureaucracy, favoritism or excessive discretion, organizational culture and public perception, should be taken care first, before any structure of bureaucracy is made to improve the situation. With these prevailing weaknesses, the Federal Government’s efforts to protect government assets could be wasted.

Hence, in order to stop fraud (misappropriation of assets and corruption), a holistic awareness should be undertaken in which the problems of fraud and corruptions are viewed as unacceptable through long-term education. The culture to resist fraud should be fostered within organisations to the extent that fraud is treated as social leprosy. Rather than an individual (fraudster) feeling comfortable with committing a fraudulent act if the act of dishonesty and corruption is customary. It is now time for all quarters of the public sector to work together to find practical solutions for the issues on the misappropriation of assets and corruption.

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