



NEWSLETTER



A Nation Without Corruption, A Society With Integrity

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PRESIDENT'S MESSAGE

Year 2020 which was supposed to be the year Malaysia attaining a fully developed status has turned out to be a year of disaster for Malaysia politically and economically. Collapse of the reformist Pakatan Harapan government, formation of the unelected Perikatan Nasional government, politicians betraying voters' trust, resurgence of the Covid-19 pandemic cases, travel restrictions, border closure, rising unemployment, negative economic growth and an unstable government.



For TI-Malaysia the last 8 months since the movement control order was declared it has been challenging with low financial reserves and many activities had to be postponed. However since June this year we managed to recover with some new funding and we organized the Corporate Liability Forum in September following the enforcement of the new Section 17A under the MACC Act effective June 2020. We are getting new grants for an on line training and research work and this will assist to sustain our operations.

Under the Perikatan Nasional government, institutional reforms seems to have come to a standstill. TI-Malaysia's recommendations to amend WPA (Whistle Blower Protection Act) was supported by the Pakatan Harapan government but our proposal is at the Law Division of the Prime Minister's Department and there is no progress but we will continue to push for this.

TI-Malaysia will continue to engage with the government through MACC to include DPAs (Deferred Prosecution Agreement) into the Corporate Liability Provision Section 17A similar to the UK Bribery Act 2010. DPA is a negotiated agreement between the prosecutor and the corporate defendant to defer the prosecution in return for compliance to a number of strict terms and conditions. Such conditions could include full cooperation during the investigation, admission of facts, implement corrective programs and paying a fine. However if any of the terms of the agreement is breached then prosecution can reopen the case and proceed with the case.

Moving forward although there is no political will for institutional reforms by this government thus the political funding law will not become a reality anytime soon. However TI-Malaysia remains optimistic that through strong engagement with the government of the day and with the support of other civil society organizations reforms can be achieved although this may take longer.

Best wishes

Dr Muhammad Mohan

President

Transparency International-Malaysia

EDITORIAL

THE FAR REACHING IMPLICATIONS OF CORRUPTION

During a recent interview with a TV station, a senior minister from Singapore stated that no matter how developed a society is, there will always be some level of corruption. This is a far reaching statement, especially from one of the leaders of the squeaky clean city state. Does that mean that we have to live with this abhorrent characteristic that has become a curse to civil societies? Let us not deny it corruption is the grease that drives business and oils the public sector to expedite a host of projects and lucrative deals that would otherwise be bogged down by a litany of red tape.

Corruption is not financial gratification alone. It could be in the form of powerful positions offered as a reward for support, political or otherwise. It could also take the form of sexual favours for promotions as well as jobs and even passes in exams. Corruption is intricately weaved into every fabric of society. It could be blatantly visible or it could be so subtle no one can even see it or feel it. But in all cases, corruption is a venom that has far reaching implications. It can destroy economies in the long run. It can demolish morality in society as well as families. It can poison generations of young people into convoluted and perverted thinking and indulgence in materialism and wrong actions.

Through the ages and also recent history we have seen nations fall and collapse under their own weight of greed, leaving the people and country devastated and immersed in a quagmire of extreme poverty and starvation. Rich natural resources like forests and fossil fuels are exploited and exhausted to the brink to feed greedy and corrupted bureaucrats and oligarchs, causing disastrous climatic changes like droughts, forest fires, smog and powerful storms and earthquakes. While the corrupt dine and wine with their ill-gotten gains, the common people have to endure extreme hardships to eke out a living. But in the end, because of poverty these same people will kowtow in gratitude and vote in the same corrupted bureaucrats who were responsible for their agony in the first place, just for a few dollars and a bag of rice.

Sivasangaran Nair



ADEQUATE PROCEDURES IN CORPORATE MALAYSIA

By : Raymon Ram, Secretary-General of TI-M



When the Malaysian Anti-Corruption Commission (Amendment) Act 2018 was passed by Parliament in April 2018, all eyes were on the most notable amendment made which introduced the Corporate Liability Provision (Section 17A) in Malaysia. The new section 17A of the Malaysian Anti-Corruption Commission Act (“the MACC Act”) allows for a company, its directors and senior management to be prosecuted for the act of bribery committed by a “person associated” to the company. This includes, but not limited to the Director, Controller, Employee or partners and Agents who perform services on behalf of the company. After a two-year “cooling off” period given by the Government for Corporate Malaysia to revamp its stance against bribery and corruption, the provision came into force on June 1, 2020.

Being a commonwealth nation, which laws predominantly mimics those of the United Kingdom, Malaysia had taken a similar approach to Corporate Liability as per the UK Bribery Act 2010 (“UK Bribery Act”). Our amendment is in line, perhaps not at it’s entirely, to Section 7 of the UK Bribery Act on *Failure of Commercial Organizations to Prevent Bribery*. Here, it is deemed that a relevant commercial organisation is guilty of an offence under this section, if a person associated with the commercial organization bribes another person intending 1) to obtain or retain business, or 2) to obtain or retain an advantage in the conduct of business. However, it is a defence for the commercial organization to prove that it had in place “adequate procedures” designed to prevent the person associated with it from undertaking such conduct.

There were several cases where companies were charged and convicted for bribery related offences in the UK. One of which is the Sweet Group PLC case, where a construction and services company was sentenced under Section 7 (1) (b) of the UK Bribery Act for failing to prevent an act of bribery intended to secure and retain a contract with Al Ain Ahlia Insurance (AAAI) Company in the United Arab Emirates. The UK Serious Fraud Office (SFO) investigation into Sweet Group PLC uncovered that its subsidiary company (*person associated*), Cyril Sweet International Limited had made corrupt payments to the Chairman and Vice-Chairman of the Real Estate and Investment Committee of AAAI to secure the award of a contract with AAAI for the building of the Rotana Hotel in Abu Dhabi. This case highlighted the need for a company, its Directors and Senior Management to enter into a defence of Adequate Procedures. Here, the defence needed to prove that those running the company had taken the necessary anti-bribery/corruption efforts and initiatives to prevent such conduct. This is similar to our Section 17A here in Malaysia, the company would need to enter a similar defence, one of which is to prove under subsection (5) that adequate procedures to prevent bribery were sought and the top level had in no way played a part in the conduct being questioned.

However, things may not seem as simple as it is. We have also had an example case in the UK where the defence of having 'adequate procedures' were thrown out by the jury simply because the procedures in place were 'not adequate enough'. Take the case of Skansen Interiors, a small-scale UK based refurbishment company, which was charged under Section 7 of the UK Bribery Act in relation to allegations that Skansen's former managing director paid bribes to secure refurbishment contracts worth £6 Million. Even though Skansen Interiors had self-reported the incident, and claimed that they had in place an ethics policy (which detailed out the company's anti-corruption stance), the jury ruled that the procedures taken to uphold the culture of integrity and deter corruption were insufficient. Policies were easily bypassed and there was no enforcement, monitoring or reviews done on high risk functions within the business. Hence, this highlights that not only do companies need to have proper policies and procedures in place, there is a need for it to be systematically enforced, reviewed and monitored as well.

Pursuant to Subsection (5), Section 17A of the MACC Act, the Minister in the Prime Minister's department, had issued the Ministerial Guidelines on Adequate Procedures for commercial organizations on 4th December 2018. The guidelines revealed what are deemed as adequate procedures, which is to be used as a general non-prescriptive, principle-based application rather than a checklist of items required. With this, companies are required to decipher, plan, prepare, implement, and continuously monitor measures within the stipulated guidelines. But are companies ready at the moment? Have thought and efforts been put into realizing the compliance measures required? Even as the provision had already been enforced on 1st of June 2020, we see many organizations still struggling to understand the compliance measures to be undertaken.

In Malaysia, as of 1st June 2020, if an organization is charged and proven guilty under Section 17A, the penalties are ten times the value of gratification or 1 Million, whichever is higher and/or imprisonment of not more than 20 years. It is time for thorough consideration on anti-bribery/corruption initiatives and what is deemed as adequate procedures. Companies could take the UK Bribery Act and its prescribed adequate/proportionate procedures and our ministerial guidelines on adequate procedures into consideration while also keeping in mind the following points before we have a precedent from our courts on a deemed definition.

 **Due diligence on 'Person Associated' and reporting mechanism.**

Organisations need to understand who are persons associated to their business. Ensure the mechanism of due diligence is well established to look into background and operations undertaken by internal (such as directors, senior management or controllers) and external parties (such as subsidiaries, agents, contractors or joint venture partners). Also, there is a need for a whistle-blower or ethics hotline in place for reporting of suspected corrupt practices by internal or external parties.

 **Having a robust 'Bribery Risk Assessment' framework.**

Companies need to consider a holistic bribery risk assessment to determine the level of risk faced by each segment within the business and types of controls / resources required to mitigate the level of risk in these stipulated areas. Factors to be considered, includes geographical locations of operation, type of products being sold, partnerships and transactions undertaken by the company.



Extraterritorial Reach of the MACC Act.

Companies based in Malaysia with businesses outside of Malaysia or based in other countries but have businesses in Malaysia will fall under the reach of the MACC Act. Hence, actions taken by 'person associated' inside or outside the country would be deemed to have committed the offence within the country. Thus, controls and monitoring requirement extends beyond our borders.



Leveraging technology for systematic monitoring and review.

Data analytics has come a long way from simple anomaly detection through statistical analyses to machine learning through on-going monitoring of behaviour and/or transactions. Companies should consider the power of analytics to decipher data, alert management on anomalies which resemble corrupt activity and to act as a reporting tool for directors to review.



Consider the term 'adequate' in 'adequate procedures'

Companies are required to get management involved in the entire process towards achieving the organizational anti-corruption objectives. A thorough risk assessment needs to be done in order to assess the type of control activities that must be undertaken before implementation. This is with due respect on monitoring and oversight management of the entire process. Understanding that there is no-one-size-fit-all solution to having adequate procedures, the company bears the responsibility to assess their very own nature of businesses, daily operations and persons associated before deciding and implementing control measures.

COURTESY CALL TO CHIEF COMMISSIONER MACC

SYNERGY BETWEEN MACC AND CIVIL SOCIETY ORGANISATIONS

TI-Malaysia paid a courtesy call to Chief Commissioner of Malaysian Anti-Corruption Commission (MACC), YBhg Datuk Seri Azam Baki on 16 July 2020 at MACC Headquarters, Putrajaya.

The objective was to further discuss on the implementation of Section 17A MACC (Amendment) Act and how civil society organisation can assist to raise the awareness among the corporate entities. Section 17A creates a new strict liability offence for a commercial organisation and the only line of defence is to ensure that adequate procedures are in place to foster a business environment free of corruption.

Also in the discussion was the exploration of deferred prosecution agreement (hereinafter referred to as “DPA”) to compliment the corporate liability in Malaysia. Unlike other countries that have introduced similar law, Malaysia does not offer DPA, which allow companies to avoid prosecution for financial crimes by paying fines and adopting remedial measures. A DPA could serve the public interest, and the interest of the commercial organization and its shareholders.

With the enforcement of Section 17A, commercial organisations should seriously look into their internal processes, procedures and conduct trainings to avail themselves of the defence. As they say, it all starts with leadership and commitment at the top to resolutely shun all forms of corrupt practices, and a necessary change of mind-set for some organisations.



Dr Mohan (left) signing the guest book accompanied by YBhg Datuk Seri Azam (right).



Group photo of the TI-M delegation and MACC

CORPORATE INTEGRITY SYSTEM MALAYSIA TO ENSURE BETTER COLLABORATION IN FIGHTING CORRUPTION



The Malaysian Anti-Corruption Commission (MACC) handed over the Corporate Integrity System Malaysia (CISM) chairperson and secretariat function to the Malaysian Institute of Integrity (IIM) on 10 August 2020 during the CISM Roundtable Meeting Siri 37, No. 1, Year 2020 at Impiana Hotel, KLCC.

The surrendering of CISM chairperson and secretariat functions to IIM was to avoid conflict of interests' issues arising from the Section 17A ASPRM 2009 investigations. MACC would continue its function as custodian and caretaker of the CISM system that served as the reference centre in the implementation of CISM initiatives by CIPv2.0 signatories.

CISM is a conceptual framework set up by the IIM and supported by various institutions in Malaysia. The main objective of the CISM initiative is to create a business environment that is transparent, fair and corruption-free through the enhancement of corporate governance and business ethics. As a CISM Implementation Partner, TI-Malaysia plays an important role in working with companies, state

enterprises and other organisations to help them implement anti-corruption programmes.

Also present were other CISM Roundtable members that included Bursa Malaysia Berhad, Securities Commission Malaysia, Companies Commission of Malaysia and National Centre for Governance, Integrity and Anti-Corruption (GIACC).



The handing over ceremony between MACC Deputy Chief Commissioner (Prevention) Dato' Shamshun Baharin Mohd Jamil (right) to IIM Chief Executive Officer Nor'afiza Saim (left).

ADEQUATE PROCEDURES, SECTION 17A OF MACC ACT

MACC ESTABLISH STRATEGIC COOPERATION TO REFINE GUIDELINES ON ADEQUATE PROCEDURES



The Secretary-General of Transparency International Malaysia, Raymon Ram attended the Development Meeting of the Guidelines on Adequate Procedures Best Practices under the Section 17A Malaysian Anti-Corruption (MACC) Act 2009 provision, on 26 August 2020 at Genting Highlands.

MACC has established a strategic cooperation with the private sector and regulatory bodies to assist in developing and refining five main principle of the Guidelines on Adequate Procedures, in accordance with Subsection (5) Section 17A MACC Act 2009. The five principles are as follows:

- i) Top Level Commitment
- ii) Risk Assessment
- iii) Undertake Control Measures
- iv) Systematic Review, Monitoring and Enforcement
- v) Training and Communication

This cooperation is important to ensure that an organization is ready to face the provisions of the new laws relating to corporate liability under Section 17A which came into force on 1st June 2020.



MACC Deputy Chief Commissioner (Prevention) Dato' Shamshun Baharin (left) presented the attendance certificate to Raymon Ram (right).

INTEGRITY PACT IN MALAYSIA

FOR TRANSPARENCY AND FAIR COMPETITION IN PUBLIC PROCUREMENT

President of TI-Malaysia, Dr Mohan attended a meeting with Ministry of Finance and Malaysian Anti-Corruption Commission to present the concept of Integrity Pact (IP) and bring forward the proposal to the Government of Malaysian in implementing IP for the federal government project as a pilot project.

IP is a tool developed by TI to bring a number of stakeholders (civil society, procuring or contracting authorities and bidders) who agree to adhere to transparency, fair competition, accountability and good governance in the public procurement process. Many countries, like Latvia, Mexico, Indonesia, Panama, South Korea, Bulgaria, Germany and Pakistan have successfully adopted IPs in various industries. IP helps to save tax payer money, ensure that infrastructure projects and other public works are delivered efficiently.



Group photo of Dr Mohan with Ministry of Finance and Malaysian Anti-Corruption Commission

2ND MALAYSIA ANTI-CORRUPTION FORUM

RESTORING TRUST AND BUILDING A CULTURE OF INTEGRITY

International Strategic Institute (ISI) organized the 2nd Malaysia Anti-Corruption Forum (MACF) 2020 on 3 September 2020 at The Everly Hotel Putrajaya and Dr Mohan was invited as one of the speaker for “Tackling Corruption In Society – Civil Society Perspectives” session.

Dr Mohan talked about the role of civil society, particularly TI-Malaysia in helping government eradicate corruption and ways to prevent bribery practices within society. Corruption is a phenomenon which is difficult to tackle, and at the same time a problem that we cannot afford to ignore.



Dr Mohan at the 2nd Malaysia Anti-Corruption Forum

CORPORATE LIABILITY: ARE YOU AT RISK?

CREATING A STRONG DEFENCE AGAINST CORRUPTION FOR CORPORATE MALAYSIA



Transparency International Malaysia (TI-M) and Malaysia Reform Initiative (MARI) supported by United States Agency International Development (USAID) and Malaysian Anti-Corruption Commission (MACC) organized a forum titled “Corporate Liability: Are You At Risk” on 15 September 2020 at Grand Hyatt Kuala Lumpur. This forum aims to create awareness for Corporate Malaysia on the implications of, and compliance to the Corporate Liability Provision under Section 17A of the Malaysian Anti-Corruption Commission (MACC) Act 2009 (Amendment 2018). Private sectors and the civil society’s involvement are critical in fighting corruption, and the private sectors need to ensure that the business sector environment is corruption free.

Section 17A which came into force on 1st June 2020, stipulated a corporate liability principle where a commercial organisation can be considered guilty if any of its employees and/or associates commit bribery with the intention to obtain or retain advantage in the conduct of business. The enactment of Section 17A is in line with the objectives of the National Anti-Corruption Plan 2019-2023 (NACP) launched by the Prime Minister's Department in 2018.

YBhg Datuk Seri Azam Baki highlighted in his Keynote Address that Section 17A shall not be seen as a punitive measure, rather as a tool to eradicate the notion that ‘being corrupt in business is normal’. This new provision encourages commercial organisations to take appropriate parallel steps to ensure businesses are conducted with integrity thus promoting good governance practices in the organisation.

If a commercial organisation is found guilty under Section 17A, the penalty under Section 17A (2) is a fine of not less than 10 times the value of the bribe or RM 1 million, whichever is higher, or imprisonment for up to 20 years, or both. However, the commercial organisations can defend themselves if they can show that the organisation has implemented 'Adequate Procedures' in their organisation.

The experts with different background were invited to share their organisations' best practices on corporate governance and experiences in implementing Adequate Procedures; they were Dato' Norazlan Mohd Razali (Investigation Director of MACC), Mr Devanesan Evanson (CEO of Minority Shareholders Watch Group), Ms Chuah Yeap Ping (Head of Group Compliance and Integrity, Sime Darby Berhad) and Ms Eulis Rachmatiah (Head of Ethics and Privacy, Celcom Axiata Berhad).

For more info on the provisions of the new law, please visit the official MACC portal at <https://www.sprm.gov.my/> , while the detail guidelines on adequate procedures are accessible at this link <http://giacc.ipm.gov.my/garis-panduan-tatacara>



Group photo of YBhg Datuk Seri Azam, representatives from USAID/MARI, TI-M members and the panelists



During the panel discussion



TI-M Secretariat (Nuridzuana & Adlina) with the participants



GALAKKAN INTEGRITI MENERUSI LIABILITI KORPORAT

KUALA LUMPUR, 15 Sept. - Suruhanjaya Pencegahan Rasuah Malaysia (SPRM) dan Kerajaan tidak boleh bersendirian memerangi rasuah, penyelewengan dan salah guna kuasa di negara ini.

Ketua Pesuruhjaya SPRM, Datuk Seri Azam Baki berkata, bagi memastikan sektor perkhidmatan awam dan swasta bersih daripada rasuah, satu peruntukan di bawah Seksyen 17A Akta SPRM 2009 menetapkan prinsip liabiliti korporat di mana organisasi komersial adalah melakukan suatu kesalahan jika mana-mana pekerja dan/atau pihak bersekutunya memberikan rasuah untuk faedah organisasi tersebut.

"Pelaksanaan penguatkuasaan Seksyen 17A Akta SPRM 2009 di negara ini mulai 1 Jun 2020 adalah penting bagi memastikan sesebuah organisasi menentang rasuah dalam semua urusan niaga perniagaan dengan lebih efisien dan efektif".

"Tujuan pelaksanaan akta ini bukanlah satu tindakan menghukum sesebuah organisasi komersial namun ia diperkenalkan dengan beberapa langkah-langkah pencegahan bagi menangani rasuah dalam sektor korporat di Malaysia", ujarnya.



Tambah beliau, bagi menggalakkan dan meningkatkan integriti serta memerangi rasuah dalam sektor korporat, semua organisasi komersial harus mengamalkan prinsip tatacara mencukupi dengan mencadangkan prinsip T.R.U.S.T. bagi mengamalkan budaya telus dalam sesebuah organisasi tersebut.

Beliau berkata demikian ketika menyampaikan ucapan tama semasa Majlis Perasmian Forum Corporate Liability: Are You At Risk di Hotel Grand Hyatt hari ini.

Dalam program tersebut, Pengarah Siasatan SPRM, Dato' Norazlan Mohd. Razali turut membentangkan perkongsian mengenai Liabiliti Korporat Seksyen 17A dalam konteks SPRM kepada peserta yang hadir.

Turut hadir Presiden Transparency International Malaysia, Dr. Muhammad Mohan; Country Representative of United States Agency International Development (USAID), Shane Perkinson serta Pengarah Bahagian Pendidikan Masyarakat SPRM, TPj Razim Mohd. Noor.



TI-M ON NEWS



Implement Section 17A of MACC Act as promised —Transparency International Malaysia;
The Edge Market, 6 May 2020

<https://www.theedgemarkets.com/article/implement-section-17a-macc-act-promised-%E2%80%94transparency-international-malaysia>



Don't delay implementation of Section 17A of MACC Act;
The Sun Daily, 6 May 2020

<https://www.thesundaily.my/local/don-t-delay-implementation-of-section-17a-of-macc-act-FB2377689>



TI-M tells Putrajaya to gazette law on corporate corruption;
Free Malaysia Today, 6 May 2020

<https://www.freemalaysiatoday.com/category/nation/2020/05/06/ti-m-tells-putrajaya-to-gazette-law-on-corporate-corruption/>



Don't take new MACC Act provision lightly, bosses told;
Free Malaysia Today, 23 May 2020

<https://www.freemalaysiatoday.com/category/nation/2020/05/23/dont-take-new-macc-act-provision-lightly-bosses-told/>



Corruption hurts taxpayers the most, say anti-graft campaigners;
Free Malaysia Today, 8 October 2020

<https://www.freemalaysiatoday.com/category/nation/2020/10/08/corruption-hurts-taxpayers-the-most-say-anti-graft-campaigners/>



Corporate Liability Provision (Section 17A) – Getting Corporate Malaysia Ready;
Bursa Malaysia, 23 October 2020

<https://bursasustain.bursamalaysia.com/droplet-details/corporate-governance/corporate-liability-provision-section-17a-getting-corporate-malaysia-ready#:~:text=This%20new%20provision%20simply%20means,benefit%20of%20the%20commercial%20organization.>

GIVING VOICE IN A CULTURE OF SILENCE: MAKING SENSE OF CORRUPTION IN MALAYSIA

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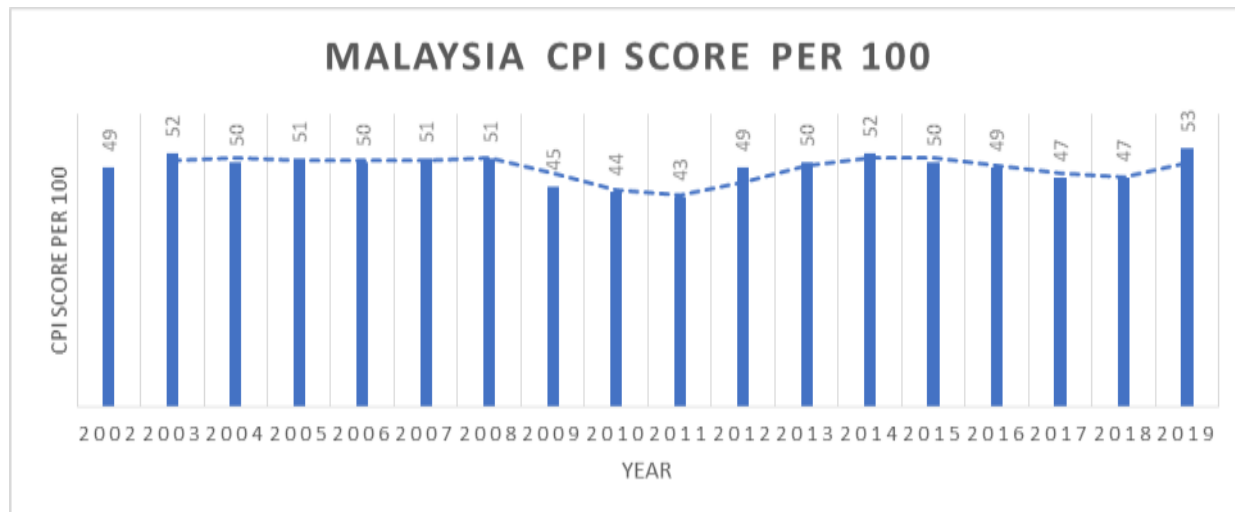
In this article, I share with you the multiple voices of the people making sense of their understanding on corruption in Malaysia. I designed this study to engage respondents in finding an answer to my inquiry: Corruption in Malaysia – how do you see it? The article aims to give voices to the respondents who willingly shared their stories. I will not bore you with the detailed methodology adopted for this study as my focus is on sharing the findings. However, briefly, I would like to state that the findings were based on interview data and document analysis conducted in 2019.

Corrupt Culture

‘Corruption is a problem. It is a culture in Malaysia’. This is a common statement gathered from my study. Probing deeper I found the data implied corrupt culture is a norm. As a matter of fact, the respondents perceived that corruption culture is so deep that it is not easy to change. *‘It will take time because it is so deep’*. Another excerpt from the respondents; *‘corruption is perceived as a culture. [It] has penetrated the ecosystem and it will take time to change’*. Interestingly, the data indicated that corruption in Malaysia is in a ‘fragile’ stage, describing that corruption has become a bad culture in Malaysia. Some relate the corrupt culture with political influence. Some view corruption as an old business that keeps coming back. The voice, from one of the respondent: *‘Yes. In Malaysia it is not usually a new way of corruption, it’s an old habit coming back’*.

I conducted document analysis and found that there is a similar trend that shows corruption is a problem in Malaysia. Figure 1 depicts the pattern of trend showing corruption is a phenomenon in Malaysia, although not as serious as our neighbouring countries such as Thailand and Indonesia, certainly, there is a pattern of it becoming a culture. Analysing the Corruption Perception Index (CPI) results from 2002 to 2019 showed that corruption is an undeniably an issue in Malaysia. Although there is improvement in the 2019 CPI results, where the CPI index showed a significant jump with a score of 47/100 to a score of 53/100, the problem persists.

Figure 1: Analysis of Malaysia CPI results from 2002 to 2019, reported by Transparency International



Source taken from Transparency International, CPI index scores.

Figure 1 depicts the trend of CPI results for 18 years (from 2002 to 2019). The analysis shows that although, there was an improvement in the scoring of the CPI in 2019, Malaysia is still among the average-scored countries (based on the 2019 result). Nonetheless, the positive change indicates that there are three impactful outcomes: first, there is a positive improvement in combating corruption, perhaps indicating the anti-corruption initiatives are effective. For instance, the responsiveness of the previous government in addressing the 1MDB, SRC International and Felda scandals probably contributed to the positive improvement. Known as one of the biggest scandals in the world, the 1MDB scandal, which involved the abuse of power, political influence etc., has to some extent contributed to the negative perception towards the level of corruption in Malaysia. Secondly, trust in the enforcement agencies is growing. Thirdly, there now exists a society will that pressure the government to move towards ‘a clean Malaysia’. However, 2020 is yet to end ... so wait for it!

Another interesting discovery is that I found six trends of corrupt culture in Malaysia – these are: 1) a culture of compromise; 2) a culture of impairing integrity; 3) a culture without accountability; 4) a culture of tolerance; 5) a culture of religion pretentiousness; and 6) a culture of forgiveness.

Trend 1: Culture of compromise – the respondents voiced: *‘perpetrators often get away’*. To a large extent, Malaysia’s corruption has been in the system and institutionalized in both private and public sectors, resulting in the massive monster that it has become. The respondents described the culture of compromise associated with this unethical work ethic, which has become the norm in Malaysia.

Trend 2: Culture of impairing integrity – interview data indicate that corruption has become the norm. The lack of values has led to the assumption on corruption is ‘clean money’. Quote the people; *‘people who label corruption as clean money and dirty money... that’s the big problem in our Malaysian culture’*.

Trend 3: Culture without accountability – interview data indicate that lack of accountability is the culture practised in Malaysia and this culture has become a trend. Thus, the combination of other situational factors led an individual to act in a corrupt way.

Trend 4: Culture of tolerance – we found no action was taken against wrong behaviour, leading to the norms of abuse of power and rampant misbehaviour. This theme emerged based on the respondents' view that many corrupt cases took place and there was no action taken. As someone who is in charge of enforcement in the institution, one respondent received many threats because he took action against the people who abused their power. Quotes from the people: *'work culture – everybody wants to be Mr Nice Guy so we don't want to take action'*.

Trend 5: Culture of religious pretentiousness – sadly, religion was used to blind the people. According to the respondent, people often used religion as a cover. Quote from the respondent: *'I work in an environment where the majority of the people are religious people and they used to abuse the system in the name of religion'*.

Trend 6: Culture of forgiving – quote from respondent: *'We have a very beautiful thing in our Asian culture – the culture of forgiving. We can also forgive the serious case of [named the case].'*

Conclusion

The motivation of this study was to give voice to the people to express their views on corruption in Malaysia. The findings validate the importance of giving voice to this expression. The key finding is that the people perceive that Malaysia has an existing problem – corruption. The perception that corruption has penetrated deep into the system indicated that the culture has already taken root, thus it is not easy to change the behaviour of the people, particularly politicians. The 1MDB case is one major example that corruption in Malaysia is endemic and very much influenced by political connection. The scandals and anomalies of political patronage result in the breakdown of the system. The distortion and mismanagement in administration resulting from corruption leads to the perception of Malaysia as a corrupt country. The findings are significant as the voices of the people give us a better understanding of how cultural loss of values is related to corruption.

Survival Tactics in the Brave New World of Global Partnerships

The Current Business Climate Requires a Review and Reassessment of Your Organisation's Third-Party Relationships

By

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We won't soon forget the year 2020 and the myriad ways worldwide business was derailed over a microscopic virus that caused a global pandemic. From layoffs and shutdowns to shortages and closures, the long-term effects of the pandemic have yet to be determined. But one thing is certain: The disruption to the global supply chain has wreaked havoc in virtually every business sector.

Automobile manufacturing in Korea has been suspended due to a lack of parts from China. The fashion industry in the United States is struggling over sourcing as garment producers in Asia reduce output. U.K. aerospace manufacturer Rolls Royce has announced it is cutting 9,000 jobs as a result of the coronavirus. And sharp declines in consumer demand have adversely affected global manufacturers who in turn are idling production to curb losses.

Global sourcing has been greatly impacted as suppliers have ceased operations, and multinational organisations have had to scramble to locate replacement supply sources. This gloomy picture has been made all the more daunting as opportunists, bad actors and other sanctioned, restricted or poor reputable parties have set up operations to take advantage of unsuspecting and desperate businesses by producing inferior goods, missing contractual deadlines, or operating in ways that could raise flags in the areas of ethical conduct, business integrity or jurisdictional compliance.

As such, multinational companies need to be on high alert for such nefarious outside operations, lest they put their reputations, stakeholders, directors and bottom lines at risk.

Now is the time to identify alternative supply scenarios and re-evaluate contractual terms and performance metrics with those parties in the sourcing network. And to accomplish this, a risk-based approach to diligence, screening and vetting present and potential third-party suppliers is more important now than ever before.

Current Risks

Threats are increasing on several levels for organisations that rely on outside third parties, such as agents, brokers, vendors and suppliers. While depleted inventories, idle production, inferior products and delayed delivery have greatly impacted the marketplace worldwide, multinational businesses are feeling the brunt of these pandemic-induced supply chain disruptions on a greater scale:

- Organisations are suffering financial loss as the supply chain falters;
- Companies are losing customers because of poor-quality products and services from third parties;
- organisations are opening the doors to litigation by working with third parties that may be engaging in bad labor practices or forcing workers to produce in unsafe work conditions;
- Company data systems are being exposed and breached because of poor security practices by third parties.
- Companies are experiencing a greater level of supply chain issues due to poor disaster recovery procedures enacted by third-parties;
- Organisations and boards are increasingly being exposed to litigation because of relationships with outside providers that may have violated contractual terms, potentially resulting in regulatory exposure;
- Such organisations are being targeted by story-hungry media sources determined to expose the company to a global audience.

The result of these increased risks can be highly problematic:

- Business litigation has skyrocketed.
- Corporate reputations are negatively impacted on a larger scale.
- Organisations have had to continually review, reassess and adapt risk management frameworks to adjust and acclimate to an ever-changing global business environment.
- Board members are becoming increasingly subjected to intense scrutiny from outside watchdogs and critics.
- Unfortunately, a highly educated market responds to the above scenarios accordingly with their pocketbooks.

From supply and production disruptions to regional compliance issues and bad media exposure, multinational corporations are facing increased scrutiny working with unscrupulous third-party partners. Thus, the intense need to remain vigilant in conducting due diligence and vetting those outside affiliations.

Why Vet?

In a nutshell, conducting proper due diligence on outside parties safeguards an organisation from a number of risks. As organisations continue to expand their sourcing networks, vetting potential partners in the areas of compliance, integrity, quality, performance and readiness will ensure the company's product line remains intact while cutting down on the possibility of litigation, fines or penalties. And just as important, vetting will ensure that the company's brand remains vital and untarnished.

Further, proper due diligence on outside partners all but guarantees a degree of business continuity for those organisations that practice proper risk management procedures. A solid risk-based approach to third-party partnerships will help accurately determine the legal compliance, financial viability, and integrity levels of outside partners, suppliers and vendors who seek to affiliate with, and represent your business.

Such approaches employ programs that use gap analysis and investigative due diligence on targeted third-party partners to uncover and identify any anti-corruption, compliance and risk management deficiencies associated with international regulatory framework. In doing so, those programs can identify and raise a host of red flags, such as:

- Undisclosed third-party transactions.
- Material misrepresentations or omission.
- Unreported financial liabilities.
- Undisclosed legal or bankruptcy proceedings.
- Prior bribe or corruption allegations.
- Criminal or regulatory sanctions.
- Politically Exposed Persons (PEPs).

Properly qualified firms that offer third-party risk management solutions and/or certification will employ a network of locally qualified auditors who are highly knowledgeable in the organisation's specific industry, as well as expert investigators, certified fraud examiners and sector-specific professionals who are familiar with the geography, culture and terrain where the investigation is being conducted to add a personalized level of “boots on the ground” due diligence to the investigation.

It's vitally important to retain such risk management experts to provide accurate and reliable counsel while recommending specific strategies and ongoing improvement as an effective preemptive measure. As the world changes around us, so must the frameworks that guide the proper vetting of outside parties that want to affiliate with and represent your organisation. A properly developed third-party risk management program will protect the organisation against business interruption, brand damage, corporate litigation and director liability.

COVID-19 ALERT

In light with the current pandemic of COVID-19, TI-M urges the public to give full cooperation and follow the guidelines from the Ministry of Health. Protect yourself by:



Washing your
hands
regularly



Covering your
mouth and nose
when you cough
or sneeze



Practice
social
distance



Stay at home