



NEWSLETTER

A Nation Without Corruption, A Society With Integrity

Volume 41 (October-December 2020). KDN Permit No: 11959/03/2019 (025399)

PRESIDENT'S MESSAGE

As the extraordinary year of 2020 came to an end we need to reflect on some of the major events that happened throughout the year and look forward to the year 2021 with vigour and enthusiasm.



In 2020 we saw the collapse of an elected government and the formation of a coalition government which the people did not choose. The Covid-19 pandemic spread across the world at such devastating speed that not only affected the lives of almost everyone on this planet but also caused economic collapse and political instability. While Covid-19 has changed our lives in many ways and how we engage with one another, but this has also opened new opportunities with the acceleration of digital technology in our dealings with everyone including the business community.

The year 2020 also witnessed the conviction of the former Prime Minister Datuk Seri Najib Abdul Razak for the SRC case at the High Court. At the same time several high profile cases involving Riza Aziz, Tengku Adnan and Datuk Musa Aman were given discharge not amounting to acquittal (DNAA). On the other hand, Tengku Adnan was convicted in another case at the High Court recently. Both Najib and Tengku Adnan are appealing against their convictions at the Court of Appeal.

The agenda for institutional reforms, the implementation of the initiatives in the National Anti- Corruption Plan (NACP), tabling of the political funding bill and the IPCMC (Independent Police Complaints of Misconduct Commission) bill has not seen much progress, and the level of commitment from the Perikatan Nasional (PN) government remains unclear. The recent release of the Global Corruption Barometer 2020 does not augur well for Malaysia as 71% Malaysians think government corruption is a big problem.

For Transparency International Malaysia, our 2021 agenda will be on advocacy work on the Corporate Liability and educating the private sector on "Adequate Procedures"; pushing for the incorporation of the Deferred Prosecution Agreement (DPA) in the Section 17A of Corporate Liability Provision; to continue engaging with the PN government to reform the Whistle Blower Protection Act 2010, and to continue to speak up on issues related to governance, transparency, integrity and accountability.

Dr Muhammad Mohan

President

Transparency International-Malaysia

EDITORIAL

A YEAR OF UNCERTAINTIES

Phew! What a year this has been! It was truly a roller coaster ride of uncertainties. Uncertainty as to when the Covid-19 pandemic will end, uncertainty as to when we will have a stable government. Uncertainty as to when our economy will recover and uncertainty as to when we can travel freely.

Frankly it's like looking into a crystal ball and only seeing a cloudy image.

These are really difficult times for the people. People are unsure what lies ahead. Businesses are down, jobs are being lost almost daily. Many don't even have a decent meal a day. These are times when we should have a strong government, a government that will give assurance and make the provisions to care for the people instead of bickering and grabbing power as there is much to be gained for those in positions of power.

The politicians and the people have to be united to rebuild this country. It is time we put aside partisan politics and convictions to strategize a path that will lighten the overwhelming burden borne by the people. It's time that the leaders set aside their personal needs and be selfless in the service of the nation. It is time for them to look into the basic necessities of the people like decent jobs, enough food on the table, basic education and basic amenities like clean water, cheaper power and fuel and well maintained roads. It is time to completely eradicate the culture of corruption in all entities so that every penny is used for the benefit and betterment of the people, to lift them up from the depths of poverty and ignorance and empower them with economic strength so that they may have a better quality of life.

We, the citizens of this wonderful country plead with all sincerity for all to work together and be certain as to what lies ahead and not grope blindly without a vision and falling into every pothole on the road to a bleak future. We need visionary and enlightened leaders who feel for the people and the dignity of the nation. In these difficult times we also need strong, transparent and committed leadership that is not afraid of making bold decisions to chart our path to recovery. In a way, the pandemic has distinctively shown us our flaws and weaknesses as well as our strengths and temerity to handle crisis with sense and confidence. We hope that 2021 brings a silver lining to a rather depressing and gloomy past year and pray that the pandemic will pass with the advent of the Covid-19 vaccine. Happy New Year everyone.

Sivasangaran Nair



INTERNATIONAL ANTI-CORRUPTION CONFERENCE

DESIGNING 2030: TRUTH, TRUST & TRANSPARENCY

The 19th edition of the International Anti-Corruption Conference (IACC) was held from 30 November 2020 to 5 December 2020 virtually in Seoul, South Korea, with the theme 'Designing 2030: Truth, Trust & Transparency'. 2030 is the year that the Sustainable Development Goals – set by the UN General Assembly in 2015 – are intended to be achieved.

However, COVID-19 has plunged the future into uncertainty and corruption has proven to be a blight upon global efforts to tackle the pandemic.

Planning the next 10 years will be crucial for achieving a corruption-free future and the 19th IACC is the platform to take decisive steps towards planning for the future.

The IACC is the biggest global forum bringing together the leading experts in their fields to collaborate in the fight against corruption. Responding to the COVID-19 pandemic, the IACC was held virtually for the very first time. This year's edition is being hosted and organised by the Korean Anti-Corruption and Civil Rights Commission, along with the IACC Council and Transparency International.

TI-Malaysia President, Dr Mohan presented the Public Private Partnership (PPP) Initiatives in Malaysia under the Collective Action for Trust and Integrity plenary session. This government initiatives started in 1983 under the 'Privatization Program' and PPP was officially launched in 2006.

PPP is a form of cooperation between the public and private sector whereby a stand-alone business

is created, funded and managed by the private sector as a package that encompasses construction management, maintenance and repair works as well as replacement of public amenities comprising buildings, infrastructures, equipment and facilities.

Since the introduction of the privatization program from 1983 to 2020, about 647 privatized projects have been implemented throughout the country. The Government has benefited through savings in the form of capital expenditure amounting to RM287 billion. The burden of the Government's administrative expenditure was successfully reduced following the privatization of 58 Government agencies to the private sector.

This savings has enabled the Government to redistribute its limited development resource to more needy sectors such as education, health care, public transportation and poverty eradication programme.

Missed the IACC 2020? Worry not, re-attend the session here: <https://iaccseries.org/>



Dr Muhammad Mohan attended the plenary session as one of the speakers

ASIA



Booming economies, fast modernization and a continued growth of the middle class are some of the key trends that will shape Asia. While the disruptive effect of the COVID-19 pandemic and its economic consequences cannot be over-stated, many countries in the region are managing to recover quickly, while others still suffer the dual health and economic crises. Despite vast socio-economic and political differences, corruption remains one of the key challenges across the region.

The Global Corruption Barometer (GCB) – Asia, published by Transparency International, presents the largest, most detailed set of public opinion data on citizens’ views on corruption and direct experiences of bribery in Asia, nearly 20,000 citizens surveyed.

The assessment was done on public perception for Malaysia from the period July 2019 to June 2020 and the survey was carried out from the 16 June to 28 July 2020. The period of assessment of public

perception however involved two different governments ruling the country.

The results showed that 71% of the Malaysians feel that corruption in government is a big problem. Out of the 1000 people interviewed, 36% think that Members of Parliament are corrupt, followed by police (30%), government officials (28%), business executives (27%) and President/Prime Minister (25%). In another question, 39% believe corruption level has increased over the past 12 months.

When it comes to people’s direct experience with corruption, through bribery, sexual extortion or vote-buying, the results are worrying, and call for immediate and coordinated action. 13% of the respondents who were interviewed said that they paid bribes for public services in the last 12 months while 15% Malaysian claimed that they had to use personnel connections to get public services, such as health care or education in the last 12 months. Meanwhile, 7% of them were offered bribes in exchange for votes.

For the first time, the Global Corruption Barometer – Asia highlights data on sextortion. Sextortion is the abuse of power to obtain a sexual benefit or advantage and often occurs in exchange for public services, like health care or education. The results found out that 12% of the Malaysians experience sextortion or know someone who has.

The survey also asked people how they rate their government's efforts at tackling corruption. Surprisingly, while most citizens consider corruption a big problem in their countries, they still voice positive support for the actions taken so far by their governments. From the finding, 67% Malaysian believe the government is doing a good job of fighting corruption and 74% perceive that Malaysian Anti-Corruption Commission (MACC) efforts worthy a praise.

This was a result of aggressive moves by the anti-graft agency and policies implemented by the National Centre for Governance, Integrity and Anti-Corruption (GIACC), including the National Anti-Corruption Plan.

The GCB raises hope for positive change. 68% of the people belief that ordinary people can make difference in the fight against corruption. The public is still hopeful and have not lost trust towards the legal enforcement and public service, and believe that corruption can be eliminated.

Daily experience with corruption and bribery remains alarmingly high. Government need to make an immediate and concerted effort to ensure the lives of ordinary people are free of corruption. For sustained anti-corruption efforts the government, civil societies and the citizens should work together to combat corruption.

Among the key recommendations suggested by TI-Malaysia to the Government:

- 1) Full disclosure on the status of the high profile graft cases; such as Sabah Watergate Scandal & Littoral Combat Ship.
- 2) Ensure successful implementation of the National Anti-Corruption Plan (NACP) & make disclosures on the progress of the 115 initiatives.
- 3) Chief Secretary to the Government (KSN) should be given the responsibility for the successful implementation of the NACP and achieve tangible results.
- 4) Declassify the Institutional Reforms Committee Report and present to parliament.
- 5) Government should continue with the institutional reform agenda started.
- 6) Need to have a Political Financing Law to curb money politics and vote buying during elections. TI-Malaysia has made 22 recommendations previously to the BN government.
- 7) Narrow the scope of the Official Secrets Act so that matters of public interest can be released.
- 8) Provide greater transparency when public projects are awarded (Mega Projects) by implementing the true model of Integrity Pact with Independent Expert Monitoring. Proven in other countries where substantial cost savings were achieved using Integrity Pact.
- 9) Good governance is the key for Malaysia to move forward. Fitch Rating downgrade also mentions about deterioration of governance.
- 10) We need to improve our CPI scores and global ranking.

Full report available:

<http://transparency.org.my/pages/what-we-do/indexes/global-corruption-barometer>

BRIEFING TO THE PUBLIC ACCOUNTS COMMITTEE

PAC VIEWS SERIOUSLY THE GCB ASIA 2020 RESULTS

TI-Malaysia was invited by the Public Account Committee (PAC) to brief and further explain on the Global Corruption Barometer Asia 2020 results.

The PAC is very concerned with the findings that 71% of the Malaysians feel that corruption in the government is a serious problem thus views that this figure shows the lack of confidence among citizens on the integrity of the country's public administration and its personnel.

Therefore, PAC is committed to identify the factors that contribute to the worrying situation as well as to step up the efforts towards combatting corruption in the country.



PAC Chairman, YB Wong Kah Woh (left) and Dr Muhammad Mohan at the parliament after the briefing

TI-MALAYSIA AT THE BFM 89.9 BREAKFAST GRILLE

FIGHTING THE GOOD FIGHT

Following the decision by Attorney General (AG) to grant a discharge not amounting to an acquittal (DNAA) in relation to Tengku Adnan's RM1 million corruption case decision, TI-Malaysia President, Dr. Muhammad Mohan was called to give comments.

In the interview, Dr Mohan said that AG is duty-bound to give full explanation and the Public Prosecutor needs to provide valid and rational reasons for his decision to discontinue prosecution in a high-profile case such as Ku Nan's bribery case.

The government has to do more to bring back the confidence of the general public. Acquittal of high profile cases, of course, there could be reasons for this from the AG's chambers or judiciary, but public perception will remain doubtful. Also present, at the breakfast grill was the Public Accounts Committee (PAC) Chairman YB Wong Kah Poh.



L-R: BFM Presenter Mr Khoo Hsu Chang, Dr Muhammad Mohan and YB Wong Kah Woh at the BFM station

MAXIS TALK

ADEQUACY IN THE ADEQUATE PROCEDURES



Dr. Muhammad Mohan was invited to brief the Maxis top management & staff on the adequacy of the adequate procedures in conducting its business professionally, ethically and with the highest standard of integrity.

Thank you Maxis for the invitation!

BANK ISLAM INTEGRITY DAY 2020

BLOW THE WHISTLE, KEEP PERPETRATORS AWAY



TI-Malaysia, represented by Nurirdzuana Ismail (EXCO Member) participated in the Bank Islam Integrity Day 2020 organized by the Integrity and Governance Department on 9 December 2020.

Under the 'Blow the Whistle, Keep Perpetrators Away' theme, Nuri highlighted on the urgency to Speak Up for Integrity which can be accomplished through the T.R.U.S.T principles provided by the Adequate Procedures Guidelines.

We would like to thank Bank Islam for the invitation and opportunity for TI-Malaysia to engage with Bank Islam.

MARI HIGH IMPACT PARTNER GRANT

ADVANCING TI-M CAPACITY BUILDING



TI-Malaysia had a meeting with Malaysia Reform Initiatives (MARI) team discussed on the capacity building support and strategic planning for 2021.

MARI is a partnership program between US Agency for International Development (USAID), and U.S. Embassy supporting Malaysian's aspiration for more democratic society. We highly appreciate MARI's assistance to us in combating corruption and upholding integrity among the society.

LUNCH MEETING WITH THE AMBASSADORS OF EU MEMBER COUNTRIES' & THE BRITISH HIGH COMMISSIONER

SHARING GCB ASIA 2020 RESULTS & IT'S FINDINGS



A briefing was given to the EU member countries' ambassadors and the British High Commissioner on the recent release of the Global Corruption Barometer 2020 on Malaysia.

The meeting was to explain the findings of the GCB 2020 and possible reasons for high percentage of Malaysians surveyed think that government corruption is a big problem in Malaysia.

The President also briefed the ambassadors on the new Corporate Liability Provision Section 17A and the impact on the MNCs (Multinational Corporations) operating in Malaysia and why it is important for their companies to have adequate procedures as a defense against this new provision.

Other areas shared by the President were on the advocacy work done By Transparency International Malaysia such as pushing for the amendments to the Whistleblower Protection Act 2010, use of the true model of the Integrity Pact in public procurement for mega projects by the government and continue the institutional reforms initiative by the previous Pakatan Harapan government. The foreign mission heads were concern about the rising level of corruption in the country and how the Corruption Perception Index will be for Malaysia for 2020.

The lunch event was hosted by the Norwegian Ambassador HE Gunn Jorid Roset. Others who attended the meeting were the Ambassador of Denmark, Ambassador of EU Delegation to Malaysia, Ambassador of Sweden, Ambassador of Switzerland, Ambassador of Ireland, First Secretary of the Embassy of Finland and the British High Commissioner.

TI-MALAYSIA IN THE NEWS



Graft watchdog questions need for emergency with epidemic under control;
The Malaysian Insight, 25 October 2020

<https://www.freemalaysiatoday.com/category/nation/2020/11/18/anti-graft-group-worried-over-systemic-corruption-among-civil-servants/>



TI-Malaysia joins chorus of criticism over student activist's arrest;
Malay Mail, 10 November 2020

<https://www.malaymail.com/news/malaysia/2020/11/10/ti-malaysia-joins-chorus-of-criticism-over-student-activists-arrest/1921144>



Anti-graft group worried over systemic corruption among civil servants;
Free Malaysia Today, 18 November 2020

<https://www.freemalaysiatoday.com/category/nation/2020/11/18/anti-graft-group-worried-over-systemic-corruption-among-civil-servants/>



Disclose findings of three PAC probes, says anti-graft group;
Free Malaysia Today, 20 November 2020

<https://www.freemalaysiatoday.com/category/nation/2020/11/20/disclose-findings-of-three-pac-probes-says-anti-graft-group/>



TI-M slams Putrajaya over secrecy clauses in US\$3.9 bil 1MDB-Goldman deal;
Free Malaysia Today, 21 November 2020

<https://www.freemalaysiatoday.com/category/nation/2020/11/21/ti-m-slams-putrajaya-over-secrecy-clauses-in-us3-9-bil-1mdb-goldman-deal/>



67 pct of M'sians think govt's anti-graft efforts commendable - Survey;
The Sun Daily, 26 November 2020

<https://www.thesundaily.my/home/67-pct-of-m-sians-think-govt-s-anti-graft-efforts-commendable-survey-BD5335641>



Ku Nan's graft case discharge may impact corruption index, Transparency International says; Free Malaysia Today, 7 December 2020

<https://www.freemalaysiatoday.com/category/nation/2020/12/07/ku-nans-graft-case-discharge-may-impact-corruption-index-transparency-international-says/>



Bar ministers from issuing support letters, Muhyiddin told;
Free Malaysia Today, 14 December 2020

<https://www.freemalaysiatoday.com/category/nation/2020/12/14/bar-ministers-from-issuing-support-letters-muhyiddin-told/>



Would-be anti-graft informants don't feel safe, say activists;
Free Malaysia Today, 16 December 2020

<https://www.freemalaysiatoday.com/category/nation/2020/12/16/would-be-anti-graft-informants-dont-feel-safe-say-activists/>

Debt designed to be stolen. A new way to embezzle public money?

By: François Valérian

*Member of the International Board of Transparency International
Professor of Finance, Regulation and Supervision at Ecole des Mines de Paris – Mines ParisTech
Associate Professor of Finance at Conservatoire National des Arts et Métiers (CNAM, Paris)*

On October 22, 2020, Goldman Sachs entered into a settlement with the U.S. Department of Justice to end the lawsuit against the bank in connection with the Malaysian "1MDB Fund"¹. Two figures in the agreement may seem surprising. Goldman Sachs and its business partners allegedly paid \$1.6 billion in bribes to obtain \$606 million in fees on transactions. Since when have the bribes paid been higher than the expected profit? The answer is elsewhere in the document. The \$600 million in fees were essentially fees for bond issues that totaled \$6.5 billion, the \$1.6 billion bribes were actually taken out of the \$6.5 billion in debt proceeds, and the remaining was also for a large part misused. Goldman Sachs received \$600 million in fees for a bond issue that was intentionally corrupt and intended to be misappropriated by policy makers.

Earlier this year, investigative journalism reports² mentioned that in another debt issue case, the Mozambican tuna bonds, Credit Suisse earned \$24 million in fees for debt issues amounting to \$2 billion. Of the \$2 billion, a tenth, or about \$200 million, was allegedly paid in bribes to public decision-makers. We also know that the rest of the debt proceeds were misused. Again, the disproportion between the fees received and the "bribes" paid is revealing. These were not real bribes, but a misuse of a debt issue designed to be stolen.

These two international cases have drawn public attention to a new form of embezzlement, which is the theft of public money that does not yet exist.

Traditional forms of misappropriation involve stealing public money that already exists in different public accounts and budgets. A public decision-maker is on both sides of the table, both as a buyer in a public tender and behind the seller or beneficiary of a contract. Corruption can take the form of a bribe paid to the decision-maker, a pre-existing conflict of interest if friends or relatives of the decision-maker get the contract, or a conflict of interest created by an investment opportunity offered to the decision-maker who becomes a hidden shareholder in the company to which the contract is awarded. In all of these cases, and unlike Malaysia and Mozambique, the public money that is used already exists.

In Malaysia, a development fund was created in 2009 to attract foreign money to finance development projects in Malaysia. Goldman Sachs was the main international bank working with 1MDB. This was probably a good choice on the part of the Malaysian authorities since, as we know, Goldman Sachs enjoys the probably well-deserved reputation of being the most efficient investment bank in the world. However, there is, or should be, an ethical limit to banking efficiency. In just three private placements, Goldman Sachs has raised \$6.5 billion from investors around the world. This \$6.5 billion was added to Malaysia's sovereign debt. More than half of this amount was allegedly stolen by the then Malaysian Prime Minister and his friends.

¹ Frank Vogl, « Goldman Sachs has to deal with unprecedented punishment for bribery », *The Globalist*, 10th November 2020

² <https://www.occrp.org/en/daily/11821-credit-suisse-in-us-crosshairs-over-tuna-bonds-case>

The Malaysian economy was supposed to grow with 1MDB but the public debt that was raised ended up being largely diverted to private accounts. A similar misadventure occurred in Mozambique. In 2010, one of Africa's biggest gas discoveries was made off the coast of Mozambique, specifically on the Cabo Delgado coast, whose economy is linked to fishing. The bankers then had a brilliant idea: the future revenues from the gas will allow the development of fishing activities. How can future revenues develop a current activity? By issuing debt. Credit Suisse, a competitor of Goldman Sachs, advised Mozambican companies and authorities and partnered with a Russian bank to issue a total of \$2 billion in bank loans and bonds sold to investors.

Some tuna vessels were manufactured in a French shipyard and even sent to Mozambique in the presence of the then President of the French Republic. It is not clear where most of the money went, although there has been mention of the purchase of North Korean spare parts for Soviet-era weapons, a trade of obvious importance for local development³!

The Malaysian and Mozambican scandals led to several legal proceedings in various jurisdictions. As already mentioned, a large part of the Malaysian debt raised went directly to the public decision makers as compensation for granting the debt issue to the bankers, another part of the proceeds was also paid to the Prime Minister and his friends and was used to pay other bribes in the context of 1MDB's activity. In November, Goldman Sachs agreed to pay more than \$2.9 billion to the authorities of the United States, the United Kingdom, Hong Kong, Singapore and Malaysia, in addition to the \$2.5 billion Goldman has already paid to the Malaysian government and the \$1.4 billion guarantee Goldman gave to the Malaysian government to recover the misappropriated funds. The total cost to Goldman Sachs is therefore between \$5.4 billion and \$6.8 billion. Lawsuits are still pending against individual Goldman bankers and Goldman has claimed a portion of the bonuses paid to certain bank executives.

In the Mozambican case, several former employees of Credit Suisse are being criminally prosecuted in various jurisdictions and the bank itself is under investigation.

What the Malaysian and Mozambican cases have in common is that the political leaders were embezzling funds that did not yet exist when the intent to steal them emerged. The asset that these leaders possess that enables them to design the embezzlement is the political power they have to issue or guarantee foreign debt that future generations of their country will have to repay. Political leaders are taking advantage of their right to commit their country's future. The new forms of embezzlement experienced in Malaysia and Mozambique in recent years pose new challenges to bank governance, fiscal transparency, international cooperation and, more generally, public acceptance of public debt.

The governance of the major international banks has once again been caught off guard. Sovereign debt designed to be stolen poses a specific problem, namely that it is not easily apprehended in the framework commonly known as "KYC" (Know Your Customer). The customer here is nothing more than a sovereign state or government-guaranteed companies or funds. The risk is low in the context of debt underwriting when you have already identified the interested investors. You buy and sell very quickly and pocket large issuing fees. It is very tempting for the head office of a company not to dig too deeply into the question of how the lucrative business was actually won on the ground and what the money raised will actually be used for.

³ Edson Cortez ed., *Recovery of Assets*, Centro de Integridade Pública, 2019

Goldman Sachs' and Credit Suisse's adventurous undertakings should encourage other investment banks to take a closer look at future sovereign debt issues under the auspices of non-transparent governments. They should exercise closer control over transparency or opacity, as well as the controls to which the issuing government is subject. Banks should also analyze the investment case they are expected to sell to investors. Several billions of dollars of issues deserve a more specific description than general development considerations.

Another issue of corporate governance, fairly specific to investment banking, had already been discussed in the aftermath of the 2008 crisis, but in an inconclusive manner. The remuneration of a number of bank executives is clearly excessive. When the monetary unit of salaries is a million dollars, you can hire the best professionals, which is the official justification of the market law applied to bank salaries, but you also have a biased recruitment in which greed is clearly encouraged. This then increases the risk taken on behalf of the bank, as our two banks have only been able to observe. Capping executive compensation is and will remain a very important issue in corporate governance.

Finally on corporate governance, these cases illustrate once again that a bank's star employees are rarely called into question. When you bring tens or hundreds of millions of dollars in fees to the bank, you can easily ignore the concerns of the compliance department, if any. In the case of Goldman Sachs in particular, a \$600 million fee for \$6.5 billion bond issues should have been a red flag to the bank's head office, because a 9% fee is far higher than the less than 1% fee that is common practice for an investment-grade debt such as the Malaysian one.

As far as the management of public resources is concerned, both cases highlighted several problems of transparency. Not only the budget must be transparent, but also the debt, the guarantees given by the government to intermediate structures between the public and private sectors, and the management of the structures whose debt is guaranteed by the government.

International judiciary cooperation has been and still is active in the Malaysian and Mozambican affairs. This cooperation is important and should be supported and encouraged by an exchange of information between civil societies from various countries⁴.

Finally, it is very clear that a debt designed to be stolen will be even less popular than other forms of debt. Rather, it will be an odious debt. The concept of odious debt has been developed by recent research. A debt is "odious" if "the lender knew or should have known that the debt had not received the general consent of the people and the borrowed funds were contracted and spent contrary to their interests⁵." The mobilization of civil society can only increase the price to be paid by bankers and investors interested in a debt designed to be stolen. Such debt is risky, it may not be repaid.

4

As early as in 2015, Malaysian civil society and in particular Transparency International Malaysia warned national and international public opinions about the vast ramifications of the 1MDB Case. In Mozambique, the Centro de Integridade Pública called international experts to explore the complexities of the Tuna Bond case and published their detailed conclusions. See Edson Cortez ed., *Recovery of Assets*, op. cit.

5

Margot E. Salomon and Robert Howse, "Odious Debt, Adverse Creditors and the Democratic Ideal", in Ilias Bantekas and Cephas Lumina (eds), *Sovereign Debt and Human Rights*, Oxford University Press, 2019. Quoted by Joseph Hanlon, "Linking asset and damage recovery to not paying the \$2bn odious secret debt", in Edson Cortez ed., *Recovery of Assets*, op. cit

CORRUPTION – A DILEMMA INDEED!

By: Geetha A Rubasundram

Consultant & Trainer for

Forensic Accounting, Governance & Anti -Corruption, Corporate Reporting

Member of Transparency International Malaysia

Corruption - a term that Malaysians apparently deplore or so it seems.

We are quick to criticize politicians for their alleged involvements in corrupt behavior, blaming them for the lapse in our judiciary system and the rule of law. Whilst this factor does contribute significantly to the Malaysian circumstances, it would also be prudent for Malaysians to reflect collectively as a society and as individuals on our behaviors and perceptions as well as to understand our role in society in advocating ethics and integrity.

Humans are believed to be complex yet rational individuals, inferring that regardless of the situation, we should be able to clearly differentiate between right and wrong. Due to our differing complexities, it might be futile to group individuals expecting the same desired outcome. But, having said that, would we still hold on to our principles and values in different circumstances or would we be selective in our reasoning and decisions? Or, would it be the typical situation that regardless of the carrot or stick method selected, we would always find a loophole to safeguard ourselves?

The researcher recently carried out a survey on Malaysians to assess the “selectiveness” or “biasness” when approaching corrupt behavior. In the initial part of the survey, Malaysians were asked ten general questions about their perception on “corruption”. Unsurprisingly, the participants were unanimous in their feedback by deeming all situations to be highly inappropriate.

The next stage of the survey required more thought. Basing the remaining questions on the “Game Theory – Prisoner’s Dilemma” concept, the survey participants had to answer eleven questions based on various scenarios of corruption involving themselves and one other person. The scenario would include the other person as a witness in another room with the survey participant not knowing what had been recorded from them, and with the risk of providing an inconsistent statement. Some of the key results from this survey reflected that:

1. Although the “no gifts policy” is evident in many corporations, many still believe that this is a corporate culture and norm and that it is not considered a significant crime.
2. However, when applying this to the public sector, the opposite in perception was noted with the participants considering it as a highly condemned act.
3. Participants also chose to not “self-incriminate” when the scenario reflected lack of evidence.
4. If the other witness / collaborator was a family member or with a close relationship (including close business relationships), the participants chose to remain silent or even deny charges due to two reasons:
 - a. Trust in the other person to not communicate anything that could negatively impact the pair to the investigating officer.
 - b. Loyalty to the family or relationship took precedence over the need to do the right thing.

5. However, if the other witness / collaborator was someone with significant political influence or a politician, the participants condemned the act and would continue with their fight or would consider to whistle-blow. The exception to this is their perception on the reliability of the judiciary system. In circumstances where the judiciary system was deemed tainted, participants chose to be silent.
6. Participants were also cautious in coming forward when they deemed it to be in violation of the “Non-Disclosure Agreements” that they had signed with their organizations.
7. Participants were also reluctant to step forward in situations where they thought that the company culture would not support their allegations, or that they would be the eventual victims that could lose their jobs and reputations.

Being realistic about the anti – corruption measures in Malaysia is crucial. Whilst we have the relevant laws in place, the lack of enforcement and monitoring or even the lop-sided ways of enforcement and monitoring whether in the public or private sector is a cause for concern. It then relates to another question of the validity and impact of our education to teach ethics, integrity, values and morality. Are we raising advocates for good governance or are we treating the above purely as just another subject to score or pass for the purpose of finishing a course or to obtain a professional qualification?

The writer ends this piece by asking “what would you advise your child/family member to do in situations that require them to step forward and whistle – blow?”

If the answer would revolve around “let it be someone else’s problem”, then we indeed have a problem. It is crucial that Malaysians understand the complexity of whistle - blowing and the legal implications of coming forward. However, it is equally as important, that we understand that each of us has a role to play without bias in combatting corruption and moving Malaysia forward. In the post COVID-19 environment, more seem to be concerned about their jobs with businesses striving to make up for losses or lost business. With the higher pressure on everybody, how many would consider standing up for what’s right?

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