

**TRANSPARENCY
INTERNATIONAL
MALAYSIA**

2021 Annual Report

**THE MALAYSIAN SOCIETY FOR
TRANSPARENCY AND INTEGRITY**

(Transparency International Malaysia)

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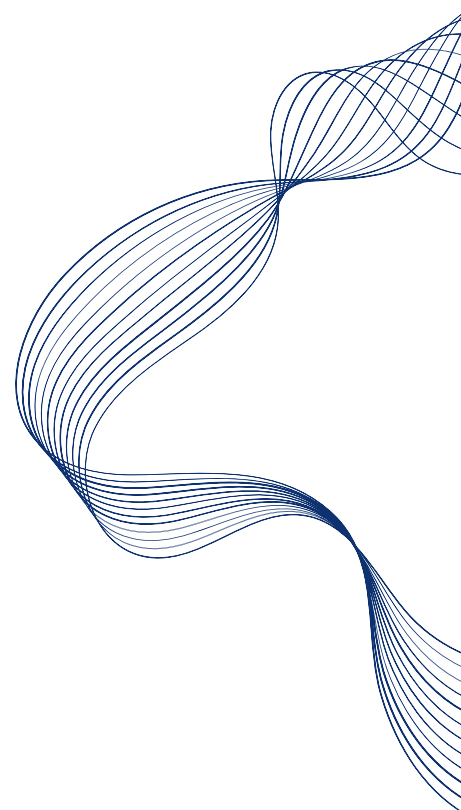


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PRESIDENT'S MESSAGE



Dr Muhammad Mohan
President of TI-Malaysia

I am pleased to share with you the 2021 Annual Report, key programmes TI-Malaysia carried out despite the challenges posed by the restrictions caused by Covid-19 and the political changes in the country. The pandemic continues to defy all expectations, but we cannot be frozen in fear. Our work is too important and we should continue to build hope, push for the reform agenda by continuing to engage with the government, civil society groups and the general public.

Over the past 3 years after the 14th general election, we had three prime ministers with three different coalitions being formed to govern our country. The reform agenda promised prior to the 14th general election could not be fulfilled with the collapse of the Pakatan Harapan government after ruling for 22 months. However, some of the initiatives were continued by the Perikatan Nasional government amid the spread of Covid-19 pandemic. One of the key reforms followed through by the Perikatan Nasional government was the gazetting of the enforcement date for the Corporate Liability Provision in June 2020 and within 9 months Malaysia had its first case on the 18 March 2021 where a company and its directors were charged under corporate

liability Section 17A. But the challenges remain among many companies in the private sector, especially among SMEs who are still not prepared despite the risks of exposure under this provision in the MACC Act. Our society is working closely with MACC's Bahagian Pendidikan Masyarakat on an education programme among SMEs. We have developed various tools such as the checklist for the adequate procedures and a pictorial guide on Section 17A for employers of commercial organizations to use as a guide.

The MOU (Memorandum of Understanding) signed between the government and the opposition was significant to bring political stability and push for several institutional reforms including tabling the anti-hopping law for elected representatives. We hope elected representatives from both sides of the political divide will take a bipartisan approach to bring reforms to the country and get our nation back on track towards a fully developed country.

Malaysia's performance in the Corruption Perception Index (CPI) measuring public sector corruption is worrying. Malaysia's score in the 2021 CPI Index is 48 points and our global ranking dropping to 62 out of 180 countries. During our engagement with GIACC (Governance Integrity and Anti-Corruption Centre) we have highlighted that the government must show greater commitment to fight corruption, including pushing for institutional reforms and full implementation of the NACP (National Anti-Corruption Plan). Institutions such as the MACC's (Malaysian Anti-Corruption Commission) credibility being damaged recently due to the involvement of its officers in a robbery case, the missing USD 6 Million under its custody and the recent controversy involving the chief commissioner in share trading activities does not augur well for a better score of the CPI for 2022.

Malaysia is one of the very few countries that has a specific act on whistle blowing. So, to have the Whistle Blower Protection Act (2010) meets the recommendations of OECD (Organization for Economic Cooperation & Development). However, several provisions of this act is flawed and needs amendments to be an effective whistle blowing channel and ensuring protection for the whistle blowers. TI-Malaysia is in the forefront providing inputs to the law division in the Prime Minister's department on this initiative.

Political Financing Act is something the country needs badly as political corruption is the mother of all corruption. Not only in general election, but also during by elections, state elections and even during party elections money is exchanged to influence the election outcome. TI-Malaysia when we launched the book "Political Financing in Malaysia", 22 recommendations were proposed to the Barisan Nasional government. However, none of these recommendations were taken up. During the Pakatan Harapan government there were some efforts to table a bill in parliament but the PH government collapsed and this bill was not tabled in parliament. We will continue to push for the Political Financing Bill together with other CSOs.

With our strategic plan in place our focus this year will be to address on the short term and medium term plans first. Two new initiatives planned as part of our strategy to create awareness to the general public is to launch the sale of our T-Shirts with a strong tagline. Another medium term initiative is to write, edit,

Best Wishes,



Dr Muhammad Mohan
President
Transparency International Malaysia

review and launch a book on fighting corruption from a religious perspective. This will involve engagement with JAKIM and Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism. This is the first time an initiative of this nature is taken and we are supported by GIACC. We hope once the book is launched in English initially it will be useful for all Malaysians to understand why all religions reject corruption. The book will be translated to Bahasa Malaysia later when additional funds are available.

“Our work is too important and we should continue to build hope, push for the reform agenda by continuing to engage with the government, civil society groups and the general public.”

TI-Malaysia together with its coalition partners IDEAS, C4, Bar Council have recently reactivated the proposal to reform MACC which was first proposed in 2015 but did not get the government's support then although this idea was mooted by MACC. We have presented this proposal to GIACC and next, we will be engaging with the law division in the Prime Minister's department.

Last but not least on behalf of the Exco, I want to thank all members for your continuous support for our society to continue our advocacy work to promote greater transparency and accountability in both the public, private sector and the general public.

INTRODUCTION

The year 2021, which was initially dubbed as the year for recovery and transition to normality was overshadowed by the emergence of new variants and restrictions set by the Government to contain the spread of the virus and vaccinate the population. As of now, we may continue to see new COVID-19 variants emerging, but rest assured that we are better prepared to adapt and push forward with minimal disruption to operations at the Chapter. We, at TI-Malaysia have continued our focus on spreading awareness, advocacy for change to the legal landscape and institutional reforms throughout this period.

TI-Malaysia has constantly voiced out our concerns with the Country's track record on the Corruption Perceptions Index (CPI). This year we regrettably reported a sharp decline in global ranking and score on the index, where Malaysia dropped five spots to rank 62 among the 180 countries that took part in the survey and fell to 48 in score. Nevertheless, TI-Malaysia will continue to work with the government of the day to reverse the current trajectory. We have proposed for measures to be undertaken by governing and law enforcement agencies and legal reforms to achieve, in order to have our country do better in the upcoming survey.

TI-Malaysia has been championing the call for political financing regulation since 2009. We published a detailed book / report on the subject in 2010 called "Reforming Political Financing in Malaysia" which included in-depth studies of comparable systems in other countries and interviews with our political leaders of the day. The book highlighted 22 recommendations that form the basis for our call to reform political financing. Recently, we discussed proposed reforms on this issue at the seminar series Money Politics: Financing Free



Raymon Ram
Secretary-General of TI-Malaysia

and fair elections, with the participation of the respective legal experts, academicians, MPs and activists.

For the first time, TI-Malaysia has organised a workshop on Investigative Journalism to further equip journalists with relevant skills and to create a closer level of engagement with the media on reporting about corruption and advocating for better laws to combat corruption. We will continuously provide valuable support to journalists to further strengthen good governance and integrity in our society through media reporting.

Apart from the advocacy work, TI-Malaysia has concluded a research paper on the Deferred Prosecution Agreement with comparison to other jurisdictions like the United Kingdom, United States, France, Singapore, Canada & Australia. An online forum was held to present the findings followed by the stakeholder engagement with the Chief Commissioner of MACC.

Also, being one of the most effective ways to curb corruption, TI-Malaysia has been advocating for the adoption of robust and comprehensive whistle-blower protection legislation to complement the current Act. A

closed-door roundtable was conducted with government agencies and civil society organisations to address the gaps and challenges in the framework. Apart from that, TI-Malaysia had also organised a public forum to encourage the corporate sector to consider having a robust whistleblowing policy, as a critical part to fostering a strong good governance system.

“For the first time, TI-Malaysia has organised a workshop on Investigative Journalism to further equip journalists with relevant skills and to create a closer level of engagement with the media on reporting about corruption and advocating for better laws to combat corruption.”

Apart from those on-going initiatives, TI-Malaysia had facilitated a 2-day workshop to develop a Guidance for Good Practice and Checklist for Adequate Procedures to assist both large corporates as well as Small Medium Enterprises (SMEs) on the implementation of T.R.U.S.T principles. Adapted from the Guidance on UK Bribery Act Adequate Procedures, the Guidance/Checklist is tailored to suit the Malaysian context. We strongly believe that this will be beneficial to commercial organizations in its efforts to adopt the principles laid out in the Ministerial Guidelines on Adequate Procedures based on Section 17A (5), Malaysian Anti-Corruption Commission Act 2009.

It is also important to highlight that in response to the proposed provision of ‘Misconduct in



Raymon Ram
Secretary General
Transparency International Malaysia

Public Office’ by the MACC, TI-Malaysia had also convened a conversation to address misconduct by public officials that results in huge financial losses from government coffers. We look forward to having the law tabled and passed, with the hope that the government will be better equipped to reduce fraud, leakages and wastage of public sector finances.

And as a first step in fostering increased youth inclusion, participation, and representation in the fight against corruption, TI-Malaysia had provided a platform for them to express their voices through a series of forums under the banner of “Youth Integrity Program”. Esteemed youths from different backgrounds were invited and had been actively participating in the series coordinated by the elected youth committee and supporting members.

Last but not least, as many of us were adversely affected by the economic challenges brought upon due to the Pandemic, especially the SMEs, TI-Malaysia had coordinated research and published a report on ‘COVID-19 & Malaysian SMEs: A Study on the Effectiveness and Transparency of Government Aid’ to assess the effectiveness and transparency of the government aid programs and measures moving forward. You may read the full report available on our website.

We, at TI-Malaysia have shown resilience and strength in managing the crisis due to the pandemic and are currently better prepared to adapt and push forward with our efforts to raise awareness, advocate for political and legal reforms in Malaysia. We have a set strategy going forward and will work closely with all members and other stakeholders in realizing our goals and defined objectives.

TI-MALAYSIA IN 2021



31

Press statements



13

Forums/Workshops/Webinars



6

Trainings



Social Media Followers



4551

followers



989

followers



140

followers

CORRUPTION PERCEPTIONS INDEX 2021

Two years into the devastating COVID-19 pandemic, the Corruption Perceptions Index (CPI) 2021 reveals that corruption levels have stagnated worldwide. The survey results indicate that Malaysia's score has deteriorated to 48 points in 2021, on a scale from 0 (perceived to be highly corrupted) to 100 (perceived to be very clean) compared to 51 points in 2020. Malaysia's ranking in the CPI also deteriorated from 57 in 2020 to 62 in 2021 among the 180 countries surveyed. Malaysia's CPI scores and rank have been falling for the past two consecutive years, indicating that we are heading in the wrong direction as far as fighting corruption and supporting human rights and democracy are concerned.

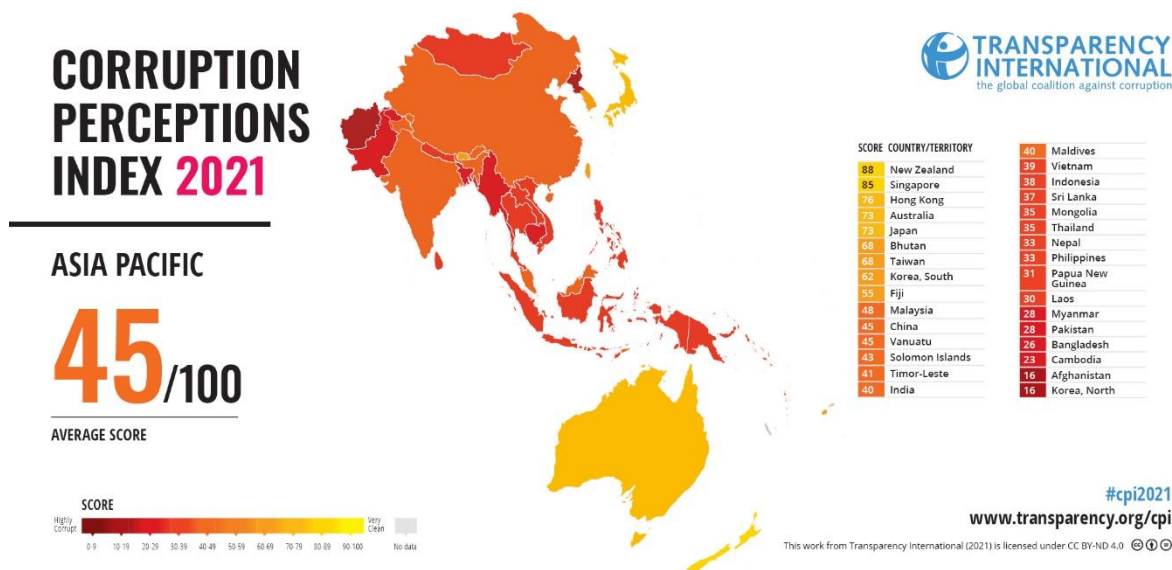
TI-Malaysia believes the following are possible reasons contributing to this deterioration:

- (i) Very limited action from the current and previous governments to curb political corruption and strengthen our Human Rights record. For instance, the Political Financing Act which was scheduled to be tabled in Parliament by the last two governments has yet to be realized. Also, the draft IPCMC Bill was revised to an ineffective version renamed the IPCC Bill. Tragically custodial deaths still occur in police lock-ups even after an RCI (Royal Commission of Inquiry) was conducted in 2015.
- (ii) Lack of political will to reform the MACC into a truly independent anti-corruption institution accountable to Parliament as proposed by civil societies in 2015.
- (iii) Unduly wide interpretation of the Official Secrets Act leading to a lack of transparency on matters of public interest such as directly negotiated contracts
- (iv) Discharge Not Amounting to Acquittal for some individuals charged in high profile cases has given a negative perception on how the legal process is used. Clearer clarification from the AG's Chambers could have mitigated such a perception.
- (v) Limited progress and minimal update on high profile cases such as Wang Kelian Human Trafficking case, Sabah Water Scandal and Littoral Combat Ship.
- (vi) Lack of measurable results seen from the NACP (National Anti-Corruption Plan), a comprehensive document with clear initiatives and targets. Given that its success lies in its implementation, TI-M had called for the Chief Secretary to the Government (KSN) to be made responsible and accountable for its successful implementation. Unfortunately, there is limited progress on this.
- (vii) Suspension of parliament during the MCO period. Huge stimulus packages were pushed through without parliamentary debate and scrutiny.
- (viii) Continued adverse reports on wrong doings and poor governance by government officials in the Auditor General's report which appear to be repetitive and go unpunished. It is high time for lawmakers from both sides of the political divide to support to add a provision in the MACC Act for "Misconduct in Public Office", to hold public officials accountable for their actions and decisions.

One positive action seen over the last year is the bi-partisanship demonstrated by the current federal government and opposition

Pakatan Harapan when they signed an MOU on numerous reforms in September 2021. It is hoped that law makers from both side of the political divide remain committed and implement the agreed reforms before July 2022.

For the first time since 2012 with a CPI score of 48 for 2021, Malaysia is now grouped among the 2/3 of countries with a CPI score below 50. The situation we are in is deeply worrying and will be difficult to turn around unless the government takes decisive and affirmative action to accelerate the institutional reforms mentioned above.



POLITICAL FINANCING REFORM

The backbone of democracy is representative government, facilitated by free and fair elections. Running an election campaign and maintaining a representative position as a political party is hardly free, though. Politics is an expensive affair. In order to convince the masses and garner the majority vote, candidates usually run on a party platform which helps in gathering financial resources for obtaining information, communications, running campaigns, equipping candidates, and recruiting teams, among other things.

Parties that have such advantages would have more resources at their disposal for less effort than parties with the short end of the straw. In addition, unregulated political financing allows for corrupt practices, causing public resources to flow to political coffers.

It is, therefore, necessary to regulate political financing in order to:

- (i) Reduce corruption in the form of diversion of public resources towards political activities
- (ii) Level the playing field by ensuring laws don't favor a single party, and by minimizing the inherent advantage of incumbents with access to infrastructure
- (iii) Provide greater transparency to voters who are informed of influential funding sources to candidates and parties
- (iv) Reduce the influence of vested interests that are in competition with the public good in determining a political representatives' policy priorities.

TI-Malaysia advocates for reform of political financing, with 22 recommendations made on strengthening related institutions as well as transparency of funds raised and expended by parties:

1	Review the provisions in the Malaysian Constitution and the legislation governing the Election Commission to enhance its autonomy and independence
2	Introduce appropriate mechanisms to enhance the independent functioning of the Election Commission
3	Make it mandatory for the election expenses of political parties and candidates to be independently audited by certified auditors before submission to the Election Commission
4	Build capacity of the Election Commission to verify the reporting of campaign financing
5	Base the limit of candidates' and political parties' expenditures on the geographical area of the constituency and size of the electorate
6	Introduce a mechanism for establishing a neutral caretaker government after elections are called.
7	Enact a new legislation, the Political Parties Act, to govern and regulate the functioning of political parties
8	Register political parties with the Election Commission instead of with the Registrar of Societies
9	Regulate internal party elections under the Political Parties Act
10	Make it mandatory for disclosure of all sources of financing and expenditure by the political parties
11	Amend the Election Offences Act 1954, which only regulates expenditure incurred between nomination day and polling day, to reflect all expenses incurred for general elections.
12	Prohibit the use of covert funding such as slush funds

13	Prevent organisations linked to political parties from being used as conduits for political funding
14	Impose a limit on contributions by individuals to political parties
15	Prohibit political parties from receiving foreign donations
16	Impose an expenditure limit on the electoral activities of political parties
17	Prohibit parties from owning, directly or indirectly, and being involved in business
18	Include all shareholders group in company decisions for political contributions
19	Introduce direct state funding for political parties to finance their electoral and non-electoral activities
20	Prohibit ownership of the media by political parties
21	Repeal the Printing Presses and Publications Act 1984
22	Allow equal and free access to the public media for all interest groups under the Political Parties Act

On 24th and 25th September 2022, TI-Malaysia held a series of three seminars titled Money Politics: Financing Free and Fair Elections. The series was intended to draw attention to the critical importance of regulating political financing, as the current lack of a legislative framework allows for grand scale corruption that diverts public resources towards political war chests. The series was launched by TI-M Deputy President Mr. Lawrence Chew, and kicked off with a panel discussion where Mr. Andrew Khoo from the Bar Council Constitutional Committee, Ms. Cynthia Gabriel from C4, and Ms. Tricia Yeoh from IDEAS laid down the framework for political financing regulation.

The second session was youth-focused, with the panelists providing frank comments on how the younger generation are disenfranchised with the existing culture of patronage politics. As pointed out by Dr. Bridget Welsh, young voters have the potential to determine 1/3rd of the 220 seats in Parliament, provided that they exercise their right to vote. Mr Tharma Pillai from Undi18, another panelist, emphasized the need to invest in reaching out to and educating youth on these issues so that they can be a force for institutional change. Meanwhile, Bandar Kuching MP YB Dr Kelvin Yii frankly shared the pressures that politicians face to raise funds to serve their constituents and provide expected welfare assistance which should come from government bodies, and the necessity to educate the public on the role of MPs as lawmakers.

The final session on 25th September, focusing on Reforms for Electoral Campaign Financing, was moderated by Mr Alan Kirupakaran, TI-Member and former Executive Director. The panel included MPs YB Dato' Seri Utama Mukhriz Mahathir, YB Dr Ong Kian Ming, and YB Puan Isnaraissah Munirah Majilis, as well as Dr Terence Gomez and Chairman of Bersih, Mr Thomas Fann. The panelists engaged in a rich exchange of opinions on the state of corruption involving political financing. The MPs provided critical insights into the core issues contributing to corruption and money politics in the electoral process and raised important questions for consideration in advocating for regulation. While all the MPs agreed that parties generally understand the need for reform, they also pointed out the severe obstacles that need to be overcome, particularly in terms of vote-buying culture, and the thorny question of fair mechanisms and enforcement in regulation.

Given the current fragmented state of politics in Malaysia and the instability caused by party-hopping – which also involves a large number of political finances in securing loyalties – this area of advocacy is a key battleground in anti-corruption advocacy for the next few years. Political financing regulation and fair apportionment of public funding will level the playing field in our democratic process. Transparency International Malaysia is committed to advocating for this crucial reform in the coming year.



First session photo
Political Donations and
Corruption: The Elephant



Second session photo
Political Financing and the
Vote: What Do Young Voters



Third session photo
Reforms for Electoral
Campaign Financing: Clean

INVESTIGATIVE JOURNALISM

While definitions of investigative reporting vary, among professional journalism groups there is a broad agreement of its major components: systematic, in-depth, and original research and reporting, often involving the unearthing of secrets. Others note that its practice often involves heavy use of public records and data, with a focus on social justice and accountability.

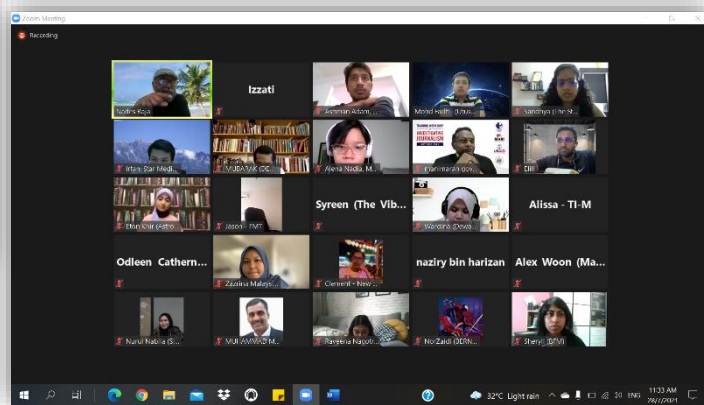
As we know, investigative journalism emerged with the beginning of the evolution of the concept of journalism and its role in society and its tendency to highlight, focus and investigate certain issues that occur in society, especially aspects of deviation and corruption.

It is the embodying the role of the fourth authority of the media in the communities, or what the monitoring function of the media in the framework of the professionalism required of the media institution and includes the investigative press reveal hidden things to the public – things either deliberately hidden by someone in power or disappeared behind the scene.

As the term of investigative journalism expands to cover various fields and sectors while media

practitioners need due freedom to bring to public attention through their writing, and as the media faces various difficulties in practicing investigative journalism effectively, TI-Malaysia organized a training workshop to equip young journalists in the area of investigative journalism, enabling them to better unearth abuses of public trust. The full-day virtual workshop, held on 28 July 2021, saw the participation of 33 local journalists in a stimulating exchange of ideas and views with a panel of experts.

The workshop was also part of TI-Malaysia's advocacy work in amending the Whistleblower Protection Act (2010) to provide wider protection to the whistleblowers. Prominent lawyer from Raja Daryl & Loh and a TI member Chew Phye Keat gave the journalists valuable insights about the current Whistleblower Protection Act (2010) from a legislative perspective. The act does not currently protect whistleblowers who go directly to the media. Given the public interest in such investigative reporting, TI-Malaysia will continue to advocate for extending whistleblower protection in Malaysia to protect journalists and their sources in exposing corrupt acts that have not received attention from the authorities.



DEFERRED PROSECUTION AGREEMENT

Deferred Prosecution Agreement (DPA) is a mechanism by which corporate entities may resolve allegations of corporate wrongdoing without having to face a full criminal trial and the attendant risk of a criminal conviction.

The public prosecutor would agree to defer criminal prosecution of a corporate entity in respect of offences for a fixed period, conditional upon the company's performance of strict terms set out in the DPA, which include:

- a) Financial Penalty
- b) Cost
- c) Restitution for Victims
- d) Disgorgement of profits of wrongdoing
- e) Reform measures

At the end of the fixed period, provided that the terms of the agreement have been adhered to, the corporate entity would no longer face prosecution for the offences covered by the DPA.

DPA is not intended to replace traditional prosecution but is used in certain limited circumstances, where the prosecution may wish to lessen the cost of investigating the economic crime by securing cooperation from the subject of the investigation. It also has wider policy aims of encouraging corporate entities to self-report, cooperate with regulators and enhance their compliance culture. Some of the key features of a DPA are:

a) Not applicable to individual persons:

- (i) DPAs are only available to body corporates, limited liability partnerships, partnerships or unincorporated associations.

b) Types of offences:

- (i) Applicable to certain types of stipulated offences principally relating to bribery; corruption; use of proceeds of crime; money

laundering and terrorism financing; falsification of accounts; and market manipulation.

c) Documentation:

- (i) Details of a charge or draft charge for the alleged offence(s), as well as a statement of facts, including any admissions.
- (ii) Set out the requirements imposed on the accused entity, including the amount of any financial penalty, disgorgement of profits, and/or implementation of any reform measures/compliance program

d) Sanctioned by the Court:

- (i) Once it has been agreed between the subject and the public prosecutor, the DPA must be submitted to the Court for approval.
- (ii) The Court must be satisfied: that the DPA is in the interests of justice; and that the terms of the DPA are fair, reasonable and proportionate.

e) Deferred Prosecution:

- (i) The subject cannot be prosecuted for the alleged offence in any criminal proceedings. However, in the event of any failure to comply with the terms of the DPA, the AGC may apply to the court to terminate the DPA, and commence or resume any prosecution.

f) Expiry of DPA:

- (i) Upon expiry, the Public Prosecutor is required to notify the High Court that it does not intend to prosecute the subject for the alleged offence.
- (ii) The High Court may then grant the subject a discharge amounting to an acquittal, which prevents the subject from being prosecuted for the same offence in the future.

(iii) However, new criminal proceedings may be instituted if the subject is found to have provided incomplete or misleading information during negotiations of the DPA.

Currently, Malaysia's Parliament has amended the MACC Act 2009 to include a corporate liability provision under Section 17A. However, no specific DPA mechanism yet exists.

Following this, TI-Malaysia organized a forum titled Deferred Prosecution Agreement: Options and Impact on Malaysia to present research findings on how DPAs are applied in other jurisdictions in consideration to countries like the United Kingdom, United States, France, Singapore, Canada & Australia. The forum was moderated by Mr Chew Phye Keat, member of TI-M with the participation of Nicholas Pereira as the primary researcher and MACC officials, Tuan Hafaz Nazar (Director of Policy, Planning & Research Division) and Puan Sasha Lyna (Legal Officer to the Chief Commissioner).

A stakeholder engagement with the Chief Commissioner of MACC, Tan Sri Azam Baki with several legal officers was held right after the

public forum in getting their feedback and comment on the research done.

Since enforcement of Section 17A began on 1 June 2020, talk of a DPA provision to complement corporate liability under Section 17A has arisen in abundance. MACC presented a proposal for a DPA provision to JKKMAR on 19 November 2020, in a meeting chaired by the former Prime Minister at the Prime Minister's Office. The meeting resulted in MACC obtaining approval to carry out comprehensive research regarding a DPA in close consultation with the AGC and report its findings.

In April 2020, MACC commissioned a specific paper addressed to the AGC to consider the mechanics of a DPA. Based on a recent meeting, the AGC is positive and open about bringing in a DPA mechanism to complement 17A and other Malaysian regulatory legislation.

TI-Malaysia applauds MACC's efforts to have closer engagement with relevant agencies, regulators and key industry players to present a stronger proposition to the government for the adoption of a DPA provision in the near future.



During the panel session



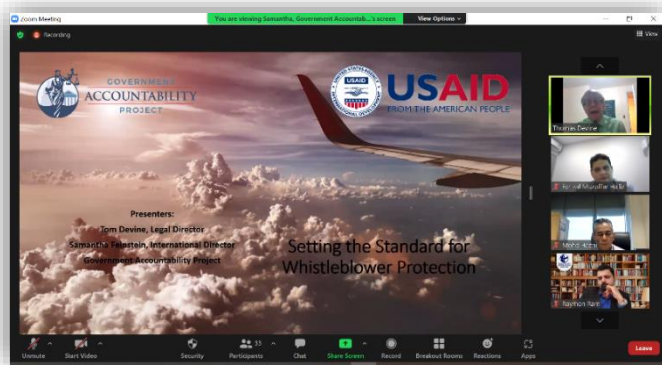
Dr Mohan presented the DPA research report to Tan Sri Azam Baki

REFORM ON WHISTLEBLOWER PROTECTION

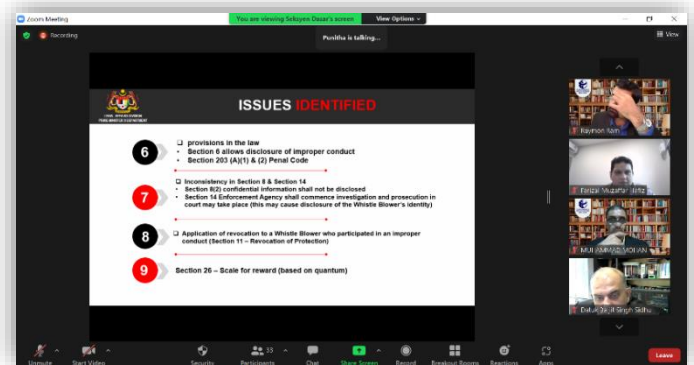
1) ROUNDTABLE ON STRENGTHENING WHISTLEBLOWER PROTECTION

On 2nd September 2021, TI-Malaysia organized a closed-door Roundtable on Strengthening Whistleblower Protection with the participation of the Prime Minister’s Department, the Attorney General’s Chambers, government enforcement agencies, and civil society organisations. Ms Sheryl Goodman, UNODC Whistleblowing Consultant, and Ms Samantha Feinstein and Mr Thomas Devine from the US-based Government Accountability Project (GAP) shared best practices and developments in whistleblower protection frameworks, whereas Ms Punitha Silivarajoo from the Prime Minister’s Department, Senior Superintendent Farizal Muzaffar Hafiz from MACC, and Mr Chew Phye Keat representing TI-M, shared the Malaysian perspective of gaps and challenges to be addressed in the framework.

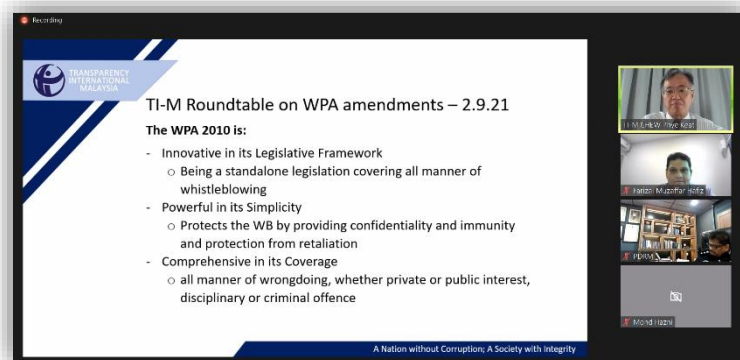
The organizing team was pleased to note that the government stakeholders were generally supportive of strengthening protections under the Whistleblower Protection Act 2010. TI-M advocated for much-needed amendments including considering a centralized body for receiving whistleblower reports, allowing internal reporting to be covered by default under whistleblower protection, giving whistleblower protection law precedence over other laws, and giving the discretion to protect whistleblowers even if the whistleblower is part of the wrongdoing. In particular, the anticipated amendment must also resolve conflicts with the Official Secrets Act 1972 which disqualifies civil servants from receiving whistleblower protection if they are found to have shared classified documents in reporting wrongdoing.



Presentation by Ms. Samantha Feinstein and Mr. Thomas Devine



Presentation by Ms Punitha Silivarajoo



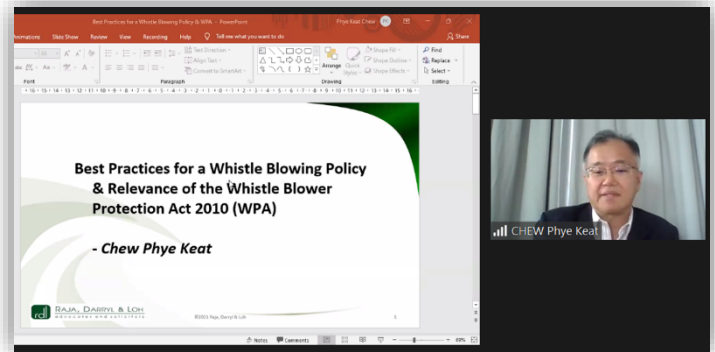
During the roundtable discussion

2) PROTECT THE WHISTLEBLOWER, PROTECT THE COMPANY

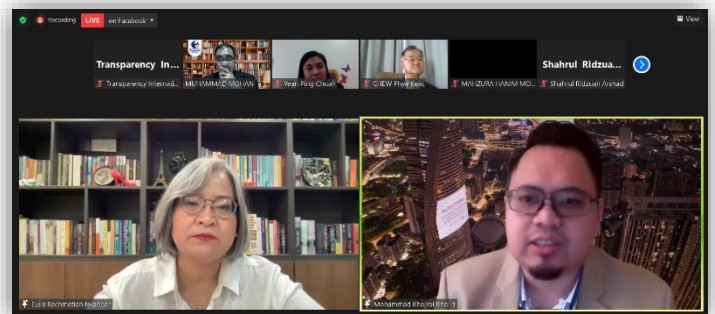
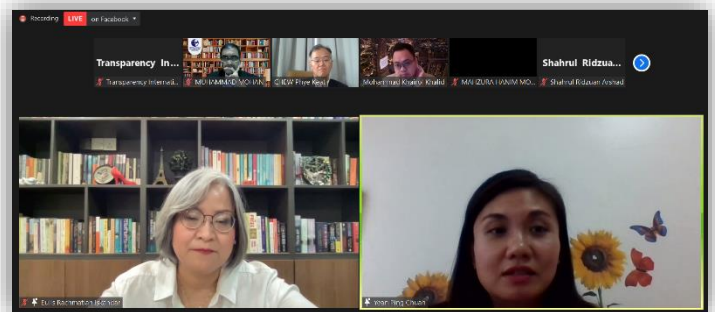
On 5th October 2021, TI-Malaysia held a public forum to encourage the corporate sector to view whistleblower policy as an important first line of defence in protecting the company from wrongdoing. Companies must encourage whistle blowers by providing secure channels for reporting issues and ensuring that the whistleblower is supported throughout the process and secure from retaliation.

Often, whistleblower policies may only look good on paper but fail to be implemented well. The forum, therefore, aimed to share real practices by expert practitioners in compliance who shared about how whistleblowing reports and investigations are handled in their organisation. The forum was entirely represented by TI-M's members, with Ms Eulis Rachmatiah moderating the forum where panellists Ms Chuah Yean Ping, Head of Group Compliance & Integrity in Sime Darby Bhd, and Mr Mohammad Khairol Khalid, Head of Integrity & Governance at Telekom Malaysia Bhd, both shared from their experience on the process of receiving reports and investigations and challenges to be overcome in protecting the whistleblower. Dr Muhammad Mohan shared from his personal experience as a whistleblower, Mr Chew Phye Keat shared the best practices in whistleblowing from a legal perspective, as well as current issues in need of amendment that would be beneficial to the corporate sector.

A total of 155 participants drawn largely from compliance and management professionals in the private sector attended the forum and the panellists had a frank and engaged discussion with participants on issues relating to whistleblower protections, such as protection from defamation, appropriate reporting channels, necessity for auditing the implementation, and the requirements for whistleblower protection under Section 17A of the MACC Act and the ISO 37001 Anti-bribery Management System.

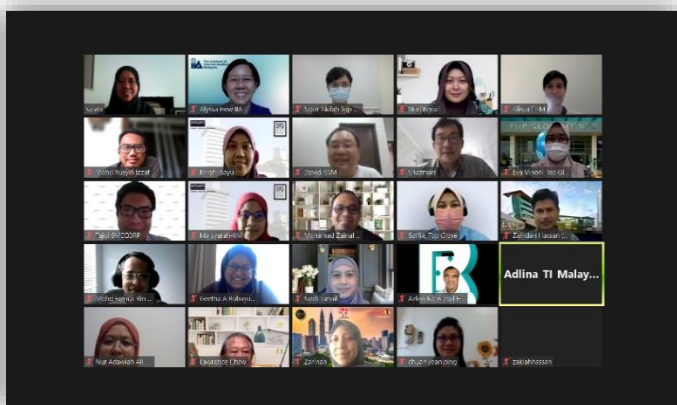
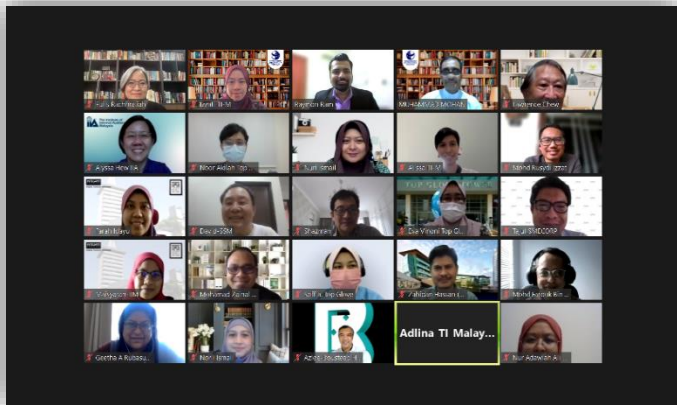


Presentation by Mr Chew Phye Keat



Sharing session by Dr Muhammad Mohan, Ms Chuah Yean

GUIDANCE ON GOOD PRACTICE & ADEQUATE PROCEDURES CHECKLIST



A 2-day virtual workshop was conducted on the 2nd and 9th July 2021 to discuss and develop a checklist to guide the corporate sector on the implementation of T.R.U.S.T principles as per the Ministerial Guidelines on Adequate Procedures, under Subsection 5, Section 17A MACC Act 2009. Present at the workshop were senior officials from the law enforcement and government agencies, professional bodies, SME Corporation Malaysia, Companies Commission of Malaysia, Institut Integriti Malaysia, The Institute of Internal Auditors Malaysia and representatives from the corporate sector being from Duopharma Biotech Berhad, Top Glove Berhad, Sime Darby Berhad, MIDF Berhad, Boustead Holdings Berhad, VERITAS Design Group and Cyberview Sdn Bhd.

With reference made to the Guidance on Adequate Procedures issued by the UK Ministry of Justice under Section 9 of the Bribery Act 2010, the workshop served as a platform for brainstorming sessions and group presentations towards developing a checklist tailored to suit the Malaysian context. The finalized checklist is to be used as a reference by commercial organizations (both large and small/medium enterprises) in protecting themselves against the acts of bribery committed by persons associated.

Led by the Secretary-General, Mr Raymon Ram, the forum discussed matters about international and local laws on bribery and corruption, ISO 37001:2016 Anti-Bribery Management System (ABMS) requirements, gift policies, facilitation payments and other preventive mechanisms/actions.

MISCONDUCT IN PUBLIC OFFICE (MIPO)

MIPO is a common-law offence that targets all forms of serious abuse of office by public officials. Malaysia needs this provision for both punitive and deterrent purposes.

This law offence has a considerable historical foundation. However, it had not been widely used until the early 1990s, when the Independent Commission against Corruption (“ICAC”) in Hong Kong started to detect cases where civil servants whom it investigated abused their position and powers for their benefit or that of others without their conduct involving the solicitation or acceptance of an advantage.

In fact, over the years, corrupt activities in the public sector have evolved from straightforward bribery to illegal acts involving varying nature and degrees of abuse of authority or conflict of interest. The precise range of misconduct that might be caught by the offence of MIPO is getting clearer in the light of developments in case law both locally and overseas. As reported in Global Corruption Barometer 2021 published by Transparency International, 13% of the respondents revealed that they paid a bribe for public services for the previous 12 months.

On 4th August 2021, TI-Malaysia organized a forum titled ‘Antara Ketelusan dan Ketirisan: Peruntukan Salah Laku Dalam Badan Awam’ for the civil servants to discuss MACC’s proposal to introduce MIPO provision to be added to the MACC Act to strengthen enforcement against leakages in the public coffers due to corruption.

Datuk Sri Shamshun shared on the need for the new provision to bring errant public officers to justice. Out of the 225 MACC investigations into the mishandling of public resources based on the Auditor General’s report, only 2 were successfully charged in court, while the others

faced internal disciplinary action, which is insufficient as a deterrent.

The Auditor-General followed up by explaining that the 2019 Series 1 Auditor General’s Report showed that out of a total value of RM15.7 billion in government delivery projects audited, they found wastage and leakages to the tune of RM978 million or 6.2% of the total value.

The Auditor-General agreed that the provision was necessary for greater accountability and to enforce better stewardship of public resources. CUEPACS President Haji Adnan, on the other hand, emphasized the collective responsibility of the private and public sectors in combating corruption, whilst advocating for strengthening procedures for prevention.

Dato’ Sri Akhbar Satar spoke about the need for strong internal controls due to the weak culture of integrity in the public sector in Malaysia at the moment. Citing Brunei and Hong Kong as examples, he noted that their strong Misconduct in Public Office provisions has allowed for high-ranking public officers, including ministers, to face charges in court. With such a provision, heads of departments should take a stand when instructed by someone higher up in the agencies or ministries to commit a wrongdoing. MIPO will make public officials accountable for their actions.

TI-Malaysia is pleased to have convened this panel and looks towards future cooperation with MACC and the Auditor General’s Office on advocating for better transparency and accountability in public office.



YOUTH AGAINST CORRUPTION

In tackling corruption, TI-Malaysia realizes that it should take steps in the direction that entails bringing about long-term solutions. As the youths are the key drivers for change and the leaders of tomorrow, a long-term solution would infuse certain moral values from the young. Hence, TI-M feels that the propagation on integrity and awareness of corruption and its negative effects among the youth should be well spread.

TI-Malaysia held a series of Youth Integrity Forum with support from the Malaysia Reform Initiative (MARI) and The United States Agency for International Development (USAID). The program which was spearheaded by TI-M Youth Committee members kicked off with the forum titled ‘Whistleblowing and Truth to the Power’. Whistleblowing rights have been put at the forefront of the fight against corruption. The forum aimed at raising awareness and understanding of the legal framework of existing whistleblower protections as well as the policy and practical challenges around it.



The second forum discussed the topic of ‘Transparency and Accountability in Managing COVID-19 Crisis: How Malaysia is Doing?’ with the participation of youth from distinctive backgrounds to hear their thoughts on the government’s performance in facing the pandemic crisis. Arief Hamizan, the legal advisor from the C4 centre talked about embezzlement and abuse of power meanwhile Wan Mohd Khuzairey pointed out the difficulty faced in the education sector from his perspective as a teacher. Azura Naron, chairperson Gerakan Pembebasan Akademik raised questions on the arrest of activists for speaking up against the government.



The third forum titled ‘Youth and Direction Politics Free from Corruption in Malaysia’ introduced the relationship between youth and politics-free from corruption in Malaysia. This panel discussion convened with a view towards the discussion between the issues of corruption in Malaysian politics and the role of youth in fighting corruption in Malaysia.



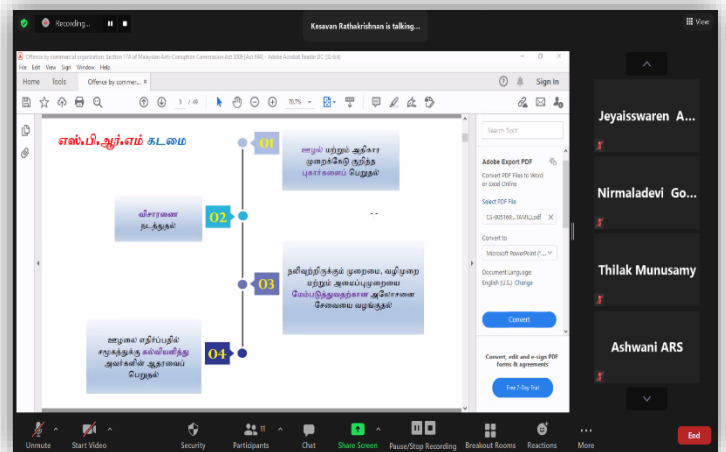
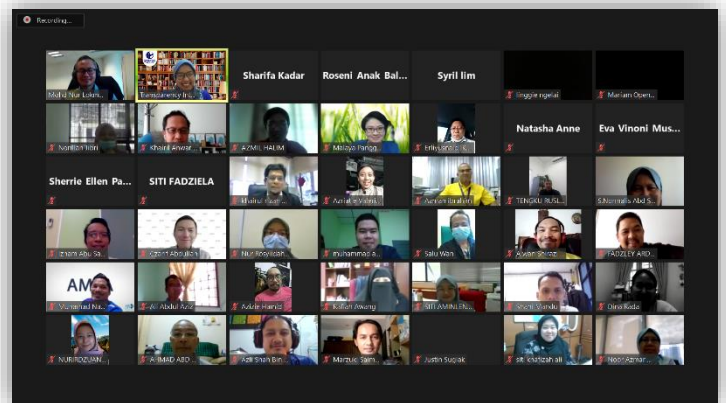
TRAINING COURSES

TI-Malaysia held a series of ‘Anti-Bribery & Corruption Online Training Course for Corporates, Small and Medium Enterprises (SMEs)’ in English, Bahasa Melayu, Mandarin and Tamil. This was one of the initiatives in raising public awareness on Section 17A (Corporate Liability).

Several months before the 14th General Election in 2018, a new provision called the Corporate Liability Provision (CLP) was added into the existing MACC Act 2009 (Act 694) in efforts to prevent bribery and corruption involving commercial organisations. The amended MACC Act was gazetted on 4 May 2018. The term “Commercial Organisations” covers companies incorporated under the Companies Act 2016 (Act 777), companies formed under the Partnership Act 1961 (Act 135) and limited liability partnership registered under Limited Liability Partnership Act 2012 (Act 743).

This new provision simply means that a commercial organisation commits an offence if any person associated with that commercial organization corruptly gives, agrees to give, promises or offers to any person any gratification for the benefit of the commercial organization. In these cases, the top management – including directors or representatives – may be liable regardless of whether they had knowledge of the corrupt acts committed by their employees or any associated persons. This is to ensure that businesses do not engage in any form of corrupt practices.

We would like to thank our speakers from MACC for sharing their valuable insights and inputs with the participants.



PUBLICATION

TI-Malaysia has released a report on “COVID-19 & Malaysian SMEs: A Study on the Effectiveness and Transparency of Government Aid” in collaboration with the Merdeka Center for Opinion Research with support from the Centre for International Private Enterprise (CIPE) to understand the economic impact of COVID-19 on SMEs in Malaysia, as well as to assess the perception of the respondents on the effectiveness and transparency of the aid programs. The research report involved a survey of 500 SMEs and 10 interviews with government agencies, trade associations and SME owners/representatives. The report launch was held virtually on 8 July 2021.

The research reveals that in the aid for SMEs through the PRIHATIN and PENJANA schemes, 64% of the respondents from SMEs expressed confidence in the transparency, integrity and accountability in the federal government aid process.

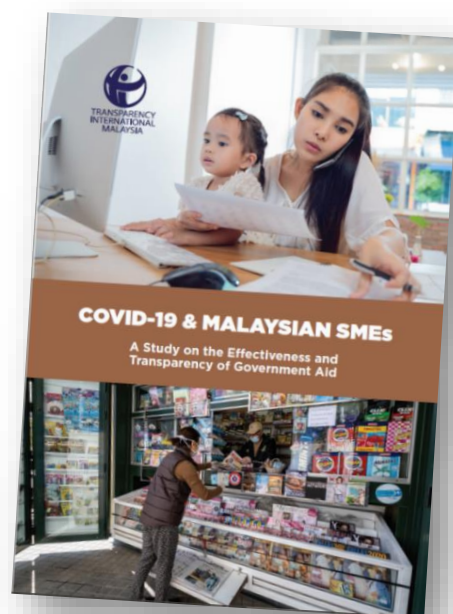
However, 52% of the SMEs acknowledged that they had diverted the PRIHATIN and PENJANA funds to sustain the business and to pay for other operational expenditures apart from the reasons allocated for. The research also finds that while the SMEs are generally aware of the federal government aid, 65% of the respondents were not aware of the state government aid.

Among the challenges & effectiveness of the aid disbursements, as cited by SMEs, it was mentioned that procedures were not clear, criteria were too rigid and the quota was too limited.

About 8% of the SMEs interviewed claimed that bribery and corruption were necessary to obtain the PENJANA & PRIHATIN assistance with the involved parties mainly from the banks, federal government, agencies and local government. The lower level of corruption could be due to the online application method used by the government instead of direct contact between the SMEs and public officials. Thus, the government should continue to encourage the public to use online applications to mitigate any risk of bribery and corruption and at the same time improve internet connectivity throughout the nation.

Full report available here:

<http://transparency.org.my/pages/news-and-events/publications/covid-19-and-malaysian-smes-a-study-on-the-effectiveness-and-transparency-of-government-aid>



SPEAKING ENGAGEMENT

➤ INSTITUT DARUL EHSAN ROUNDTABLE DISCUSSION

TI-Malaysia was invited by Institute Darul Ehsan (IDE) to a roundtable discussion on 'National Integrity and Governance: Where is Malaysia ranked? Dr Muhammad Mohan presented the CPI results and findings and highlighted Malaysia's 57th position in the index. He also discussed the ranking of Malaysia among ASEAN and Islamic countries.



➤ OECD GLOBAL ANTI-CORRUPTION & INTEGRITY FORUM

United Nations Office on Drugs and Crime (UNODC) in collaboration with United Kingdom Government organized the OECD Global Anti-Corruption and Integrity Forum. TI-Malaysia was invited as one of the panelists in the session '#United Against Corruption: Collective actions through Fast-Tracking the UNCAC'. The panel discussed anti-corruption efforts undertaken by civil society organizations (CSOs) in response to, or during, the Covid-19 pandemic as well as demonstrating the vital role civil society is playing in tackling corruption in the pandemic response.



➤ NATIONAL TALK SERIES – 'RASUAH PEMUSNAH NEGARA'

Pertubuhan Ikram Malaysia hosted the National Talk Series with the topic of 'Rasuah Pemusnah Negara'. The strategy of fighting corruption should focus on strict enforcement without fear and eradication at the grassroots level. We have seen how much bad effects this disaster has caused on the people and the country. TI-Malaysia was represented by Dr Mohan as one of the panelists.



MEDIA PRESENCE

astro AWANI

CORRUPTION ADDRESSING THE SLIDE

DR MUHAMMAD MOHAN
President, Transparency International Malaysia (TI-M)

DR KM LOI
President, Association of Anti-Bribery Management Systems (ABMS) Practitioners Malaysia

CYNTHIA GABRIEL
Executive Director, Center to Combat Corruption and Cronyism (CC)

consider this.

TUESDAY • 2 FEB 2021 • 10 PM
Watch it on Channel 501 and www.astroawani.com



astro AWANI

CPI 2020 MEROSOT, KE MANA MALAYSIA SELEPAS INI?

Bersama:
DR. MUHAMMAD MOHAN
Presiden, Transparency International Malaysia

AGENDA AWANI

KHAMIS
28 JAN 2021 | 8:30 MLM
Tonton di Saluran 501 Astro AWANI dan www.astroawani.com/live-tv

FINANCIAL OVERVIEW

During this year of 2021, the total funding accumulated was RM 354,778.83 This comprised of the membership fees, project grants, donations and fundraising activities.

We are indebted to the following organisations for their financial support:

- Centre for International Public Enterprise (CIPE)
- Malaysia Reform Initiatives (MARI)
- Pusat Governans, Integriti & Anti-Rasuah Nasional (GIACC)
- United States Embassy Kuala Lumpur
- United States Agency for International Development (USAID)
- United Nations Office on Drugs and Crime (UNODC)

We also would like to express utmost gratitude to our corporate and individual members who have been with us to support our advocacy work.

MEMBERSHIP

Category	December 2021	December 2020
Individual	82	80
Corporate	15	16
Total	97	96

SECRETARIAT

No.	Name	Position
Secretariat		
1	Nuradlina binti Adnan	Manager
2	Maria Christina Stephenson	Accounts/Admin Executive (Until 18 December 2021)
3	Nurizzati binti Mohamad Nor	Project Executive

2021-2023 EXECUTIVE COMMITTEE

No.	Name	Position	EXCO Meeting Attendance (As of Dec 2021)
1	Dr Muhammad Mohan	President	3/3
2	Lawrence Chew Seng Chen	Deputy President	3/3
3	Raymon Ram	Secretary-General	3/3
4	Dr Abadan Jasmon	Treasurer	3/3
5	Chew Phye Keat	Member	3/3
6	Noor 'Akilah Saidin	Member	3/3
7	Nurirdzuana Ismail	Member	3/3
8	Nisha Kamilla Sundra Rajoo	Member	2/3
9	Afiqah Ayub	Member	1/3
10	Alan Kirupakaran	Member	3/3

ACTIVITIES, MEETINGS & EVENTS

No	Dates	Events / Activities	Venue	Funder(s)
1.	28 Jan 2021	Corruption Perceptions Index 2020 Results Launch	Online (Zoom)	-
2.	2 February 2021	Anti-Bribery & Corruption Online Training for Corporates and SMEs (in Bahasa Malaysia)	Online (Zoom)	United Nations Office on Drugs and Crime (UNODC)
3.	8 February 2021	Anti-Bribery & Corruption Online Training for Corporates and SMEs (in English)	Online (Zoom)	United Nations Office on Drugs and Crime (UNODC)
4.	9 & 10 February 2021	Awareness Training on Section 17A (Corporate Liability)	Online (Zoom)	-
5.	15 February 2021	Anti-Bribery & Corruption Online Training for Corporates and SMEs (in Tamil)	Online (Zoom)	United Nations Office on Drugs and Crime (UNODC)
6.	22 February 2021	Anti-Bribery & Corruption Online Training for Corporates and SMEs (in Mandarin)	Online (Zoom)	United Nations Office on Drugs and Crime (UNODC)
7.	25 February 2021	Invitation by IDE – National Integrity and Governance: Where is Malaysia Ranked?	Online (Zoom)	-
8.	11 March 2021	Radio Interview – MACC.fm: Corruption in Malaysia, How to Improve?	MACC HQ, Putrajaya	-
9.	20 March 2021	Youth Integrity Forum 1 – Whistleblowing and Speaking Truth to Power	Online (Zoom)	Malaysia Reform Initiative (MARI)
10.	25 March 2021	Forum - OECD Global Anti-Corruption and Integrity Forum: Fighting the Good Fight	Online (Zoom)	-
11.	25 March 2021	Invitation by IKRAM – Rasuah Pemusnah Negara	Bangi Resort Hotel	-
12.	16 April 2021	Meeting with Yayasan Pahang	Online (Zoom)	-

13.	21 April 2021	Meeting with MUDA Wilayah	Online (Zoom)	-
14.	21 April 2021	Meeting with Mr Sasha Weh, Ministry of Foreign Affairs, Germany	Online (Zoom)	-
15.	26 April 2021	Anti-Bribery & Corruption Online Training for Corporates and SMEs (in English) 2.0	Online (Zoom)	United Nations Office on Drugs and Crime (UNODC)
16.	27 April 2021	Courtesy meeting to The Institution of Engineers, Malaysia (IEM)	IEM Office, Petaling Jaya	-
17.	28 April 2021	Courtesy visit to Rasuah Busters	Kumpulan Media Karangkraf	-
18.	28 April 2021	Meeting with MARI for the Whistleblowing Initiatives	Online (Zoom)	-
19.	29 April 2021	Meeting with Dr David Krivanek, German Embassy	Online (Zoom)	-
20.	24 May 2021	Anti-Bribery & Corruption Online Training for Corporates and SMEs (in Malay) 2.0	Online (Zoom)	United Nations Office on Drugs and Crime (UNODC)
21.	2 July 2021	Guidance on Good Practise and Adequate Procedures Checklist Development Day-1	Online (Zoom)	Malaysia Reform Initiative (MARI)
22.	8 July 2021	Report Launch: A Study on The Effectiveness and Transparency of Government Aid	Online (Zoom)	Centre for International Public Enterprise (CIPE)
23.	9 July 2021	Guidance on Good Practise and Adequate Procedures Checklist Development Day-2	Online (Zoom)	Malaysia Reform Initiative (MARI)
24.	10 July 2021	Youth Integrity Forum 2 – Transparency & Accountability in Managing Covid 19	Online (Zoom)	Malaysia Reform Initiative (MARI)
25.	27 July 2021	Forum 1: Rasuah Dihindari, Hidup Berintegriti	Online (Zoom)	Pusat Governans, Integriti & Anti-Rasuah Nasional (GIACC)

26.	28 July 2021	Whistleblowing Advocacy – Investigative Journalism Training	Online (Zoom)	Malaysia Reform Initiative (MARI)
27.	28 July 2021	Covid-19 & Malaysian SMEs Report Presentation to CIPE	Online (Zoom)	-
28.	4 August 2021	Forum ‘Antara Ketelusan & Ketirisan: Peruntukan Salah Laku dalam Badan Awam’	Online (Zoom)	Malaysia Reform Initiative (MARI)
29.	19 August 2021	Forum ‘Natijah Rasuah: Kisah Dibalik Tirai Besi’	Online (Zoom)	Pusat Governans, Integriti & Anti-Rasuah Nasional (GIACC)
30.	21 August 2021	Youth Integrity Forum 2 – Belia & Halatuju Politik Bebas Rasuah di Malaysia	Online (Zoom)	Malaysia Reform Initiative (MARI)
31.	2 September 2021	Roundtable – Strengthening Whistleblower Protection	Online (Zoom)	Malaysia Reform Initiative (MARI)
32.	8 September 2021	Forum ‘Usahawan Berintegriti, Tolak Rasuah’	Online (Zoom)	Pusat Governans, Integriti & Anti-Rasuah Nasional (GIACC)
33.	24 & 25 September 2021	Money Politics – Financing Free & Fair Elections	Online (Zoom)	Malaysia Reform Initiative (MARI)
34.	28 September 2021	Deferred Prosecution Agreement: Options and Impact on Malaysia Forum	Online (Zoom)	Malaysia Reform Initiative (MARI)
35.	5 October 2021	Protect the Whistleblower, Protect the Company	Online (Zoom)	Malaysia Reform Initiative (MARI)
36.	7 October 2021	DPA research report presentation to MACC	MACC HQ, Putrajaya	-
37.	14 October 2021	Courtesy visit to EU Delegation to Malaysia	Menara Tan & Tan	-

MALAYSIAN SOCIETY FOR TRANSPARENCY AND INTEGRITY

(Transparency International – Malaysia)

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