

3d: Anti-corruption

Preamble

Left unaddressed, corruption and poor governance are national challenges that can undermine democracy, the rule of law and economic development in the country. Towards fostering conditions for a fair, just and inclusive nation, the proposals in this policy area focus on addressing corruption systemically through multiple and simultaneous approaches.

I. Growing Income Disparity Between Top 20% & Bottom 40% Households

Real income and purchasing power parity in Malaysia have significantly deteriorated, in particular for the bottom 40% (B40) households, whose cost of living is especially high in urban areas. The growing increase in household income inequality over the years has widened the gap between the rich and the poor, while inadvertently worsening social instability.

1. Introduce basic income strategies.

- i. Raise B40 salaries as part of comprehensive wage and administrative reforms covering both private and public sectors. A guaranteed acceptable income is a necessary condition for moral integrity and resistance to corruption.
- ii. Provide an income safety net for B40 households. Ensure that all citizens have access to certain fundamental goods, especially education and universal healthcare.

(John Ku, Proposal 3D-1)

II. Limited Access to Information

The lack of transparent media and access to information enables the election of corrupt politicians. Transparency International cites limited access to information on matters of public interest, stalled progress in institutional reforms and a lack of political will to fight institutional corruption as major causes contributing to

the downgrade of Malaysia's ranking in its Corruption Perceptions Index, falling six places from the previous year to fifty-seventh in 2021.

2. Establish a free and independent civil society and media.

- i. An independent media and an active civil society movement are crucial to promoting freedom of opinion and expression that, in turn, can build a resilient electorate. A free and independent civil society and media empower the public as agents to keep the powerful in check. Independent journalists also complement the work of anti-corruption agencies.
- ii. Repeal the Sedition Act 1948 and OSA. The former prevents open and transparent discussions of issues that are classified as sensitive by the government, while the latter subjects journalists and sources who expose wrongdoings to heavy penalties.
- iii. Review the CMA to remove problematic provisions on content regulation, and further refine and revise rules on ownership and licensing for media companies. Such revision may help prevent large media players, or those with direct political links, from dominating the market and instead encourage more independent content producers to enter into the field.

(John Ku & Len Hew, Proposal 3D-2)

III: Money Politics

Malaysia's political system is undermined by the deep-seated problem of money politics, especially on the buying of votes during general elections and internal party elections. Money politics also refers to politicians and parties being involved in business, whether directly through active ownership of companies or indirectly via proxies or trustees, which causes unfair competition.

3. Introduce a Political Funding Act.

This Act must include the rules and procedures for a political party to raise money, how to keep that money and, most importantly, how that money can be spent. Accounts must be audited annually, and financial reports made available to the public. A three-pronged approach should be taken:

- i. Institute reforms in political parties to enhance transparency and accountability of funds.
- ii. Devise a government policy that fairly allocates direct and indirect financing of politics.
- iii. Empower the public through civic and voter education.

(John Ku, Len Hew & Rashid Ahmad, Proposal 3D-3)

IV: Deteriorating Public Perception of Corruption

Public perception of corruption in Malaysia has rapidly deteriorated over the last three years. According to the Corruption Perceptions Index by Transparency International, Malaysia scored 53 out of 100 in 2019, the best score in a decade but slid down to 48 in 2021. A systemic, whole-of-society response is critically required to address this trend.

In the context of systemic corruption, the purpose of corruption may also be seen to serve broader social and political functions besides accruing private gain. Individuals engaged in corruption may be at least partially driven by a desire to fulfil a social norm (e.g., an expectation to help one's race or religion), to accomplish political goals, or to attain some other end (e.g., maintain political stability and peace). In such situations, corrupt actions are intertwined with wider political or power structures and social norms, and thus become deeply rooted and self-reinforcing.

4. Create a national integrity system.

(Selina Chean, John Ku & Zulkifli Hilmi, Proposal 3D-4)

Social norms, entrenched interests and collective action issues make corruption highly resistant to reform. The existing corrupt equilibrium must be disrupted by strengthening the pillars of a national integrity system which include: an active civil society, corporate governance, judicial independence, public administration reform, and demonstrated public commitment to embedding anti-corruption values. Some key initiatives based on the pillars are identified below:

- i. Repeal the OSA.
- ii. Integrate anti-corruption values into education for all secondary schools.
- iii. Review the appointment of directors and shareholders of GLCs.

- iv. Implement declaration and monitoring of assets in companies, and increase protection of minority shareholders' interests.
- v. Increase control of monopolies and quasi-monopolies.
- vi. Strengthen anti-corruption legislation and institutions.
- vii. Enforce a code of ethics in the public service.
- viii. Implement declaration and monitoring of assets for top civil servants, and enforce punishment for major offenders, including senior officials.
- ix. Guarantee a free and independent media.
- x. Ensure anti-corruption agencies can work independently.
- xi. Appoint politicians who commit to taking a public oath to support anti-corruption and demonstrate said commitment by maintaining public accountability for their actions.
- xii. Strengthen monitoring and evaluation roles in all public services and ministries.

V: Regulatory & Process Barriers, & Ease of Doing Business

Opportunities for bribery and extortion can be curbed by rescinding unnecessary regulations, simplifying the issuing of permits, doing away with unnecessary licences, and streamlining customs duties and taxes. Actions to change the laws or impose punishment for transgressions are important steps, but alone are insufficient to change ingrained behaviour; they need to be complemented by functional and process reforms that focus on embedding transparency and reinforcing corruption-free behaviour. In Malaysia, public service delivery systems are often outmoded, cumbersome, lack controls, require extended waiting time, and are open to corruption. Addressing this issue requires strengthening and improving of transparency, streamlining of processes, creation of open-book public financial management, and implementation of proper systems and controls.

5. Strengthen public service delivery.

Small and medium enterprises (SMEs) play a significant role in developing Malaysia's economy, occupying 97.3% of total business establishments, and contributing to 36.3% of the gross domestic product (GDP) and 65.5% of total employment. However, SMEs typically operate in an intensively competitive

environment, rife with opportunities to resort to unethical practices to procure business. Hence, the following actions are needed:

- i. Review and streamline all forms of licensing, duties and taxes imposed.
- ii. Institute business integrity programmes in SMEs, and owners and employees must have access to a whistle-blower platform.

(Janice Kwok, John Ku, David T.H. Tan, Jeff Wei, Adila Azhar & Ahmad Shafiee, Proposal 3D-5)

- iii. Redesign public delivery systems towards simplifying processes and procedures, improving controls, and reducing waiting times.
- iv. Improve public financial management and processes.
- v. Improve management information systems.
- vi. Reorganise ministries to dismantle corrupt networks.

(May Leong, Selina Chean & David Tan, Proposal 3D-6)

VI: Leakages & Abuses in Public Procurement

Public procurement in Malaysia is highly vulnerable to procurement fraud; there have been many reported instances of conflict of interest, bid-rigging fraud, and awarding of contracts to unqualified contractors and cronies, amongst others. Left unchecked, procurement fraud not only perpetuates corruption, but also serves to undermine the economy by driving up the prices of goods and services which consumers ultimately have to bear in the long term.

6. Increase the efficiency and transparency of public procurement.

- i. Implement transparent tendering processes.
- ii. Enforce strict and immediate prosecution in instances where public and private sector individuals or entities have failed to adhere to transparent procurement requirements.
- iii. Ensure greater accountability and transparency in the exercise of power by government ministers, especially in procurement and financial system reporting.
- iv. Introduce standard clauses in tender contracts awarded by the government to outsourced goods and service providers, to provide

greater security and to protect both government and public interest in projects involving negotiations between both parties. Ensure that any breach of contract, the Government can terminate or/and file a civil suit against the party who breaches the contract.

(John Ku, Janice Kwok, Aida Rahman, Hayley Lee & Ahmad Shafiee, Proposal 3D-7)

VII: Lack of Independent Oversight

The Executive branch has consistently undermined, and at times completely extinguished, independent detection, investigation and deterrence of corrupt practices. Our enforcement agencies are unresponsive to massive abuses of government power, whistle-blowers are plainly unprotected, and government secrecy is a serious concern.

Certain politicians and top public servants hold veto authority over any investigation through backdoor Executive control of the enforcement agencies and ministries. The same politicians maintain considerable authority over court proceedings through Executive control of the Attorney General—alongside significant allegations of judicial misconduct. Many prominent political appointees and public servants have either been sacked or forced to resign from their positions over efforts to expose corruption; likewise, countless public servants have been threatened and intimidated.

7. Establish an Independent Public Ombudsman.

- i. Establish a robust integrity structure for the whole government via a Public Ombudsman, answerable only to Parliament. The Public Ombudsman should be made the authorised central hub for all misconduct and corruption claims against politicians and public servants, replacing the internal investigative and integrity departments of various ministries and agencies, as well as the official platform for whistle-blower protection. It will be firewalled against the Legislative and Executive branches through guaranteed funding from a direct percentage of the Budget.
- ii. Rebuild and reconstruct the MACC over time to remove political interference and sunset redundant agencies.

- iii. Establish a Public Interest Litigation Unit.

(Fiqah Roslan, Tiada.Guru, Proposals 3D-8 & 3D-9)

VIII: Lack of Protection for Whistle-blowers

Since the Whistleblower Protection Act came into being in 2010, the MACC has only ever filed one charge under it. Individual public servants have testified that they do not feel at all protected by the MACC, nor by their internal ministry departments, if they report misconduct or corruption. There is no institutional separation or shielding between perpetrators and whistle-blowers—in fact, it is often the case that the whistle-blower’s superior both receives the complaint and determines the outcome. That same superior has full control over the whistle-blower and may institute transfers, disciplinary actions, even dismissal arising from complaints being raised, rather than offering protection. Currently, internal disciplinary investigations do not afford any legal whistle-blower protection; witnesses are likewise frequently warned to not assist criminal or civil litigation.

8. Upgrade whistle-blower protection.

Through the proposed independent Public Ombudsman, upgrade protection for all public servants who are witnesses of misconduct by:

- i. allowing confidential submission of reports and evidence until a formal disciplinary, civil or criminal proceeding is held.
- ii. allowing consultation with lawyers without any restriction or penalty against their protection.
- iii. protecting them without any restriction from other legislation.
- iv. incentivising them with monetary compensation.

(Fiqah Roslan, Tiada.Guru, Proposal 3D-10)

Concluding Remarks

Over time, the effects of corruption not only affect the activities of the government and direct stakeholders, but seep into all aspects of society and economy, compromising the exercise and role of democracy, the rule of law and jeopardising the national economy. Accordingly, public reaction to corruption must reflect the core values of justice and integrity, which are necessary elements

for the nation to thrive. Addressing the ills of corruption is a key cornerstone in building a just, inclusive and prosperous society for the Rakyat.