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Your Right, Your Role: Speak Up Against Corruption

Empowering People to Build Good Governance

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On 28 March 2022, Konrad-Adenauer Stiftung Malaysia and the Malaysian Institute of Management organised a complimentary live webinar on this topic under the MIM Crucial Conversations series. The title of the webinar was “Your Right, Your Role: Speak Up Against Corruption - Empowering People to Build Good Governance”.

The session featured prominent experts on good governance such as Tricia Yeoh, the Chief Executive Officer of the Institute for Democratic and Economic Affairs (IDEAS) Malaysia, Dr Edmund Terence Gomez, former Professor of Political Economy at the University of Malaya, and Julie Haggie, Chief Executive Officer of Transparency International New Zealand.

In his welcoming remarks, Sivaganam Rajaretnan, the Chief Executive Officer of the Malaysian Institute of Management (MIM) emphasised the importance of empowering whistleblowers in Malaysia’s battle against corruption.

Despite the introduction of the Whistleblower Protection Act 2010, whistleblowing is still a rare occurrence in Malaysia. Citing the Minister in the Prime Minister’s Department, Datuk Seri Dr Wan Junaidi Tuanku Jaafar’s statement in Parliament in November 2021, Rajaretnan highlighted that a total of 73,545 reports were lodged with enforcement agencies between 2011 and 2021. However, only 0.5% of them were from whistleblowers. “This shows that there were shortcomings, whether in the implementation of the Act or in its provisions”, he said.

Reform Efforts and Pending Gaps in the Whistleblower Protection Act

During the webinar, Tricia Yeoh made a presentation on IDEAS Malaysia’s research on the pending gaps in Malaysia’s Whistleblower Protection Act (WPA) which concern the existing official mechanism to protect whistleblowers, the prohibitions imposed on reporting information about improper conduct by other written laws. Yeoh explained that “dependability, predictability and policy stability are important to the business community”, making reform efforts in WPA 2010 very significant for a flourishing political economy with “strong, robust institutions”.

According to Yeoh, three current issues were identified in WPA 2010:

- Whistleblowing can only be done through an enforcement officer
- The WPA 2010 does not apply to cases involving the Official Secrets Act 1972 and Bank and Financial Institutions Act 1989
- No means for whistleblowers to find out the status of the case.

Drawing upon examples of whistleblower mechanisms in the United States and New Zealand, Yeoh elaborated on the multi-pronged, incisive recommendations as stipulated in IDEAS Malaysia’s 2017 study. Proposed amendments to sections of WPA 2010 included allowing disclosure to non-

enforcement agencies, removing limits on the types of disclosure permitted and removing restrictions on the motive behind the disclosure.

In hopes of establishing more accountability, transparency, and empowerment, Yeoh stated that the framework of the Act and the regulation of its mechanisms should be “independent from the executive government”. Instead, ministerial oversight ought to be removed and the Act should be placed in the hands of an independent authority such as an ombudsman.

With reference to the Malaysian Anti-Corruption Commission’s Annual Report 2019, Yeoh remarked that the number of whistleblowers that were granted protection (211 individuals between 2015 and 2019) was “minuscule”. This figure indicates that not enough people know about the WPA and even fewer “dare to use it in fear of reprisals”.

The Importance of Exposing and Preventing Corruption

Although New Zealand was ranked No. 1 in Transparency International’s 2021 Corruption Perceptions Index, Julie Haggie cautioned that there is still plenty of room for the improvement amidst ongoing political disputes that have put New Zealand’s democracy under pressure. Speaking on behalf of Transparency International’s country chapter, Haggie shared about the value of the organisation’s board of volunteers and members with delegated authority in promoting a non-partisan, collaborative, and grassroots movement against corruption.

Haggie problematised a common public perception that corruption is an issue that merely involves the rich and not ordinary people. To drive this point, she explained how the “Mozambique Tuna Bond Fraud” is an example of corruption that had damaging effects on an entire population and their economy. According to a report published by Mozambique’s Centre for Public Integrity, there is “clear evidence” that the ‘tuna bonds scandal’ resulted in a dramatic increase in poverty, with at least 1.9 million people in Mozambique falling below the poverty line in 2019. At the centre of this incident was Andrew Pearse, a New Zealander who at that time, was employed by the bank Credit Suisse.

In agreement with Yeoh, Haggie referred to existing research on anti-corruption initiatives in Malaysia and their “proven benefits” such as greater inflow of foreign investments, high per capita income growth, higher literacy rate and increase in business growth. “Everyone will have a decent opportunity to do well”, Haggie said about such efforts that are not only essential to fostering public trust and political stability.

She stated that these needs became more relevant at the beginning of the Covid-19 pandemic because public health policy measures and budgets needed to be urgently passed when parliament were not able to come into session. In the case of New Zealand, the Leader of the Opposition was appointed to chair the Epidemic Response Committee to protect the country’s democratic resilience.

Besides concerns about existing legislation in Malaysia, Haggie added that New Zealand’s own Official Information Act needs to be reviewed to improve its current approaches to oversight and auditing, and public access to procurement data including cabinet papers and decisions. In addition, she stated that the country’s provisions for political party funds still need to be “tightened up” and people should be given updates on existing parties that are currently being prosecuted for improper conduct.

Quoting a Maori proverb “*He waka eke nao*” to say “We are all in this together”, Haggie concluded with detailed descriptions of each and every stakeholder in upholding the transparency and accountability of government institutions and creating entire cultures within organisations across all levels of society.

‘Critical’ for Malaysia to Accelerate Anti-Corruption and Governance Reforms

Since December 2021, Professor Terence Edmund Gomez has been in the spotlight after announcing his resignation from the Malaysian Anti-Corruption Commission (MACC) Consultation

and Prevention Panel, claiming inaction over the allegations against its top official. With this controversy being widely debated in the public sphere, Gomez told the audience that it is important for everyone to understand corruption in Malaysia from a historical perspective. Despite Malaysia's status as a "miracle economy" due to its rapid pace of industrialisation economic growth since the 1970s, its political economy is also plagued by numerous financial scandals. "The scale and scope [are] stupendous... It is a major paradox", Gomez said.

On that note, Gomez posed two pertinent questions to the audience:

How did Malaysia register rapid growth in spite of serious corruption? Why did similar corruption have a devastating impact on economies of Myanmar, the Philippines, Africa and Latin America?

To understand this distinction, Gomez introduced two concepts, "developmental corruption" and "degenerative corruption". On one hand, developmental corruption entails the creation of "property rights" to incentivise politicians and business owners to employ resources for their companies productively. An example of these rights can appear in the form of contracts that impose conditions. He explained how businesses use "access money" to influence politicians to allocate these contracts. On the other hand, degenerative corruption suggests that the resources are being used unproductively by politicians such as the embezzlement of public funds, and petty and grand theft as seen in the 1MDB scandal.

Gomez elaborated on this point by comparing the governing styles of former Prime Ministers. Based on these observations, Gomez argued that it is necessary to perceive the Malaysian state as being "in flux" – governance and public policies are being deployed and decided by how political power flows across institutions. Gomez believes that political power is distributed by "clear asymmetries", resulting in government institutions being completely "devoid of autonomy" and policy repercussions such as environmental degradation, wealth, income inequalities and more. "We are confronted with the worst crisis this country has ever seen", he said.

"If you look today, we have both the problem[s] of corruption and patronage acting simultaneously [...] There are many people who said, "We industrialised, we became an Asian miracle! So, what is wrong with developmental corruption?" What was wrong with developmental corruption is what we saw in 1997 just as we became a very highly industrialised economy and just as quickly, we fell [...] Please don't buy that argument", Gomez reiterated after reminding of several high-profile corruption cases in the past decade.

Corruption Perceptions in Webinar Poll Results Are 'A Very Worrying Sign'

A total of 346 participants attended the webinar and offered insights and concerns about the state of corruption in Malaysia. 62% of the participants responded MIM's poll during the webinar which revealed that:

- **70%** believe that the level of corruption in their country has increased
- **85%** of respondents fear retaliation or other negative consequences if they were to speak out against corruption
- **69%** agree that all the reform efforts propose during the webinar are necessary to the WPA 2010.

Upon reflecting on these poll results, the panelists expressed their deepest concerns yet made note of how it is not surprising as Malaysia has not urgently addressed the many issues raised with the WPA 2010 and other policies that are meant to strengthen the autonomy of institutions so that everyone is empowered to speak up against corruption.

"We have to find a way to overcome this fear because that is what holds people in power and lets them get away with the corruption that they are perpetuating", Gomez said with endorsements from Yeoh and Haggie.