Approaches to Fighting Corruption and Managing Integrity in Malaysia: A Critical Perspective

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Abstract

The Government of Malaysia has made continuous efforts and put in place an elaborate set of strategies and institutions aimed at combating corruption and promoting integrity in the society. The nation's anti-corruption drive received a major boost in 2003 when Abdullah Ahmad Badawi took over as Malaysia's fifth prime minister. Soon after its take over of power the new government declared containing corruption as its main priority which was followed by a series of concrete measures. However, the governmental attempts and strategies in Malaysia appear to have met with little success, as evidenced by the current data that suggests entrenched corruption in the society. Evidence shows that despite governmental campaigns and initiatives, corruption has remained acute, widespread and, in fact, worsened in recent years. This paper presents a critical overview of the anti-corruption strategies being followed in Malaysia and explores some of the problems and limitations of the current approach to fighting corruption and managing integrity in the society.

1. Introduction

Although corruption is not a new phenomenon, lately it has become a matter of growing concern all over the world. This is partly because of the changing economic and political environment around the globe and partly because of the growing consensus in both academic and policy circles of the negative impacts of corruption on socio-economic development. Now there is a far greater appreciation than in the past that corruption is not only morally wrong, it exacts a heavy toll on a nation's prosperity. Corruption undermines good governance, distorts public policy, leads to misallocation of resources and hurts economic growth (Bardhan, 1997; Rose-Ackerman, 1999). Consequently governments and international agencies have diverted much efforts searching for effective measures to control this menace. This has produced a variety of strategies and institutional innovations around the world. A popular choice has been the establishment of a strong and centralized anti corruption agency modeled along the lines of those in Singapore and Hong Kong with clear mandates to confront the problems of corruption. Elsewhere, a multiple agency framework has been adopted which involves creating and/or strengthening of anti-corruption capacities across several governmental agencies (Meagher, 2005). But the results achieved are far from uniform: while some countries have achieved considerable success in containing corruption, others have failed to make significant headways despite having followed similar anti-corruption reforms and strategies. Attempts to draw lessons for policy transfers have proved difficult (Klitgaard, 1988;

Quah, 2003) given the differences in the contexts and a host of other factors. Thus there is a general lack of agreement on what approaches work and what explains the success and failure of anti corruption strategies.

Notwithstanding this, combating corruption or promoting integrity has become a major component of governmental reforms in many countries. Malaysia is no exception to this rule. In appreciation of the significance of good governance for sustained economic growth and prosperity generally the Malaysian government has renewed its commitment to fighting corruption. While the Anti Corruption Agency was set up in 1967 with clear mandates, it was reformed and revitalized subsequently to make it more effective in containing corruption and all forms of maladministration in the society. Since 2003 fighting corruption has been firmly on the agenda of the government: variety of new initiatives and strategies have been devised and implemented ever since. Taken together, Malaysia has an elaborate anti-corruption framework. Yet Malaysia presents an interesting case: the level of corruption has remained high and the plethora of strategies and the recent campaigns appear to have made hardly any difference in containing and combating corruption in the society. This paper presents a critical overview of Malaysia's anti-corruption strategies highlighting some of their drawbacks and limitations. We begin with a brief review of the literature on corruption and anti-corruption, which is followed by an overview of institutional strategies and recent initiatives for combating corruption and managing integrity in the society. Section four provides an analysis of the inadequacies and limitations of the current approach to fighting corruption and managing integrity. Finally, in the concluding section of the paper we outline key lessons and policy implications for bolstering the effectiveness of anti-corruption drives and strategies.

2. Corruption and Anti-Corruption: Conceptual Issues

Corruption is a complex phenomenon. Despite numerous attempts to define the term there is hardly any single definition that is 'sufficiently capacious yet discriminating (Williams, 1999) to be accepted to universal satisfaction. Generally, it is defined as 'the abuse of public power for private gains in violation of rules' (Rose-Ackerman, 1999; Manion, 2004). It is also seen as 'illegal actions undertaken by government officials to enrich themselves…' (Geddes and Neto, 1999: 24). Though quite popular, this is often seen as a 'narrow', 'legalist' and 'public-office centered' definition of corruption, for it does not take into account all forms of corruption. As opposed to the view above, some scholars advanced what is known as 'the market-centered' view of corruption. They regard corruption when a civil servant perceives his office as a business seeking to maximize his income from it (Tilman, 1968). There is yet another perspective- 'the public interest centered' view about corruption. According to this view corruption is a violation of public interests and it includes 'actions which favor whoever provides the rewards and thereby does damage to public and its interests' (Friedlich, 1966). It is obvious from the definitions above that corruption involves actions on part of public officials that are regarded as improper and unlawful in which they seek to promote private benefits at the expense of the public interests. It is seen as a deviant behavior associated with a specific motivation namely that of private gains at public cost.

In this paper we adopt the UNDP's definition of corruption as 'the misuse of public power, office or authority for private benefit through bribery, extortion, influence peddling, nepotism, fraud, speed money or embezzlement' (UNDP, 1999:7).

Though this is not fundamentally different from the first and the third perspectives above, our selection can be justified on at least two grounds. First, this relatively narrower and specific meaning is most appropriate in the present context since the paper focuses on public sector corruption, as opposed to corruption generally. Secondly this definition captures both political as well as bureaucratic dimensions of corruption – believed to be rampant in most developing countries. Thus we view corruption as the illegitimate and unethical use of public authority for personal and private advantage. It involves all kinds of behaviour on part of public officials when they, in defiance of prescribed norms, act in a manner or deviate from the commonly accepted standards of rectitude and integrity expected of them, to advance their personal interest at the expense of public interests. In other words, any action that distorts normal administrative behaviour is tantamount to corruption. Since it involves the abuse of official position for personal gains, it amounts to betrayal of public trust. Hence, all kinds of unethical acts like bribery, nepotism and favouritism, patronage distribution, deviation from official rules and regulations, abuse of authority, fraud, extortion, misappropriation of funds and resources, partisan approach in dealing with clients are obvious manifestations of corruption.

Though in the present paper we use a narrower definition of corruption and concentrate primarily on official corruption committed by political and administrative elites, it does not necessarily mean that corruption is confined to government alone and that the holders of public office are more corrupt than others. Defined in a broader sense as the abuse of power, corruption implies a pattern of behaviour that can be found in virtually every sphere of life. For that matter, it is an integral part of human society. Available evidence indicates its presence in the political system, business and corporate sector, NGOs and voluntary organisations. Although often corruption involves officials holding important positions, one can very well get involved in corruption without holding office in public, private or voluntary organisations. Some examples of corruption which do not necessarily involve public officials include terrorism, smuggling, tax evasion, profiteering, fraud in selling and buying lands, defaulting of bank-loans, under and over-invoicing, currency manipulation, forgeries, deceit, adulteration of food and medicine, money laundering, and ballot stuffing.

Caiden (1981) distinguishes between corruption as a fact of life and corruption as a way of life. For him, in a country where cases of corruption are exceptions rather than rule, then the corruption is a fact of life. But if corruption is rampant and becomes the norm rather than exception then corruption is a way of life. Others draw a distinction between grand corruption and petty corruption. Grand corruption refers to corruption by political leaders and senior bureaucrats and normally involves large amounts. Petty corruption, on the other hand, is practiced by junior officials who demand bribes to task and render services (Stapenhurst and Langseth, 1997). Morally, all forms of corruption are wrong and they have a damaging effect on the society at large. Therefore an effective anti-corruption strategy should be able to contain both grand and petty corruption simultaneously. While there is an apparent consensus on this point, this is hardly the case with the causes and remedies of corruption. In fact, the scholars have not been able to isolate and agree on all antecedents of corruption. This has led to the divergence in suggested remedies which include legal, economic, socio-cultural, and political measures[1] to combat and contain it (see, Huberts, 1998). A caveat must be noted here. Despite such identifications, the various approaches are not stand alone sets of options, there is a great deal of overlap and in reality they

complement each other. Thus most analysts advocate an integrated approach to dealing with corruption. For example, what Rose-Ackerman (1999) has proposed can be described as legal and economic approach which involves, among others, increasing the risks and costs of corruption while reducing incentives for payoffs, discretion and bargaining power of officials. On the other hand, what Klitgaard suggests is essentially a management approach to controlling corruption that has economic, political and administrative dimensions. For Klitgaard, corruption thrives when individuals and organisations have monopoly over a good or service, discretion over decision making and limited or no accountability (Klitgaard, 1998). Therefore, by implication it means that the government that wishes to combat corruption should curb monopolies, limit discretion and institute democratic and transparent processes to enhance accountability.

While the value of above approaches is hardly contested, in recent years leading international organizations like Transparency International (TI) and the World Bank have placed emphasis on development of the national integrity system as an effective strategy for containing corruption. To a large measure, the national integrity system combines the key elements of the various approaches discussed above. A strong and effective national integrity system makes corruption a high risk and low return activity. The most distinctive feature of national integrity system is that it seeks to prevent corruption from occurring in the first place rather than investigating and punishing the offenders. Although there are variations across nations Stapenhurst and Langseth (1997) have identified some of the key pillars of the national integrity system. These include public sector anti-corruption strategies, watchdog agencies, public participation in democratic process, public awareness and the role of civil society groups, accountability of the judicial process, the media, the private sector and international cooperation (in this paper our discussions will mostly focus on the first two of these pillars). It is argued that these pillars are interdependent on one another and hence it is important to ensure coherence and balance among them for greater effectiveness of anti-corruption drives. It must be noted that institutions are necessary but they are by no means sufficient for effectively curbing corruption and enhancing integrity. The effectiveness depends to a large extent on political will of the government in combating it, level of governance and the nature of its policy context. While Singapore and Hong Kong have been highly successful because of their government's strong commitment to fighting corruption supported by effective governance and favorable policy context, anti-corruption efforts in many other countries of the region have failed to produce desired results and, in fact, faced numerous obstacles given the absence of such critical factors (Quah, 2003).

3. Pillars of Public Integrity in Malaysia: Key Institutions & Strategies

With the aim of controlling corruption and promoting good governance the Malaysian government has put in place an elaborate set of mechanisms and strategies. Though major institutions like Anti-Corruption Agency have been there since late 1960s the recent years have seen further efforts aimed at building and strengthening anti-corruption infrastructure. Currently Malaysia has an elaborate framework for dealing with corruption and issues of integrity. In this section we present an overview of major institutions and measures that form the key components of Malaysia's anti-corruption strategies:

Anti Corruption Agency (ACA)

The most important and powerful institutional mechanism for fighting corruption in Malaysia is the Anti Corruption Agency (ACA). Established in 1967 the ACA is entrusted with the responsibility to prevent and eradicate all forms of corruption, misuse of power and maladministration from the society. Under the Anti Corruption Act, 1997 (which replaced the original Prevention of Corruption Act, 1961) the ACA is authorized to investigate, interrogate, arrest and prosecute offenders (GOM, 1997). It has also been given powers to access documents and witnesses, freeze assets and seize passports etc, monitor income and assets, and propose administrative and legal reforms. Since its establishment the ACA has adopted a comprehensive approach where a myriad of tools and strategies are applied. Three key components of ACA's strategy are education, prevention and enforcement. The education strategy focuses on efforts to inculcate ethical values among members of the public and the civil service so as to create a sense of abhorrence and intolerance towards corruption. Increasing emphasis is placed on building rapport with the community and enlisting their support in the fight against corruption. To this end, besides educating younger generations at schools and other educational institutions aimed at inculcating noble and ethical values among them, the ACA conducts dialogues, public campaigns and seminars to explain anti-bribery laws, and encourage the community to take corruption prevention measures and come forward to report to ACA on corruption cases. Since prevention is seen as a major strategy to combat corruption, the ACA has been active in the area of tightening laws and procedures, with a view to enhancing the deterrence of its anti-corruption measures. Thus ACA efforts also include identification of areas of government activity that are most prone to corruption and making recommendations to relevant agencies for review and reforms so as to eliminate loopholes in the systems and procedures. Alongside this ACA also strives to confront and punish corrupt elements in the society through investigation and prosecution. It undertakes investigation based on information received from the members of the public and other sources.

Table 1: Statistics on ACA Activities, 2000-2005

Year	No. of cases reported	No. of cases investigated	No. of arrests made	No. of cases charged
2000	10736	699	431	160
2001	9039	663	318	115
2002	8298	1063	290	200
2003	9721	1058	339	175
2004	11413	982	497	178
2005	NA	1441	485	205
Total (average)	49207 (9841)	5906 (985)	2360 (393)	1033 (172)

Source: Anti Corruption Agency

The large number of corruption cases received by the ACA annually indicates the extent of the problem and the importance of the ACA in the eyes of the people. Although the ACA refers many cases to relevant departments, yet available evidence shows that it has been able to investigate and prosecute growing number of cases in recent years. Table 1 shows that during the period of 2000-2005 the ACA has received close to 10000 corruption cases annually. It has investigated roughly 1000

corruption cases each year. It has also made nearly 400 arrests per year - many of them were charged in courts and convicted. While much of the ACA's current work is concerned with the public service it has also taken steps to investigate politicians, businessmen and local government officials.

Public Complaints Bureau (PCB)

The Public Complaints Bureau (PCB) is responsible to receive and investigate complaints arising from public dissatisfaction with government administration. It is required to report the outcome of its investigation with recommendations to a high-powered Permanent Committee on Public Complaints (PCPC) [2] and other relevant authorities. It is also to forward the decisions of the PCPC to ministries, federal and state departments, statutory boards, local authorities and agencies concerned for the purpose of corrective actions and monitor those actions. Established in 1971 the PCB is considered as the focal point for the public to forward their complaints and seek redress on any alleged administrative lapses and abuse in dealing with public bureaucracy. The PCB is authorised to receive and deal with public complaints against civil service on matters that are unjust, not in accordance with existing laws, abuse of power and maladministration. Public complaints include all aspects of government except those relating to government policies and matters that are within the ambit of ACA, Special Cabinet Committee on Management of Public Integrity (SCCMPI), and the Public Accounts Committee. Data obtained from the PCB shows that in 2002, 2003 and 2004 the PCB has received 3238, 3174, and 2769 complaints respectively (PCB, annual reports). However, the effectiveness of the PCB is open to question given that it lacks any executive power: it suffers from insufficient authority to take actions against errant officials. The PCB can only investigate cases and forward its report to PCPC for further deliberations and decisions on recovery actions. Nonetheless, mere existence of the PCB is said to provide a passive check on administration (Siddiquee, 2005).

Other Mechanisms & Strategies

Alongside the ACA and PCB a range of other traditional administrative and judicial institutions like the Auditor General's Office, Public Accounts Committee, Police, Attorney General's Office, Customs and Malaysian Administrative Modernisation and Mangement Planning Unit (MAMPU)[3] have also been given important roles in containing corruption and enhancing integrity in the society. The agencies that address the concerns of integrity in the private sector are Bank Negara Malaysia, Securities Commission, Barsa Malaysia, Companies Commission, Ministry of Trade and Consumer Affairs. Besides such regulatory agencies, the recently established Malaysian Institute of Corporate Governance (MICG) and Business Ethics Institute of Malaysia (BEIM) are also expected to play significant part in promoting good governance and ethics in the private sector.

An important feature of public sector anti-corruption strategy is the establishment of Integrity Management Committees (IMC) at various levels of the government. At the highest level the SCCMPI chaired by the Prime Minister oversees the overall management of public integrity. The fact that the SCCMPI has recently been restructured making the Prime Minister its chair (in stead of DPM) reflects a renewed focus on integrity at the highest level of the government. There is also a Parliamentary Select Committee on Integrity. While ministers chair similar

committees at the ministry level, there are also IMCs at state and local (district) levels. Such committees are required to meet at least once in every three months and report to the IMC at next higher levels. The IMC–reports of all ministries and state governments are submitted to the ACA which tables such reports to the SCCMPI. Thus there is an elaborate institutional arrangement right from the district to the highest levels of the government and this is to ensure that fight against corruption is taken seriously at all levels and has the support of all those involved.

Malaysia has also seen sustained efforts being made since the early 1980s to inculcate positive values and work ethics among public officials through a variety of measures. Leadership by Example (1983), Name Tags (1985), Assimilation of Islamic Values (1985), Clean, Efficient and Trustworthy Government (1989), and Excellent Work Culture (1989) are among the important initiatives that were expected to inculcate positive values thereby support government's anti-corruption goals. Likewise, Quality Control Circles, Total Quality Management, ISO 9000 series, Clients Charter, and Benchmarking were expected to have significant impact on the quality of governance. Currently e-government is a leading component of government's drive towards containing corruption in the public service. Given that clients are now able to complete transactions with government electronically without having to visit the office/ meet the officials concerned it is also expected to eliminate scopes for corruption to a large extent.

Developments since 2003

Since 2003 corruption has become a central issue in Malaysia's political discourse. Soon after his takeover of power, Prime Minister Abdullah Ahmad Badawi declared fighting corruption as his first priority. This was followed by a series of initiatives – believed to be an integral part of government's anti-corruption campaign. The introduction of National Integrity Plan in 2004 represents a major effort made by his government towards promoting a culture of integrity. The NIP provides a comprehensive framework for promoting ethics and integrity in the society. Geared towards instilling and nurturing an ethical culture and integrity at all levels of the Malaysian society the NIP is expected to focus on individuals, family, private sector, public administration, socio-cultural agencies, NGOs and politicians (GOM, 2004).

The Malaysian Institute of Integrity (MII) was established in order to provide a framework that would support the effective coordination and implementation of NIP. Chaired by the Chief Secretary to the government and governed by a Board of Directors the MII is responsible for monitoring and coordinating the implementation of NIP. The MII is also responsible for devising appropriate indices to measure performance in achieving NIP targets, preparing annual reports on Malaysian Integrity system and in organizing conventions of stakeholders to debate integrity issues seeking new and innovative ways to move forward. As a further effort aimed at strengthening anti-corruption drives the Badawi government later established the Anti Corruption Academy. First of its kind in the region the Academy is seen as a regional centre for anti corruption which will train officials from ACA and their counterparts from other countries in the Asia-Pacific. Thus the newly established Anti Corruption Academy is expected to contribute to anti corruption capacity building in the region and promote best practices and tools in corruption investigation, monitoring and enforcement. In 2004 the Abdullah government introduced another scheme designed to complement the ongoing efforts for enhancing public integrity in Malaysia. Known

as *Islam Hadari* (civilisational Islam) it is a comprehensive framework which seeks to promote an integrated and balanced development, consistent with the tenets of Islam. It is essentially a state-sanctioned program of social engineering; it emphasizes, among others, the development of knowledgeable and pious people who are honest, trustworthy and are prepared to take on global challenges. Faith and piety in God, a vigorous pursuit and mastery of knowledge, a just and trustworthy government, cultural and moral integrity are among the leading principles of *Islam Hadari* (JKIM, 2005). Such principles are expected to guide the individuals as well as organizations thus providing a framework for the formulation of policies and strategies towards good governance and responsible administration.

The most recent and perhaps the most significant step in this regard is the establishment of the Malaysian Anti Corruption Commission (MACC). Just months before he handed over power to his deputy Prime Minister Badawi announced far reaching reforms to the ACA transforming it into a full-fledged MACC modeled on Hong Kong's ICAC. In December, 2008 the Parliament has approved the MACC bill which has also paved the way for the establishment of an independent advisory board, a parliamentary committee, a complaints committee and two other panels -all responsible for scrutinizing and advising MACC. Headed by the Chief Commissioner the MACC will report to the Special Parliamentary Committee on Corruption. The Committee will examine the report on the discharge of ACA functions and submit its report to the PM who, in turn, would table it to the parliament. The newly constituted MACC has thus far received mixed reactions. Those in the opposition have been highly critical of the MACC for it lacks independence and prosecutory powers and it is effectively under the control of the executive. But those in the government have maintained that the MACC having greater power, autonomy and accountability will be more effective in tackling corruption than its predecessor ACA (*The New Straits Times*, 11 December, 2008).

It is obvious that Malaysia has put in place comprehensive anti-corruption strategies involving institutional, legal and normative aspects. These strategies also combine preventive as well as punitive dimensions. Taken together with watchdog bodies, educational and social awareness programs and administrative innovations, Malaysia provides an elaborate framework for dealing with corruption and issues of public integrity. The obvious question is: how effective are such drives and strategies?

The governmental attempts and strategies in Malaysia have met with little success, as evidenced by the current data that suggests entrenched corruption in the society. Evidence shows that despite the campaign corruption has remained acute, widespread and, in fact, worsened in recent years. In a recent survey conducted by Transparency International the respondents have argued that little improvements have had occurred in the fight against corruption. Nearly two-thirds of the respondents from the members of the public believed that there have been no improvements in the levels of integrity and transparency in both public and private sectors. A separate survey on corporate managers revealed that some 47% paid or knew someone who paid bribes in the past 12 months (*International Herald Tribune*, 5 March, 2007). The police was ranked as the most corrupt department followed by other enforcement agencies such as roads and transport and customs department. The magnitude of corruption in the enforcement agencies is evident from the confession of a former police chief who revealed that 40% of the senior police officers could be arrested without investigation – strictly on the basis on their lifestyles (*Aliran Monthly*, 11,

2007). The royal commission on police formed earlier by the government also made similar observations about the magnitude of corruption within the agency.

The Universiti Kebangsaan Malaysia (UKM) has conducted a comprehensive nation-wide survey in 2003 to study public perception about corruption. The study gathered information from cross-section of Malaysians including citizens, public and private sector officials, students, political parties and NGOs; 14.5% of the 7594 respondents surveyed admitted having paid bribe during the past 2 years, 19.5% had witnessed bribe taking. While the study found that corruption was more evident in the political parties with 46% of those reporting the occurrence, corruption within the government agencies was also found to be fairly high with 31.6% reporting it within their own agencies. The study identified enforcement, administration, finance and audit, licensing and transport departments where corruption occurred more frequently[4] (ACA, 2003).

Data released by Transparency International (TI) shows that corruption situation in Malaysia has deteriorated in recent years. Table 2 shows that while Malaysia was in 23rd position in 1995 when Corruption Perceptions Index (CPI) was first introduced, it slipped to 36 in 2000 and to 44 in 2006. Although it recorded a slight improvement in 2007 with 43rd position, in the most recently released ranking Malaysia has slipped further and now finds itself in 47th position. It must be noted that although CPI measures perception of corruption rather than actual incidence for which it is criticised – it is widely regarded as a useful and reliable indication of corruption situation in a particular country. In this case, the CPI ranking is significant for it shows Malaysia's position *vis-à-vis* other countries especially its competitors. Obviously a more significant indicator of Malaysia's corruption scenario would be CPI score which shows that the corruption situation has hardly improved over the past decade.

Table 2: Malaysia's Corruption Perceptions Index, 1995-2008

Year	CPI Score (out of 10)	Overall Rank	No. of countries assessed
1995	5.28	23	41
1996	5.32	26	54
1997	5.01	32	52
1998	5.30	29	85
1999	5.10	32	99
2000	4.80	36	90
2001	5.00	36	91
2002	4.90	33	102
2003	5.20	37	133
2004	5.00	39	146
2005	5.10	39	159
2006	5.00	44	163
2007	5.10	43	180
2008	5.10	47	180

Source: Data from Transparency International, Various Issues

As table shows, Malaysia's recent CPI scores (eg. 5.0 in 2006 and 5.1 in 2007and 2008) remain far below the initial scores of 5.28 and 5.32 recorded in 1995 and 1996

respectively. Clearly, this indicates worsening situation despite the government's much publicised war against corruption and variety of measures introduced to promote ethical behaviour in the society. It may be noted here that at its launch, the NIP has set the target to improve Malaysia's CPI score to 6.5 and ranking to 30th by 2008 (from 37th in 2003). The architects of NIP would be dismayed to find that instead of improving the CPI ranking has since then been falling and at the end of the five year period it has recorded its worst performance in a decade. Clearly, the introduction of NIP and the other measures has failed to have any positive impact on corruption. What explains such failures of anti-corruption strategies and drives? We turn to this in the next section.

4. Explaining the Results: Limitations of the Anti-Corruption Strategies

When Abdullah Badawi succeeded Dr Mahathir Mohamad as the fifth Prime Minister in 2003 fighting endemic corruption and/or promoting integrity was his platform which propelled him to a landslide victory in general elections in the following year. The early years of Abdullah saw serious campaigns which led to arrests and convictions of some high profile individuals. Although the drive has continued it appears to have lost force subsequently giving rise to suspicion about the seriousness of the regime. It is important to note that Badawi's tenure has been rocked by more serious and growing allegations or corruption. While the leadership continued to talk tough about corruption the number of high profile catches and convictions made during the five years of campaign do not match with such slogans. Governmental response to serious corruption scandals involving the senior leaders of the ruling *Barisan Nasional* (BN) deepened public suspicion about the seriousness of the drive. Although a sitting minister was arrested before the elections, following election results when Abdullah formed the new Cabinet he retained four senior ministers against whom there were strong allegations of corruption (Case, 2005). Lim Kit Siang, a leader of political opposition and analyst maintained: 'if integrity and the perception of integrity are among the indispensable criteria for selection of cabinet ministers, the first Abdullah Cabinet has failed the acid test' (Quoted in *Malaysiakini*, 2004).

Another reason for the growing suspicion and the failure of the campaign is the inability or unwillingness of the regime to tackle political corruption – believed to be widespread in Malaysia. The decades of hegemonic rule by the United Malays National Organisation (UMNO), weak opposition and the absence of adequate checks and balances have contributed to a culture characterised by 'corruption, cronyism and patronage' (Gomez and Jomo, 1999). The governing UMNO itself is a patronage-driven party where leaders have long relied on easy access to government contracts and patronage to secure political support (Teh, 2002; *The Straits Times*, 9 Oct, 2008). It has strong ties with corporate sector and the leaders have used their positions to advance their business interests and to distribute rents to select businesses (Gomez, 2005). Although the most recent elections have seen the opposition denying the government its two- thirds majority in the parliament for the first time in country's history, the political culture of corruption, cronyism and patronage has remained unaltered. Likewise, the problem of 'money politics' is widespread (see Teh, 2002 for all its manifestations), though fingers are often pointed to the ruling UMNO. It is alleged that UMNO officials including those in the highest echelons of the party and government are involved in vote buying, and buying officials positions (Leong, 2006).

They are also alleged to be involved in new forms of money politics where competition is eliminated through buying off the prospective opponents and their supporters (*Aliran Monthly*, 13May, 2008). Despite all claims, there is very little evidence to suggest that the senior party leaders within UMNO (the Isa Samad case being an exception) have been confronted for their alleged involvement in money politics and other forms of corruption. It is now clear that the leadership was either unable or unwilling to upset the vested political and business interests closely linked to UMNO whose support is crucial for preserving and perpetuating its power.

Despite poor CPI ranking in Indonesia, country's newly established apex body Corruption Eradication Commission (KPK) has mounted a serious and robust anti-corruption campaign and arrested and prosecuted growing number of powerful officials. In Malaysia the governmental response has remained lukewarm especially when prominent individuals within the government are involved. Some recent events may help illustrate the situation. When allegations of corruption involving some key figures like the Internal Security Deputy Minister, the Director General of the ACA, the Chief Ministers of Sabah and Sarawak, Inspector General of Police, judges, and the Chief of the Commercial Investigation Department became widely known, the government failed to act in a decisive manner. Governmental response to such allegations came to be dubbed as 'too little, too late and too lax' (Guan Eng, 2007). It is interesting to note that in this particular case the government has allowed the parties involved in corruption to investigate each other. The police investigated the ACA chief and the ACA investigated the Internal Security Deputy Minister and the Police Chief. The entire process ended in fiasco when the Attorney General decided that all three were clean (*Aliran Monthly*, 11, 2007)! This came as a surprise to independent observers, analysts and political activists who were left with more questions than answers about the seriousness of the probe and the commitment of the government to punish the offence. Some of them labelled government's anti-corruption campaign as 'full of sound and fury signifying nothing' (Lim, 2008). Such views may appear too extreme but it is hard to dismiss them altogether as simply politically motivated.

In fairness, it must be said that the Badawi government has mounted a more serious campaign against corruption than previously which led to greater activism on part of relevant agencies. Yet, the above events explain why the sincerity of the leadership has remained a suspect – especially to the political opposition, civic groups and independent observers. Even the public at large has remained unconvinced that enough has been done either to contain high profile corruption or to bolster accountability and transparency in administration. Despite the reformist policy announcements made by the leadership not much has really changed in the broad governance context. Few practical steps were made to address the limitations of crucial institutions and to make them truly strong, independent and effective. One of the frequent criticisms of Malaysia's anti-corruption strategy has been that even the most powerful ACA is toothless in respect of high profile corruption cases. It is often alleged that the ACA is busy catching small fries but doing very little or nothing to 'whales' in political, business and administrative circles (Siddiquee, 2005; Leong, 2006). This is no exaggeration for bulk of the corruption cases investigated and acted upon by the ACA involved lower level officials - despite allegations of corruption involving political and administrative elites are rampant. Of 485 arrests made by ACA for corruption in 2004 there was only one influential figure (Rosnah, 2008). The meagre number of arrests made from such groups lends credence to the view that

ACA finds lower level officials an easy target as they have neither the strength nor the political clout to escape punishments.

Though Hong Kong and Singapore have followed similar models where anti-corruption agency remains accountable to the head of the government producing exemplary results[5], in Malaysia such an arrangement appears to be part of the problem. The institutional location of the ACA under the Prime Minister's Department and its subordination to political office was often seen as an impediment to its task of vigilance (Ho, 1999; Siddiquee, 2005). Evidence suggests that instead of acting as independent agency the ACA remained beholden of the wishes of the Prime Minister's Department. There were allegations that the ACA was extraordinarily efficient acting against those in opposition but either reluctant or terribly incompetent in cases where the people from the ruling BN are involved. The infamous Lingam videotape serves as an example of how the ACA allows itself to be perceived as a tool of the government. The widely known videotape - made public by two opposition leaders - shows a conversation where appointments of judges were brokered by a senior lawyer and the judge seeking help for the top job. Instead of pursuing the offenders in the video the ACA had threatened to jail the two opposition leaders if they failed to surrender the whistle blowers behind the video-tape. This event is significant for not that it shows corruption within the judiciary, but the ACA's mis-handling of the case and the resultant dangers being faced by whistle blowers in the current context. Given that Malaysia lacks, among others, whistle blower protection laws and the freedom of information acts, very few would dare to face the odds. In other words, it is likely that cases of corruption and unethical conducts of this sort will go unreported.

The most recent reform that has transformed ACA into MACC has certainly enhanced its status and powers. Our judgement on its roles and effectiveness must await some time for the agency has been in operation for a few months only. Meanwhile, it appears to have embroiled itself in a series of controversies including the case of torture and tragic death of an opposition lawmaker's personal aide in MACC headquarters (*The Straits Times*, 20, 2009). Although the PCB offers a convenient and useful channel for the citizens to lodge complaints, it is an adjunct of the Prime Minister's Office and it lacks power to enforce decisions. Perhaps this explains why the number of complaints lodged (3000-4000) is not large relative to the population and the context where perception and allegations of corruption are widespread.

Some other limitations of the current approach must be noted. Malaysia presents a case where some of the basic conditions of good governance like access to information, accountability and transparency in public administration and independent media are either absent or very weak. Despite talks about good governance Malaysia not only maintains tight state controls on media but the Official Secrets Act that restricts information access and disclosure remain firmly in place. This, along with various other coercive legislations and restrictions on the press and civic groups have greatly undermined the media's prospect and suppressed public opinion as a force in checking official excesses. Neither the media nor the whistle-blowers, interest groups, political activists are able to present government documents as evidence of corruption and malfeasance as they risk severe penalties under such legislations. They are handicapped further by the absence of transparency in public decision making. While transparency is given lip-service there is evidence that much of governmental

business is done in non-transparent manner, resources are allocated based on political and other non-economic criteria, and tenders are awarded to chosen parties without competitive bidding. Development projects and contracts continue to be promised and awarded to party loyalists and other closely connected groups. The way privatisation programs and public procurement is conducted in Malaysia leaves scopes for corruption. The process followed is anything but transparent. The Malaysian experience of privatisation shows that in most cases projects were awarded based on private discussions between top politicians, their allies and select businesses (see Gomez, 2005). Despite very many reforms little has changed in such practices. Needless to say that such policies and practices are hardly consistent with goals of integrity and values of good governance. It is in this sense that the current reforms and strategies are inherently incomplete.

Reforms initiated and strategies adopted are also incomplete for they have failed to address some root causes of corruption. It is widely believed that, among others, politicisation of bureaucracy and the ethnic factor in politics and public policy have much to do with the present levels of corruption. The politically neutral public service that Malaysia had inherited from its colonial masters has become increasingly politicised since independence (Navaratnam, 1984; Hai, 2002). Theoretically the Malaysian bureaucrats continue to subscribe to the principle of political neutrality, however in practice there is considerable evidence to suggest that they are either actively involved in politics or often partisan in their approaches. Several factors explain this. Members of senior bureaucracy in Malaysia are almost exclusively drawn from ethnic *Malays (see Hai, 2003);* they also share the same socio-economic background with political leaders. This allows them to develop intimate and mutually supportive relationship with political elites. At times, they are under pressure to identify themselves with the goals, ideologies and policies of the ruling party. Also, the senior party leaders within the governing UMNO have publicly abhorred the idea of political neutrality and supported the active role of public servants. Given this, the law that prohibits the civil servants from being involved in party politics is enforced rarely and selectively (Crouch, 1996). More importantly, the ruling UMNO has always used civil service as a recruiting ground. Such policies and practices have encouraged many senior officials especially those who wish to build career in politics – to become passive members of the ruling party/coalition. Consequently the fine line that separates politics from professional administration has become blurred. One of the consequences of such a phenomenon is the enhanced bureaucratic discretion and weak political control – referred to as ministerial slack and indulgence (for an extended account, see Hai, 2002). Given their close relationships with civil servants, political leaders have at times failed to enforce strict bureaucratic accountability. Therefore, corruption in the public service must not be viewed in isolation from such developments.

The other notable feature that largely explains the widespread corruption is the ethnic dimension of public policy and political patronage. In Malaysia's plural society although the ethnic *Malays* are the majority and they hold the key positions in government, historically they have been backward in economic terms. The New Economic Policy (NEP) adopted in the aftermath of the race riot in 1969 aimed at ensuring equitable distribution of corporate equity between *Bumiputera Malays* and the predominantly Chinese *non-Bumiputeras* institutionalised affirmative action by introducing *Bumiputera quota* in government contracts, licenses, and loans. The NEP

also required the companies to restructure their corporate holdings to ensure at least 30% *Bumiputera* ownership. Such a strategy in place since the early 1970s is generally seen to be successful in raising *Bumiputera* share (Gomez, 2005), but it also became associated with corruption, nepotism and cronyism. Under the NEP the public sector saw a massive expansion creating opportunities for the *Malay* politicians and bureaucrats in charge to engage in corruption and patronage distribution (see Crouch, 1996, for details).

New policies like privatisation and liberalisation of the economy introduced later since mid-1980s have opened up further opportunities for patronage distribution. A notable feature of the NEP is that it has led to the emergence of new ways of doing business. To comply with NEP requirements many Chinese owners incorporated influential *Malays* in their businesses thus forming what has come to be known as '*Ali-Baba* alliance'. *Ali*- the *Malay* partner remained less active contributing only in terms of his influence and connections. *Baba* - the Chinese partner does the actual work contributing his capital, skills, know-how and time. This sort of partnerships gave the Chinese access to licenses and lucrative government contracts reserved for *Bumiputeras*. The *Malay* partner benefitted by accepting fees and profits in return for his name being used. Thus the ethnic policy has fostered and helped to sustain new forms of corruption. Given that this served as useful mechanisms for securing political support for the ruling elites consolidating their hold on power, hardly any serious drive was mounted to tackle such practices.

The new policies adopted since the end of NEP period did not seek to dismantle the ethnic *quota* indicating government's preference for maintaining *status quo*. Nothing significant has been done for tackling allegations of cronyism and nepotism. Evidence shows that as soon as the government's initial anti-corruption euphoria was over Malaysia's political economy regained some of its early characteristics and dynamics (Case, 2005). Abdullah's period has seen the rise of his son Kamaluddin (once only a minor player in the business scene) as one of the wealthiest business elites in the country - widely believed to be through state patronage. The police investigation into his Company over its alleged involvement in producing components for Libya's nuclear weapons program has swiftly cleared him of any wrongdoing. However, Dr Wan Azizah - the leader of the Keadilan party - notes: 'Abusing diplomatic machinery and resources to defend a private company owned by the son of the Prime Minister is a clear proof of how cronyism and nepotism have been institutionalised …in Malaysia' (*Wall Street Journal*, 24 February, 2004). While such reactions from the political opposition must be treated with caution, it is almost certain that cases like this have eroded the credibility of the government's anti-corruption campaigns.

Administrative reforms and innovations appear to have achieved little since their implementation has been poor and uneven. As Malaysia has followed global trends in public service reforms, drives like excellent work culture movement, TQM, MS ISO 9000, clients charters have waxed and waned. Although some of these continue to be part of governmental drives to enhance public sector performance and integrity, they do not seem to command the level of administrative and political support they received at their launch. The Malaysian experience shows that with the advent of new concepts and reforms pre-existing ones are put on back burner, if not abandoned altogether. Not surprisingly, often they exist more in form rather than substance. There is little to indicate that they are subject to any sort of regular review

and monitoring. Instead, currently much of the energy is channelled towards implementation of e-government. The introduction of new mechanisms like NIP, MII, MACC and Anti Corruption Academy has undoubtedly added to the list of institutions designed to tackle the problem and enhance integrity; perhaps it is too early to judge their impacts and performance as they are still at their infancy. Much depends on the commitment and support of the new leadership that has taken the helm of state power recently. It is not clear if these institutions will muster such support from the new Prime Minister Najib Razak who has taken the helm amid mounting allegations against him for scandals ranging from corruption in a defence deal to murder of a Mongolian model (*Asia World News*, 3 April, 2009).

5. Concluding Remarks

The paper reveals that although there is an elaborate institutional framework to deal with corruption and the government's anti-corruption campaign has been in place since 2003, the overall situation in Malaysia has been far from satisfactory. In other words, the institutional measures and governmental strategies have failed to have significant impacts on corruption in the society. Variety of measures introduced is clearly visible, but their effectiveness is far less evident. This is more so with the recent measures and innovations some of which are still at the early stage of implementation. While governmental initiatives made during past decades are generally viewed favourably, there is a feeling that they fell short of what was required to make anti-corruption bodies effective and credible in the eyes of the people. The paper shows that in stead of strengthening the existing institutions and enhancing their capacity to act as effective watchdog agencies the government of Malaysia has often taken the path of establishing new institutions and strategies. The leadership in Malaysia appears to be efficient in importing new models with all their institutional wrappings and jargons but poor in effective implementation and their subsequent consolidation. The experience with numerous public sector reforms confirms this. Throughout the 1990s and 2000s the public service in Malaysia has adopted a range of measures many of which have already fallen wayside given the current emphasis on e-government.

The Badawi government came to power with a slogan to stamp out corruption in the society has hardly made any major departure from the past in this regard. Reforms and changes it introduced have remained narrowly focused; no significant move has been made to either to rectify the defects of the political system or to address the weaknesses of the existing institutions for enhancing their effectiveness. Hardly anything substantive has been done in terms of strengthening democratic institutions, audit and oversight functions, freedom of media, access to information and the like. Such failures coupled with political corruption and slacks in the enforcement of laws and regulations have undermined the government's anti-corruption drives to a large extent. The paper shows that the current leadership is either unable or unwilling to tackle political corruption for the ruling UMNO itself is enmeshed in such culture. Thus the political will to fight corruption has remained low and half-hearted. The paper argues that it is this weakness which largely explains other deficiencies including the handicaps of the existing institutions and the non-enforcement or selective enforcement of existing laws and regulations. One silver lining however is the establishment of MACC. Despite its limitations, we regard this

as a step in the right direction – although it remains to be seen if the reformed structure can make any major difference.

This brings us to some important questions: do institutions matter? What lessons can we draw from the Malaysian experience? A key argument of the paper is that that current institutions and strategies in Malaysia have failed to have desired impacts. The paper also shows that the deteriorating corruption situation in Malaysia is due, among others, to the defects of the country's political systems, cultures and institutions. In a way this suggests that old political institutions and cultures last long and that they continue to shape and constrain new politics and reforms. Thus institutions are important and they do matter! However, as the paper demonstrates, the introduction of new institutional measures is not enough; in fact, this is not what Malaysia needs urgently. Institutions are necessary but not sufficient conditions for effective anti-corruption drives. For institutions do not work in a vacuum, they must be supported with favourable policy context to enable them to play their roles. Therefore, what is important is a comprehensive approach where anti-corruption efforts focus beyond institutional tools. A robust governance framework can bolster the capacity and effectiveness of institutions to a large extent. Anti-corruption drives and institutions are unlikely to make much headway if basic conditions of good governance are absent. There is greater need now than any time before for a free media, freedom of information act and whistle blower protection laws. It is also important that the Official Secrets Act is repealed to ensure greater transparency in public administration. Certainly Malaysia cannot be a transparent society if the transparency and disclosure of information is punishable under the law. Objectives of combating corruption and managing integrity will remain largely illusive as long as Malaysia's political culture characterised by money politics, patronage networks and fusion of roles. Since the effectiveness of anti-corruption drives is frustrated by high level corruption concerted and robust efforts are required for tackling it. Most importantly, there is a need to change the public perception about the seriousness of the government in fighting corruption making it a 'high risk and low return activity'. Without this, new institutions and laws are unlikely to bear much fruits.

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NOTES

[1] While the legal approach advocates measures like tougher sanctions against corrupt activity alongside audit and oversight, those who support the market strategy are of the view that the most effective way to curb corruption is to remove government control in service provision thereby allowing market forces to operate in a competitive environment. The social approach emphasizes ethical norms, education and public vigilance. The political strategies for eliminating corruption would require broadening of public access to decision making process, enhanced transparency and administrative reforms, among others.

[2] The high powered committee is headed by the Chief Secretary to the government and includes the Director General of Public Service Department, the Director General of ACA, and the Director General of MAMPU as its members.

[3] Necessary legislations have also been put in place. Anti Corruption Act, 1997, Emergency (Essential Powers) Ordinance No. 20, 1970, Penal Code, Police Act 1967, Customs Act 1967, Anti Money Laundering Act, 2001 are among the principal legislations. Taken together, these acts provide a comprehensive legal framework within which various agencies operate and seek to reduce and eliminate corruption in the society.

[4] It is worth noting that these findings were consistent with those of other studies conducted earlier. A 1999 study that used bribe payers index (BPI) and focused on 19 major exporting countries in the world, Malaysia scored only 3.9. The study concluded Malaysia as one of the top bribe giving countries. Another study conducted by Transparency International Malaysia in 2002 focussed on public perception and awareness of corruption in government agencies operating in Selayang area. 60% of the respondents surveyed viewed corruption to be serious within government agencies operating at the local level.

[5] The explanations for such results must be found elsewhere. Despite the adoption of a single agency anti-corruption watchdog the differences in their contexts must be highlighted. Both Hong Kong and Singapore are city states while Malaysia is a large country in terms of its size and population. Unlike Malaysia, Singapore and Hong Kong have adopted broader definitions of corruption; are largely governed by corporate culture as opposed to Malaysia's semi-feudal norms and values. While in Malaysia ethnic considerations play important roles in appointments and promotions, merit based civil service and market based compensation system followed in Singapore and Hong Kong have kept nepotism and cronyism at bay. Besides, though ICAC in Hong Kong and CPIB in Singapore operate under the chief executives there is little indication that the political leaders impose any constraints on operations of these agencies. But the ACA in Malaysia operated under political imperatives and required to obtain green signals from the Prime Minister's Department before investigating and prosecuting some individuals.