

## INTRODUCTION

Combating corruption has increasingly risen to the top of policymakers and company agendas. Despite the fact that it has long been a prevalent issue, there is a greater awareness of the negative implications of corruption on both social and economic development. Malaysia has a history of implementing measures to tackle corruption and bribery, with cases occurring for the past four decades and no indication of it slowing.

Cases such as the Sabah Water Department, 1MDB, Port Klang Free Zone (PKFZ) and Immigration Department Scandal in 2018 illustrate how corruption and bribery are embedded within Malaysia's political and government institutions. As such, efforts must be made to tackle corruption effectively, with evidence suggesting that the increasing number of agencies which aim to do so are failing. However, the adoption of newly devised measures such as the introduction of corporate liability for corruption offences which came into effect in June could be a turning point for tackling corruption and bribery within Malaysia.

Increased efforts have been made to combat corruption, both nationally, regionally and globally due to the growing concern regarding its increasing incidence and negative implications. As a result of the extensive nature of corruption and bribery, the World Bank once identified it as one of the key barriers to social and economic development. Corruption is regarded as a complex, multifaceted phenomenon. Nevertheless, it is widely defined as the abuse of public power and violation of rules for private gains. Whilst there is a perception that it is carried out primarily by government officials, corruption can take place across a range of sectors and be executed by those other than government officials.

Forms of corruption which take place include bribery, extortion, fraud, embezzlement, blackmail, illegal gambling, laundering and nepotism, all in which encompass the abuse and misuse of public power and authority. This includes public officials taking or offering bribes through money or service which is dishonest. Subsequently, it is often the abuse of trusted power for the benefit of personal gain. It is considered as a consequence of poor governance and undermines the legitimacy of the state.

## THE IMPACTS OF CORRUPTION

Corruption has social, political and economic impacts, the latter which arises through the distortion of law and weakening of institutional foundation on which economic growth depends. Further to this, it threatens democracy, contributes to the unjust distribution of income and burdens taxpayers.

On a wider national level, it undermines free and fair trade. Although corruption has negative implications wherever it is present, the impact on developing nations is often heightened, as it reduces the economic resources available to address social, economic and political issues which may hinder development. As such, this issue impacts society the greatest, through impeding economic growth, government expenditure and investment. In turn, it is a greater detriment to the poor, worsening income inequality and poverty. From a business perspective, it additionally reduces the efficiency of firms and increases the costs of business. Combating corruption and promoting integrity has become a key aim within Malaysia due to the extent to which corruption has occurred and its evident impact on the social, political and economic landscape.

It is estimated that within Malaysia, corruption may cost up to RM10 billion a year, equivalent to 2.3 billion USD. It is estimated that this accounts for up to 2% of Malaysia's Gross Domestic Product (GDP). The Asian financial crisis has acted

as a catalyst for combating corruption, shifting public perception of corrupt practices and in turn bringing it to the forefront of public policy.

## RESULTS

Data suggests that efforts to combat corruption in Malaysia have been futile. This includes over 66% of the public believing that there has been no improvement to the transparency and integrity levels within the public and private sector. In addition, in 2007, 47% of corporate managers revealed that they themselves had been involved in bribery within the past 12 months, or that they knew someone who had been involved with bribery within the past 12 months.

The highest levels of corruption were found within the police, followed by other enforcement agencies such as customs departments and roads and transport. Data by Transparency International (TI) further confirms that corruption has increased over the recent years, with Malaysia falling from 23rd position to 62nd position from 1995 to 2019. This is measured through the Corruption Perception Index (CPI), which measures the perception of corruption, and is a good indication of the corruption situation within a country.

Whilst this may be higher than the Southeast Asian average, it is far below that of what it should be, particularly when comparing it to neighbouring countries such as Singapore and Hong Kong, which both have similar demographic systems and development levels.

In 2020, according to Pricewaterhouse Coopers (PWC), the four most disruptive forms of fraud which were experienced in Malaysian organisations were asset misappropriation, bribery and corruption, customer fraud and cybercrime. These are said to account for 70% of all economic crimes in Malaysia. In addition, public procurement is considered to be a key sector in Malaysia in which corruption is high. In such instances, Malaysia companies are favoured over foreign competitors due to political connections.

## ADDRESSING CORRUPTION

Due to the previously highlighted impacts of corruption, it has encouraged an extensive list of measures to tackle corruption within Malaysia. The Malaysian government has acknowledged the harmful nature of corruption to economic growth and has led to a growing number of bodies which are given the responsibility to address corruption and which in turn have implemented a number of steps to ensure its minimisation and eventual eradication. Through combating corruption, this promotes integrity within society. Efforts to combat corruption within Malaysia began with the Anti-Corruption Agency set up in 1967. This included institutions such as the Malaysian Administrative Modernisation and Management Planning Unit, the anti-corruption Agency, the Auditors General Office, the Public Accounts Committee and the Public Complaints Bureau. Early successes including the prosecution of a number of political leaders and senior civil servants. Nevertheless, corruption remained high. Research has however found that these institutions are ineffective at combatting corruption, through the continued cases of unlawful transactions and misconduct. However, since 2003, corruption has been high on the agenda of government strategies, with 2003 marking the admittance of Prime Minister Abdullah Ahmad Badawi who declared that fighting corruption would be a key and prime priority. This led to a number of new initiatives, including the National Integrity Plan in 2005 which aims to promote a culture of integrity. This was followed by the Malaysian Institute of Integrity (MII) which supports and coordination and implementation of the NIP. More recently, the governmental Transformational Program has been introducing to enhance the effectiveness of combating corruption. This

includes the Malaysian Anti-Corruption Commission (MACC), which began operation in 2009, reporting to a Parliamentary Special Committee on Corruption.

#### 1) The case of the 1MDB

One of the most well-known (2015) and prominent cases of corruption within Malaysia and globally is that involving the former Prime Minister of Malaysia, Najib Razak, known as the 1 Malaysia Development Fund Bhd (1MDB). This corruption case involved the embezzlement of billions of US dollars, facilitated by the false declaration by officials. This included money laundering from accounts as well as bribery and gains from bond pricing. Although implications are mainly placed on Malaysia's businessmen and government officials, others from the UAE and Saudi Arabia have been implicated in the scandal.

The 1MDB was set up in 2009, initially launched at the Terengganu Investment Authority (TIA). It developed as a network of joint ventures between Aarbar Investments PJSC and Petro Saudi International. Corrupt practices began with embezzlement, involving the misappropriation of funds through borrowing, bonds and bank loans. It is estimated that more than US\$ 6.5 billion flowed through the 1MDB, financing the spending of corrupt officials and their associates. In addition, bribes were offered as a means to allow and arrange bond issues, as well as for the management of accounts which facilitated in embezzlement.

The key perpetrators of the bribery were Goldman Sachs, later leading to the sentencing of their Southeast Asia Chairman, Tim Leissner. In addition to embezzlement and bribery, money laundering was a component of the 1MDB scandal, which involved receiving and retaining money from sources and disguising or failing to investigate its origins. This violated the anti-money laundering laws within Malaysia, with banks acting as intermediaries and beneficiaries which is in breach of their anti-money laundering compliance requirements. In addition, false declaration and bond mispricing between 2009 and 2014 were forms of corruption which took place within this scandal, including the false declaration of 1MDB funds to banks in Malaysia. Recipients of these false declarations included Bank Negara (Malaysian Central Bank).

Corruption was able to take place due to the Malaysian Government covering up the 1MDB scandal, through the removal of the officials and ministers who threatened to bring to light to corruption and evidence to support it. Moreover, documents and computer files were withheld from investigators, and those from the Malaysian AntiCorruption Commissions (MACC) were encouraged to alter their findings or abandon investigations, illustrating that corruption extended heavily towards government bodies which aimed to prevent corruption in the first place.

Investigations the 1MDB scandal in 2015 brought to light several reasons why such an extensive case of corruption and bribery was able to take place. It was found that systems of governance in place were defective, leading to weak control over spending, lending and investment within 1MDB. This includes decisions made outside the board of directors and the board being fed false and inaccurate information, in turn confirming that the Companies Act of 1965 of the Malaysian Code of Corporate Governance was not in compliance. Political control further crushed attempts to deal with the corruption, which included the removal of the Attorney General from office and the harassment of the MACC officers. In addition, within Malaysian banks, and evidently internationally, there were weak internal rules against money laundering which enabled such flows of money. Due to the fact that Najib was both Prime Minister and Chairman of the 1MDB Advisory Board, there was a strong lack of political will as there was no one above him to address the corruption taking place. Further to this, the mindset within Malaysia, both in the government and private sector, in which there is a belief that corruption leads to economic gains,

led to engagement in such practices considered as acceptable.

As a result of the scandal, there were two key implications:

- The Malaysian government were forced to pay US\$1.66 billion to debt servicing payments; and
- There was significant erosion of trust within the public, particularly concerning politicians and government officials.

## 2) The case of the Sabah Water Department (2010)

Prior to the previous case, the largest corruption scandal in Malaysia was considered to be the Sabah State Water Corruption scandal. This case involved the siphoning of RM3.3B worth of federal allocations for state rural water projects from 2010 onwards to top department officials. This is the equivalent of over 759 million USD.

The case arose due to complaints that water development project contracts were being distributed unfairly. The two suspects who were investigated included the Director of the Water Department and the Deputy Director. It is estimated that these two civil servants amassed a sum of almost RM115 million (24 million USD) due to their illicit activities. Such sums of money amassed due to the water department officials abusing their power to award contracts to 38 companies which were owned by their families or corrupt business officials.

As a result, an investigation was carried out by the Malaysian Anti-Corruption Commission (MACC), who subsequently confiscated cash, luxury cars, jewellery and watches amounting to RM 114.5M. Prior to the previous 1MDM corruption case, it was considered to be the largest amount of money confiscated by the MACC. Investigations revealed that there were a number of factors which led to on-going corruption taking place. This included the lack of systematic monitoring procedures which otherwise should have been in place to vet projects and irregular transactions. As a result, it led to the misappropriation of public funds, resulting in a weakened trust by the public of governance.

## 3) The case of the Port Klang Free Zone (PKFZ)

The Port Klang Free Zone (PKFZ) was a free trade zone at Malaysia largest port. Implemented in 2008, the project was designed to act as a hub for businesses to connect from over 120 countries due to its logistical location which allowed for the efficient execution of business transactions.

A corruption case arose regarding Port Klang when it became evident that there were cost overruns of RM 3.5 billion, which was almost double the initial costs of RM 1.845 billion. There were reports that the Transport Minister at the time, Chan Kong Choy, had issued support for bonds which amounted to RM 3.7 billion without the government's approval. As such, Pricewaterhouse Coopers was asked to conduct an audit to investigate the financial irregularities. However, the audit in fact found that the total cost amounted to RM 12.5 billion (almost 3 billion USD), far higher than the discrepancies which were initially suspected. After these findings, an investigation was carried out by the Malaysian Anti-Corruption Commission (MACC) and the police, leading to a number of people charged of misconduct, including involvement with administering and financing the PKFZ. Despite the fact that the MACC was successful in carrying out an investigation, it has been widely dubbed at the scandal with no culprit, undermining the efforts and effectiveness of the institution in tackling corruption.

#### 4) The immigration department migrant scandal

This scandal occurred in 2016, involving the Malaysian Immigration Department, which is considered to have been part of long-standing small-scale corruption such as bribery. An internal probe revealed several forms of corruption, including the tampering of the online system within the immigration department, which in turn allowed for the access of cash and the movement of individuals which was not in line with immigration rules. Not only was this a form of corruption, but it additionally aided in terrorist activities, as it is suggested that over 130 Malaysians were thought to have travelled to Syria and Iraq to fight with ISIS as a result of misconduct. It led to a number of arrests and charges for human trafficking and allowed the illegal movement of migrants in and out of the country.

#### DISCUSSION

It is evident that within Malaysia, there is not only widespread corruption and bribery taking place, but there are numerous forms of corruption which is not only small-scale but which occurs at high levels of political and governmental reach. The reasons for such high levels of corruption in Malaysia, as well as failures to combat this issue efficiently, have been said to be due to a number of factors. This includes allegations of corruption within agencies who aim to fight it, particularly within the government of Prime Minister Abdullah Badawi and Najib Razak. Other reasons include decades of hegemonic rule by the United Malays National Organisation, in which ties with the corporate sector are high and opposition weak.

Although it is clear that there has been extensive effort to tackle corruption, it remains a significant issue with significant economic and social repercussions. The level of corruption has remained high, questioning the effectiveness of strategies in combating corruption. This includes the effectiveness of MACC, which aims to investigate corruption at higher levels. However, the fact that it is subservient to the Prime Minister's department limits its capacity as a way in which to prosecute high profile corruption cases.

It is additionally key to highlight why Malaysia is so prone to corruption. There are a number of factors which have undermined anti-corruption. However, the MACC Act 2009 has introduced a new amendment, including within section 17A, which aims to enhance the way in which corruption is tackled through the adoption of new forms of penalties. The introduction of corporate liability for corruption offences takes effect on 1 June 2020, which essentially means that if there are any forms of corruption within a business, those involved in the management of its affairs, be it officers, partners, or directors, could be personally liable for the same offence. The only way to avoid liability is to exercise due diligence known as 'Adequate Procedures', which commercial organisations in Malaysia are expected to implement by the 1 June 2020. Non-compliance is severe, resulting in penalties of RM1 million (230,000 USD) and up to 20 years imprisonment. Low political will. Defects in the country's political system, culture & institutions policies, including not wanting to tackle Corruption in Malaysia political corruption, as well as defects in Malaysia's political systems, culture and institutions. Further reasoning of the ineffectiveness of government initiatives which aim to tackle corruption includes low public support towards government efforts, the inability to address the root cause of this issue and reluctances and duplications.

In addition, greater corruption prevention strategies should be implemented. This includes within Corporate Social Responsibility practices, where in such instances, a company's risk of bribery and corruption should be assessed and mitigated within the overall approach to corporate social responsibility. This will ensure that corruption is tackled from within governments, rather than focusing on external

ways in which corruption can be tracked and investigated.

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## CONCLUSION

Due to the fact that corruption is rooted in the economic and political conditions of a country, it is complex, thereby making remedial efforts difficult. The significant impacts of corruption highlighted, including impeding economic growth, increasing income inequality and leading to poor trust in government and political institutions, make it clear that eradication would provide a number of benefits to Malaysia's economic, social and political landscape. This includes enhancing per capita income growth, leading to a greater flow of foreign investment and enhanced business growth. Although widespread efforts have already been made through a variety of old and new anti-government agencies and policies, these measures should continue to be enforced and adapted in order to ensure that corruption is minimised in the future.