

ENHANCING COOPERATION AMONG SECTORS IN CORRUPTION PREVENTION STRATEGY: MALAYSIAN EXPERIENCE

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I. INTRODUCTION

The Malaysian Anti-Corruption Commission (MACC) has been in operation since the inception of the Malaysian Anti-Corruption Act 2009 incorporated in the Laws of Malaysia Act 694 on the 8th of January 2009. Amongst the important provisions of the Act, under Section (7), being the functions of officers of the Commission, sub-section (c), (d) and (e) have been emphasised as, among other provisions, best practices and good governance. The said provisions mentioned specifically and categorically are as follows:

- (c) to examine the practices, systems and procedures of public bodies in order to facilitate the discovery of offences under this Act and to secure the revision of such practices, systems or procedures as in the opinion of the Chief Commissioner may be conducive to corruption;
- (d) to instruct, advise and assist any person, on the latter's request, on ways in which corruption may be eliminated by such person;
- (e) to advise heads of public bodies of any changes in practises, systems or procedures compatible with the effective discharge of the duties of the public bodies as the Chief Commissioner thinks necessary to reduce the likelihood of the occurrence of corruption.

Having said that, the priority of the Malaysian Government is to promote good governance and best practises as the way forward in its agenda for a corruption free public and private environment. Big conglomerates in the private sector who are actively trading in worldwide businesses suffer the wrath of corruption mostly, at least. As mentioned by Arvis and Berenbeim, the fact that corruption hinders the development of the private sector is now widely accepted, to the point that many practitioners tend to rank it as one of the most serious obstacles to business.

The MACC is gigantically tasked with the minimization and, if possible, the total eradication of the disease. Though a herculean and mammoth assignment, the war against corruption is a never ending one. A top down or bottom up approach¹ has to be adapted and adopted, depending on the level of the government's role, public awareness, freedom of the press and civil society. As for Malaysia, a top down approach has been deployed to combat corruption. The level of print media's independence also says a lot about the strategy to be deployed against such a plague of unheard of or untold of magnitudinal scale. Many strategies have been deployed to combat corruption. Many more approaches have been devised to eradicate bribery, the abuse of power, and deviations. Much has been said and done to address the said scourge, yet much more needs to be done to arrest this particular disease. This menace has occurred since time immemorial. This scourge has often been seen and heard as a cancer in society, be it in the first or third world countries. It spreads even faster in underdeveloped and developing countries because the civil society and the populace face poverty and illiteracy, among others.

Though these steps and measures involves massive operations and task forces, the real art of war

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¹ Top down approach refers to governments playing the dominant role in fighting corruption whereas bottom up approach refers to press freedom and civil society leading the war against corruption. Third world countries usually have top down compared to first world countries adopting bottom up approach in the war against corruption.

against corruption must certainly be grabbing the bull by its horns. Preventive measures are the measurables of combating corruption in the twenty-first century. The old adage that prevention is better than cure is relevant and applicable in the present decade. This mode of operation is the in-thing and the in situ typology. Being less messy and more desirable, this paradigm shift has been focussed as the ideal weapon for the war against corruption. It has now widely accepted that corruption has negative economic consequences (Hunt, Jennifer & Laszlo, Sonia: 2005).

The MACC has a logo portraying captions of Fairness, Firmness and Trustworthiness. In simple terms, the MACC practices a culture of acting without fear or favour. The MACC is also colour blind. It pays no respect to social issues of colour, creed and culture. Being impartial, unbiased and unprejudiced has always been the utmost top criteria for the MACC in achieving its objectives and goals. It has an unfair advantage over public and private entities in the sense that its services and goods are free, sovereign and independent. However, more often than not, a public official usually abuses his public position for private gain.² Part and parcel to its priority in its tasks is the Corporate Integrity Pledge (CIP).

The meanings of the three key words have to be crystal clear and precise so as to further add value to the value chain as well as innovate the very idea of a CIP. According to the Oxford Dictionary, "corporate" refers to the image of a company. Integrity has a far-fetched interpretation in having the quality of being honest and having strong moral principles.³ Among the necessary tenets of integrity are openness, good governance, accountability and transparency. Some observers have equated integrity to being perfect and sound values. Others have even associated integrity with holy and godly. As for the pledge, it refers to a promise or undertaking. These connotations have to be adhered to strictly and sincerely.

II. WHAT IS A CIP?

The CIP is a document that allows a corporate entity in Malaysia to show their commitment in supporting the principles of corruption prevention. It is a statement (documented) by a company voluntarily committing itself to uphold the Anti-Corruption Principles for Corporations. Hence, the said company which signs the pledge is making a unilateral declaration, amongst others:

- a) Will refrain from all forms of corrupt activities, meaning to say it will not commit corrupt acts
- b) Will work towards creating a business environment that is free from corruption.
- c) Last but not least, it will uphold the Anti-Corruption Principles for Corporations in the conduct of its business and in its interactions with its business and its interactions with its business partners and the Government.

The initial originator of the CIP was the MACC. It was the brainchild of a Minister in the Prime Minister's Department, the Right Honourable Dato' Idris Jala⁴ who suggested that the MACC spearhead the movement. He was personally brought into the Malaysian Cabinet by the Honourable Prime Minister Dato Sri' Mohd Najib bin Tun Abdul Razak to enhance the performance of government-linked companies which were in the red. The MACC was made the custodian of the CIP in March 2011 and later passed the baton to the Malaysian Institute of Integrity (IIM) who later on involved Transparency International-Malaysian Chapter (TI-), Companies Corporation Malaysia (CCM), National Key Result Areas (NKRA), Performance Management and Delivery Unit (PEMANDU), Securities Commission (SC) and Malaysian Stock Market (Bursa Malaysia).

²Official definition of corruption of the World Bank.

³*Oxford Advanced Learner's Dictionary*, Eighth Edition: 2010.

⁴He has served internationally and brought the last organization Shell Malaysia Berhad to greater heights and astronomical achievements. He has also transformed the Malaysian Airlines System and brought it to being a profitable entity.

III. WHY SIGN THE CIP?

A. Effects/Benefits

- a) A company will be making a clear stand of how it operates. This will be locked down in writing. It is stating a bold statement on its vision and mission and its anti-corruption stance in its business codes of conduct and ethics. Do the due diligence on them. Never instruct them to do whatever it takes to get the job done. Horowitz, Bruce: 2007).
- b) It will encourage a company to work on their own anti-corruption programme and internal systems and processes. This will be a guidance to the company in its business interactions, should it be faced with the possibility of condoning any payments or other activities that would amount to corruption.
- c) It will certainly have a positive impact whereby increasing the level of confidence for domestic and foreign investment.
- d) A company can use this Pledge to set itself apart from its peers. It demonstrates that its business operations do not include any hidden risks or costs that are associated with corrupt activities. Ira Belkin, former China Legal Exchange Officer for the U.S. Department of Justice, took a hard stand, saying there is never any justification of breaking the law. He said even if bribes are a standard way of doing business, you don't want to be the one person caught and prosecuted. (Silverthorne, Sean: 2005)

To sum up, the main objectives are achieving a zero tolerance for corruption as well as enhancing integrity and formulating a corruption prevention programme. This dual approach has far reaching aspirations and far-sighted, holistic approaches to put corruption in check as far as the business community is concerned.

Having indulged in the above cost benefits and causal relationships between the CIP signatories and the MACC, the Anti-Corruption Principles for Corporations in Malaysia are as below:

- i) It commits to promoting values of integrity, transparency and good governance.
- ii) It strengthens internal systems, that support corruption prevention. The law should require interested directors to abstain from voting on transactions in which they have an interest.⁵ (McGee, Robert W: 2009)
- iii) It complies with laws, policies and procedures related to fighting corruption.
- iv) It fights all and any form of corruption.
- v) It supports corruption prevention initiatives by the Malaysian Government and the MACC.

IV. HOW THE CIP IS PRINCIPLED?

- i. The first step is the signing of the pledge. The said companies sign the respective pledges at their premises with the MACC. The pledge is a standard document with its respective anti-corruption initiatives.
- ii. Then, the companies work to self-assess their strength of their corporate integrity system. The CIP ensures the level of corporate governance in place within the said companies. The company also identifies an action plan to strengthen their internal systems. This is the self-assessment stage.

⁵For a full report on Corporate Governance in Developing Economies of Africa, Asia and Latin America, see McGee, Robert W:2009 which includes a case study on Malaysia.

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- iii. The next stage of implementation is to close the relevant gaps. The action plans are implemented immediately by the company concerned. The said companies also adopt and adapt anti-corruption business principles. The cases of corruption reported by the media tend almost always to involve a private party (a citizen or a corporation) that pays or promises to pay, money to a public party (a politician or a public official, for example) in order to obtain an advantage or avoid a disadvantage (Argandona, Antonio: 2003). These companies have to establish infrastructure: Governance and Ethics Board Committee. Needless to say, conducting training also has to be in the basket of deliverables.
- iv. Finally, they have to do the necessary reporting which includes anti-corruption elements in the audits. Companies also have to include reporting on anti-corruption measures in their annual reports.

However it has to be borne in mind that however the CIP is principled, the syndrome of corruption is a fact of life for all continents around the globe. Not only developed countries suffer from the various syndromes of corruption, the developing, lesser developed and least developed countries also suffer in these aspects of corruption. Johnston, M:2005 has categorised all the nations said above as having characteristics and features clustered as elite cartels as the U.S, Germany and Japan, elite cartels as South Korea, Italy and Botswana, oligarchs and clans as in the Phillipines and Malaysia and official moguls as in Indonesia, China and Uganda.

The author has provided statistics and data for his illustrious work for classifying these countries categorically. His book has been discussed widely and in indepth by Professor Nikos Passas on North Eastern University, U.S. and Professor Claudia Baez Camargo of the Basel Institute of Governance for the MACS 2012-2014 programme at the United Nation Office of Drugs and Crimes in Vienna, Austria.

V. WHEN AND WHERE IS THE CIP MONITORED

The CIP is monitored annually. The Officers from the Consultancy Division make yearly checks on these companies to ensure that the anti-corruption elements have been inculcated in their audit and accountancy procedures. These companies also have to report on latest and recent anti-corruption initiatives as part of their ongoing anti-corruption efforts. They also have periodic pledge synchronization meetings to discuss their latest role play in absorbing new and innovative ideas for their existence. Lastly, they too need to enclose implemented anti-corruption initiatives in their annual reports. Though there is much global corporate governance, they too adopt best practises and good governance as a tool to move forward.

The United States and Britain had adopted a shareholder-centric model of corporate governance (often referred to as the Anglo Saxon model). The Germans along with several other European nations, adopted a stakeholder-centric model of governance. The Japanese model was built around business relationships, with Japanese banks, customers, and suppliers all influencing board-level decisions (Larcker, David F & Tayan, Brian: 2007).

VI. TRAINING ASPECTS

Several training programmes and sessions have been introduced by the Malaysian Anti-Corruption Academy to further enhance the Integrity Awareness Programme, being the Generic module and specific module. There are also eight (8) integrity initiatives which have to be adhered to and complied with strictly so as to make the CIP and Certified Integrity officers to function effectively and efficiently. There is also an Integrity Pact (IP) introduced to the companies who are engaged in procurement activities with mostly government, non-government and government-linked companies.

The difference in the IP is that it is legally binding on the companies which provide goods, services and supplies to the said companies. They may be barred, or suspended or blacklisted if they are known or found guilty of corruption in service contracts, supply which involve these said agencies. An example is Alcatel-Lucent SA which has been debarred for a certain time period from supplying and providing services.

MACA is also being tasked to handle training for the Certified Integrity Officers (CeIO) for the private sector and public sector. The programme components for the CeIO introduce extensively the concept of integrity, the practice of integrity, ethical compliance and monitoring as well as the formation and formulation of an Integrity Plan for their respective departments. As far as learning objectives are concerned, the CeIO, at the end of the programme will have had the opportunity to:

- i. Plan effectively and make an accurate decision on any question or concerning integrity.
- ii. Apply the integrity concepts, directly and effectively to the organization's daily operations.
- iii. Analyse methodologies for identifying, understanding, handling and response action.

The Corporate Integrity Development Centre (CIDC) has been tasked for such deliverables. The participants have been tasked with managing their department's Integrity Plan and Code of Ethics/Conduct which were not practised previously. MACA, with its CIDC has been accredited with this success. The honourable Prime Minister of Malaysia has a personal hand on this programme.

The CeIO programme has been seen as attaining the aspirations as well as the accomplishing of the vision and mission of Malaysia to see a corrupt free country for the present generation and the future. The event for international CeIO's on 21 October to 1 November 2013 is testimonial for the success of the CeIO programme as it has gained recognition globally as a milestone in the fight against corruption. As such, Malaysia is a front runner and innovator in this field of adding value to the value chain in the fight against corruption. However it is just a first and foremost step for Malaysia but a giant quantum leap for mankind.

VII. SUCCESS STORIES

Among the multinational conglomerates in Malaysia, and to name a few among the many, Tenaga Nasional Berhad, Telekom Malaysia Berhad, Bank Islam Berhad and Malayan Banking Berhad have taken bold and brave steps to make their signatures on a corrupt-free private, business environment. Up to June 2013, the CIDC has churned out 115 Certified Integrity Officers from 39 private entities and 52 government agencies.

From the 39 private entities that have participated in the CeIO programme, a few of these agencies too have signed the CIP and the Integrity Pact (IP). This, in turn, spearheads a positive momentum in the fight against corruption. These particular individuals will inculcate and promote positive values in integrity within their respective organizations.

Thereby, awareness in anti-corruption strategies is intact in these organizations so as to propel the battle against corruption. Beginning from 1st August 2013, according to government circular number 6 of 2013, every government department has to have a mandatory Certified Integrity Officer who has been trained by the MACA. The integrity unit in the government departments have been tasked to promote good values of integrity amongst their staff.

The Certified Integrity Officer also has to instil good governance among its staff, sustain integrity through the office culture, and execute integrity tenets and principles in the said organizations. The other said duties are the detection and confirmation of corrupt practises amongst staff as well as revealing different breaches of crime to the relevant law enforcement agencies.

Also, the tasks include internal complaints administration against their own staff, compliance with local laws, rules and regulations besides tackling all forms of disciplinary problems amongst staff. Most of the initiatives to counter corruption have been in place since the inception of the CeIO and CIP.

Hence to be a world player in eradicating corruption, the fight must be an ongoing one and a fight which is never yielding or surrendering. If for a single instance, we are caught off guard, that will undoubtedly be the ultimate downfall against the fight. Since the benchmarking has already been set with high standards of integrity, the guard and fight against corruption must be ongoing without fail

or falter.

VIII. CHALLENGES

MACA, and the CIDC, being the training arm against corruption as far as the CeIO is concerned, has to nurture the cooperation of all concerned in the battle against corruption. The battle against corruption might be won today, tomorrow, the day after tomorrow, next week or the following, but the long war against corruption is a never ending one which requires persistence, efficacy and determination from all parties, especially from the bureaucracy to the politicians until civil society to the very grassroots.

Each and every individual, organisation or corporation has to make positive contributions if the war against corruption is to move forward rhythmically and forcefully. The momentum or drive against corruption has to encompass all levels of society if it is to be a winner. The war against corruption is anything but near an end. The fight against corruption is never over. The push against corruption to eradicate it is but a dream. The journey to minimize corruption has to be a holistic one yet empowering professionals to combat it on uphill terrain.

IX. CONCLUSION

A total of 284 companies have signed the CIP in Malaysia as of September 2013. Along with the CIP, these companies have also undergone the Certified Integrity Officer's course which has nurtured them with the necessary competencies in integrity, compliance, ethics, responsibility, conduct, governance and also honesty. As Ntim & Soobaroyen's findings reveal, "on average, better governed corporations are (statistically significantly) more likely to pursue a more socially responsible agenda" as measured by disclosure about specific CSR initiatives. Thereby, the CIP is definitely a step forward in enhancing the integrity of a corporation.

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