

pH Litmus Tracker

A Report on the Progress of Pakatan
Harapan's Institutional and Political
Reforms [May 2019 - November 2019]

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Author

Fadhiah Nadwa Fikri
Cynthia Gabriel

Content Researchers

Sheefa Ahmad
Lalitha Kunaratnam
Oh Shu Ann

Cover & Layout

Sheefa Ahmad

Published by C4 Center

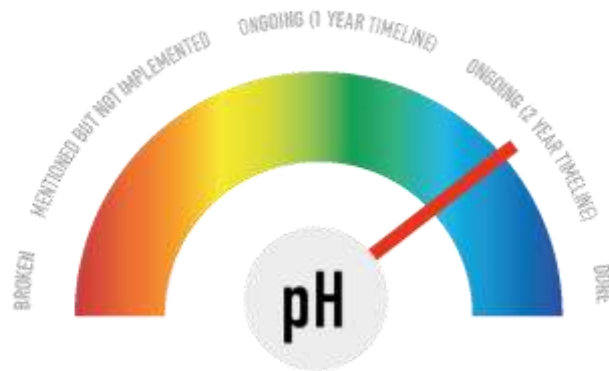
C-Four Consultancies Sdn Bhd
A-3-7, 8 Avenue, Jalan Sungai Jernih 8/1, Seksyen 8
46050 Petaling Jaya, Malaysia

www.JanjiPakatan.org | www.C4Center.org | Telephone: +603 – 7932 2507

Table of Contents

Introduction to the Project	4
Executive Summary	4
Where has PH advanced its reforms and where has it regressed?	6
PROMISE 39: Balancing economic growth with environmental protection	10
PROMISE 23: Ensure government procurement produces the best value for taxpayers' money	15
PROMISE 14: Reform the Malaysian Anti-Corruption Commission (MACC) and strengthen anti-corruption efforts.....	16
PROMISE 18: Create a political financing mechanism that has integrity	21
PROMISE 25: Strengthen the role and powers of the local authorities	21
PROMISE 13: Resolve 1MDB, FELDA, MARA, and Tabung Haji mega scandals	22
PROMISE 22: Make the governance of our GLC world class at par with international standards	27
PROMISE 16: Restore the Dignity of Parliament.....	28
Summary	31

The pH Litmus Tracker



The PH Litmus Report on the Progress of
Pakatan Harapan's Institutional and Political Reforms
May 2019 – November 2019

Introduction to the Project

Since the monumental victory of 9 May 2018, the Center to Combat Corruption & Cronyism (C4 Center) has led a project to track Pakatan Harapan's progress in implementing its manifesto promises, particularly on governance and anti-corruption reforms. The report also documents progress on strategic commitments laid out in the first ever National Anti-Corruption Plan (2019-2023).

Executive Summary

This November 2019 marks the Pakatan Harapan (PH) government in power for one and a half years since it won the 14th general election on 9 May 2018.

The win which was undoubtedly historic, was propelled by the people's unhappiness and anger towards the country's previous leadership that facilitated unbridled corruption under the Barisan National government, where billions of taxpayers' money was siphoned off wilfully with complete impunity.

The PH Manifesto, comprising 60 main goals outlined the political coalitions promises to the people should it win the elections. And win it did.

Promise 14 of the PH Manifesto, for example specifically spells out the government's commitment to stamp out corruption and abuse of power. This commitment is embodied in two other notable government documents namely the Mid-Term Review of the 11th Malaysia Plan (Mid-Term Review) and the National Anti-Corruption Plan (NACP).

Pillar 1 of the Mid-Term Review includes reforms in the area of governance. It aims at ensuring greater transparency and efficiency of the public service as one of the government's new priorities and emphases for 2018-2020.

The first of its kind, the NACP was launched in January 2019 and formulated in line with the spirit of the United Nations Convention against Corruption (UNCAC) to which Malaysia is a State party. This policy aims at achieving Malaysia's vision of being a corrupt-free nation by the year 2023.

While we acknowledge that several key law and policy reforms are in place, and consultative efforts with various stakeholders have improved tremendously, we remain concerned that several major structural reforms remain unattended to.

The daunting commitment to change and the challenging reality should not be used to cloud inaction in areas of reform which require urgent intervention.

The PH's government's lack of urgency to take appropriate measures and present a roadmap to stamp out the deeply embedded culture of political patronage is a case in point.

The past one and a half years under the PH rule has further witnessed a worrying rise in mega development projects which pose great risks to human well-being and the environment. More worrying is the behind the scenes collusion with business personalities and wealthy persons, in an apparent move to push profits at all costs, and generate revenue for our struggling economy. This wheeling and dealing directly goes against Promise 39 of the PH manifesto in particular and has been captured by the C4 documentation team on numerous cases across Malaysia.

On 28 September 2019, C4 together with other civil society organizations working on good governance organized a consultation meeting in Kuala Lumpur to identify issues surrounding the ongoing development projects in various states which raise serious environmental and human rights concerns. This consultation meeting was a culmination of the two state-level consultation meetings which took place in Penang and Johor in early September where it brought together members from community groups and civil society organisations, from other states such Perak, Pahang, Kedah, Kuala Lumpur, and Selangor. The findings of the consultation meeting point to a disturbing trend where corrupt practices and poor governance (lack of public consultation, conflict of interest, and non-availability of information, and an entrenched patronage system) appear to be driving the current environment around Public Private Partnerships (PPP), resulting in large scale projects that threaten an already stressed environment and the right to life and livelihood of affected communities.

The inseparable nexus between business and politics which clearly fuels money politics and places profit over peoples remains an embedded problem. The failure of the government to put in place concrete mechanisms to ensure transparency and accountability mechanisms around business and politics nexus further reinforces the culture of political patronage as it allows business players and those in positions of power to weigh a heavy influence and possibly dictate the government's development and economic agenda.

More devastating to the progress of the “New Malaysia” vision is the government’s involvement in divisive racial politics which inadvertently distracts people’s attention from watching and monitoring how big money (public money) which is so intricately tied to these development projects is being moved around freely at the expense of the people and the environment.

Not only would this regression undermine the government’s own vision, but it would also undoubtedly stunt the realization of people’s economic and social rights.

The Opposition which is supposed to play an effective role of check and balance against the government has miserably failed to highlight this important aspect of reform as they are mired in racial politics, mainly to split the ruling government. Both the government and the Opposition seem to be more invested in advancing racial politics that does nothing but divide the people and reinforce racial segregation and an economy which begs competitiveness.

The frustration felt by Malaysians who voted for PH in the 14th general election reached boiling point when they decided to vote against the PH candidate in the recent Tanjung Piai by-election which saw the defeat of a more than 15,000 majority. It seems that the clear message from the election outcome, was to make it loud and clear that such decisions were made to punish the PH government for their failure to fulfill many of its key election promises.

Given this severe blow to the PH administration, it is imperative that the government revisit its vision and commitment which are urgently needed to fully implement the institutional and political reforms crystalized in the respective national policies. The defeat should serve as an opportunity for the government to refocus on fulfilling its election manifesto. This is key to regaining the people’s trust and putting the reform agenda back on track.

Where has PH advanced its reforms and where has it regressed?

The table below indicates the summary of positive developments and worrying trends in relation to the various areas of reform/election promises assessed in this report. Full assessment of the respective areas of reform/election promises can be found on page 7-25 of this report.

Positive Development	Worrying Trends
<p>Promise 29: Budget Transparency</p> <ul style="list-style-type: none"> The Special Select Committee on Budget has been set to scrutinize the federal budget and matters that may impact the budget execution. 	<p>Promise 39: Economic Growth and Environmental Protection</p> <ul style="list-style-type: none"> Potential corrupt practices and poor governance are propelling the development projects which are being carried out in various states in Malaysia. Lack of public consultation, secrecy in decision-making, conflict of interest, and non-availability of information in relation to the development projects.

	<ul style="list-style-type: none"> • Collusion between business players and those in positions of power. • Agencies tasked with overseeing the development projects such as the National Physical Planning Council. The Department of Environment and relevant Ministries have failed on many counts to give sufficient and comprehensive information and explanation regarding the development projects in question. • Measures to ensure transparency and accountability have hardly been taken to immediately address issues surrounding the development projects in question.
<p>Promise 16: Dignity of Parliament</p> <ul style="list-style-type: none"> • The All-Party Parliamentary Group (APPG) has been set up to provide a platform for CSOs to discuss matters pertaining to local and sustainable development directly with members of Parliament on the sustainable development agenda. • Four new special select committees have been set up to review government policies and serve as a check and balance mechanism against the Executive: <ol style="list-style-type: none"> 1) Special Select Committee on Election 2) Special Select Committee on International Relations and Trade 3) Special Select Committee on Human Rights and Constitutional Affairs 4) Special Select Committee and on Science, Innovation and Environment • The Parliamentary Committee on Major Public Appointments would be determining the appointments to four key institutions. These appointments are: <ol style="list-style-type: none"> 1) The chairman and members of the Election Commission 2) The chairman and members of the Judicial Appointments Commission 3) The chairman and members of the Human Rights Commission (SUHAKAM) 4) The chief commissioner of the MACC 	<p>Promise 22: Government-Link Companies (GLC) Reform</p> <ul style="list-style-type: none"> • No sign that mechanisms or guidelines have been formulated to address issues surrounding the governance of GLCs. • Business as usual as there is no mention of mechanisms to address issues surrounding political appointments.

<ul style="list-style-type: none"> Parliament will cut RM500 allowance meant for members of Parliament for non-attendance. A special timetable and rules for PH lawmakers will be introduced to ensure sufficient attendance in the Dewan Rakyat Asset Declaration Motion passed across the house, despite initial objections. 	
<p>Promise 13: Resolve 1MDB, FELDA, MARA, and Tabung Haji mega scandals</p> <ul style="list-style-type: none"> 1MDB cases: The government's efforts to take swift action to bring the perpetrators to justice and recover all the stolen assets are commendable. Three separate trials related to the 1MDB corruption scandal are in progress - SRC International, 1MDB-Tanore, and the tampering of the 1MDB audit report. 	<p>Promise 13: Resolve 1MDB, FELDA, MARA, and Tabung Haji mega scandals</p> <ul style="list-style-type: none"> FELDA: Following the white paper tabled in parliament last year, concrete action that needs to be taken to ensure that the root of the problem is addressed has yet to be taken. MARA: No action has been taken to investigate corrupt practices in relation to the purchase of UniLodge building in Melbourne by Mara Incorporated Sdn Bhd and countless other allegations facing MARA. Tabung Haji: Apart from the prosecution of the former Tabung Haji Chairman and the granting of 1.25% dividend to Tabung Haji depositors for the 2018 financial year, the government has been slow to address the structural problems plaguing Tabung Haji.
<p>Promise 14: Malaysian Anti-Corruption Commission (MACC) Reform and Anti-Corruption Efforts</p> <ul style="list-style-type: none"> Corporate liability provisions incorporated into section 17A of the Malaysian Anti-Corruption Commission Act 2009 (MACC Act) will be enforced in June 2020 where corporate veil will be removed. The MACC is planning to draft specific provisions to require companies trying to win government tenders to disclose beneficial ownership. 	<p>Promise 14: Malaysian Anti-Corruption Commission (MACC) Reform and Anti-Corruption Efforts</p> <ul style="list-style-type: none"> The appointment of the MACC Chief Commissioner was solely made by the Prime Minister and did not go through the Parliamentary Select Committee on Major Public Appointments as publicly promised. Amendments which do not require a two-third vote should urgently be made to a number of provisions of the MACC Act to ensure that they are more robust and effective have yet to be made.

<ul style="list-style-type: none"> • The Dewan Rakyat approved a special motion tabled by Minister in the Prime Minister's Department Liew Vui Keong requiring all members of Parliament, senators, and their immediate family members to declare their assets. • The Dewan Negara followed in the footsteps on the Dewan Rakyat where a motion requiring all senators to declare their assets was approved. • The Dewan Rakyat passed the (National Anti-Financial Crimes Centre) NAFCC Bill 2019 which enables the setting up of a center tasked with conducting investigations into financial crimes committed locally and abroad. • The Whistleblower Protection Act 2010 would be reviewed and the amendments would be tabled in Parliament next year. • The Freedom of Information Bill is slated to be tabled in Parliament in 2020. • The bill on Ombudsman will be tabled, and a recent briefing was held to gather input. 	<p>Promise 18: Political Financing Mechanism</p> <ul style="list-style-type: none"> • The tabling of the bill on political financing has been delayed and no explanation has been given to explain the reasons for the delay. • Recent by-elections have seen the culture of money politics, well alive. • The statement made by Bersatu's vice-president Abdul Rashid Ab Rahman urging the government to give all development projects to the party to run its activities is proof that the culture of money politics is very much alive.
	<p>Promise 23: Procurement System Reform</p> <ul style="list-style-type: none"> • The government continues with the 'business as usual' approach. • Agriculture and Agro-based Industry Minister Salahuddin Ayub recently admitted that he had written a letter to the Prime Minister requesting that a RM1.4 billion paddy subsidy contract be awarded to the National Farmers' Association and defended his action by saying that he did nothing wrong as the Ministry of Finance had yet to decide on the matter. • The Prime Minister recently said that Cabinet ministers are allowed to award projects that are within their respective jurisdictions.
	<p>Promise 35: Role of Local Authorities</p> <ul style="list-style-type: none"> • The reintroduction of local council elections in Malaysia has been delayed for another 3 years.

Assessment

39

Balancing economic growth with environmental protection

Promise 39 of the Pakatan Harapan Manifesto, among others, states that the government will review approved or ongoing controversial projects to ensure their compliance with established standards. We note with concern some of the ongoing projects that raise serious environmental and human rights issues. The projects are:

1) Land grab involving Taman Rimba Kiara

We regret to note that there has been no sign of progress in relation to this case. It bears reminding that on 22 April 2019, Federal Territories Minister Khalid Samad said he would submit to the Cabinet a 50% reduction of the proposed Taman Rimba Kiara high-rise project. He stated that the government needed to resolve this issue as a legal contract had been signed and a development order had also been issued under the previous government's administration.

It is noteworthy that the Member of Parliament for Segambut and the residents affected repeatedly stated that they would not accept the scaled-down version of the project. We were informed that the Cabinet would be meeting in May 2019 to address this issue. This case was currently being investigated by the MACC. On 22 January 2019, C4 Center urged the MACC to speed up the investigation against the former Federal Territories Minister Tengku Adnan over the land grab. It appeared Tengku Adnan could have abused his position by making decisions in ways that would benefit his associates and family members. We note with concern the fact that there has been no update on the status of the Cabinet meeting and the investigation by the MACC.

The residents of Taman Rimba Kiara have filed an appeal to the Court of Appeal against the High Court's dismissal of their judicial review application to challenge the approval for the development project at Taman Rimba Kiara. The Court of Appeal will hear the appeal on 15 January 2020.

2) 64 dubious deals involving Kuala Lumpur land

It was reported that on 11 April 2019, the PAC would summon the Attorney General and MACC Commissioner to give statements. The MACC had previously probed the sale of 64 dubious land deals by the DBKL, of which 48 cases were cleared by the MACC. On 21 August 2019, the PAC confirmed that it had conducted four hearings regarding these matters. We are still waiting the findings of the hearings to be announced. The status of the remaining 16 cases remains unknown.

3) Papar Dam

On 19 July 2019, geologist Professor Dr Felix Tongkul briefed the Sabah state government on the destructive impacts of the construction of the Papar dam on the environment and the people. The construction of the dam could cause:

- i) micro-earthquakes and flooding
- ii) disruption of the river flow causing imbalances to the natural hydrological and ecological system
- iii) disruption of people's lives and destruction their history

The geologist also urged the state government to conduct:

- i) cost-benefit analysis of the dam and other alternatives
- ii) evaluation of its social and environmental costs

It was reported that the state government stated that it would look into the concerns and recommendations highlighted in the meeting.

Despite strong protests by the affected communities and concerns raised by the experts, the project is expected to continue. On 19 October 2019, it was reported that two companies had been shortlisted to carry out the project.

4) Lynas

On 1 August 2019, the Prime Minister said that Malaysia was waiting for Lynas to provide a radioactive waste management plan before its licence would be renewed. It was reported on 15 August 2019 that the government proceeded to renew Lynas's licence for 6 months on a number of conditions. The conditions are:

- i) Lynas is required to move its cracking and leaching process, which is currently conducted in its plant in Gebeng, Kuantan, out of the country
- ii) Lynas is not allowed to produce radioactive residue of more than 1 Becquerel per gram in its Gebeng plant
- iii) Lynas is required to identify a specific site to construct a permanent disposal facility (PDF) and to obtain written permission from the state government for the use of that site
- iv) Lynas is required to submit a comprehensive plan for constructing and financing the PDF
- v) Lynas is required to produce an official, written permission from the authorities of whichever country it plans to send the Water Leach Purification (WLP) residue to
- vi) Lynas is required to end all research and development activities related to the use of the radioactive WLP residue as Condisoil in the field of agriculture
- vii) Lynas is required to contribute 0.5% of its annual gross profit, which was allocated for research and development activities, to the Malaysian government until the "cracking and leaching" facility overseas start operating

It is important to note that the condition which requires that the cracking and leaching process be conducted out of the country would involve operation which would take four years from the date of the licence renewal. This effectively means that Lynas has been given the green light to operate for another 4 years and not 6 months as initially perceived.

On 22 October 2019, it was reported that Lynas made a new application to raise the lanthanide concentrate processing limit for 2019. The government has yet to approve this application. No further information has been given to indicate the specific measures that the government intend to take to ensure that Lynas complies with the stipulated conditions.

5) Haze

On 13 September 2019, the Indonesian government named four palm oil companies linked to Malaysia as parties responsible for starting several forest fires that were causing the haze which had become an annual occurrence in Malaysia and its neighbouring countries. The companies are:

- i) Sukses Karya Sawit which is a unit of IOI Corporation
- ii) Sime Indo Agro which is a unit of Sime Darby Plantation
- iii) Rafi Kamajaya Abadi which is a unit of Terengganu-owned TDM Berhad
- iv) Adei Plantation and Industry which is a unit of Kuala Lumpur Kepong Berhad

Upon the revelation, Energy, Science, Technology, Environment and Climate Change Minister Yeo Bee Yin responded by urging Indonesia to take action against the companies involved according to their law. On 24 September 2019, Minister Yeo Bee Yin announced that her Ministry was drafting a new law called the Cross-Border Pollution Act that would hold Malaysian companies and individuals causing pollution overseas accountable. She also noted that the Ministry was working closely with the Attorney General to expedite the process of enacting the law.

6) Penang South Reclamation (PSR) Project and Penang Transport Master Plan (PTMP) Project

On 18 April 2019, the National Physical Planning Council chaired by the Prime Minister gave approval to the Penang government to reclaim 3 islands off the southern coast of the main island for the implementation of the PTMP project which costs RM46 billion. The PSR project which would increase the state's land bank seeks to provide funding for the PTMP project. The PTMP project involves the construction of a light rail transit, an undersea tunnel, and three paired highways on the main island. There are compelling reasons to believe that the PTMP project is mired in poor transparency and accountability standards, given the fact that the project was awarded through a request for proposals instead of a transparent open tender. While many in the government argue it's one and the same thing, Consortium Zenith Sdn. Bhd, the company tasked with carrying out the projects, is also linked to a former UMNO Minister, and had admitted to having paid "consultation fee" resulting from unethical and corrupt business conduct.

The Penang government's refusal to consider imposing a moratorium on the projects until the MACC probe was over, raises questions as to its commitment to adhering to Competency, Accountability and Transparency (CAT) principles which it had pledged to uphold.

In reference to the PSR project, the Penang state government announced on 5 July 2019 that the Department of Environment (DOE) had given its approval for the implementation of the project. On 20 July 2019, development planning expert Professor Emeritus Dr Hans-Dieter Evers from the Institute of Malaysian and International Studies of the Universiti Kebangsaan Malaysia warned that the projects pose a great danger to Penang and urged that the projects be stopped altogether. He also highlighted the negative socio-economic and environmental impacts of the projects:

- i) Major flooding
- ii) Destruction of the breeding grounds for fish and shrimp
- iii) Cutting off the fishermen's direct access to the sea

The lack of transparency on the part of both the federal and state government around the projects are deeply concerning. Among the concerns raised around this issue are:

- i) The DOE only took two working days to approve the Environmental Impact Assessment for the PSR project
- ii) Cost benefit analyses have not been conducted by independent bodies

Despite protests by the affected communities and concerns raised by the experts and CSOs, the projects are slated to proceed. The Penang Chief Minister confirmed on 15 October 2019 that the projects would be tendered out in the second half of next year.

7) Plastic Waste Dumping in Sungai Petani

On 10 May 2019, it was reported that plastic waste from all over the world – America, Japan, Europe – had been dumped in Sungai Petani and burnt in the open. The burning had caused immense pollution in the 922.6km square district inhabited by about 550,000 residents. It was reported that the dumping site measures nearly 40 acres, or close to 15 football fields.

Local environmental action group Persatuan Tindakan Alam Sekitar Sungai Petani (PTAS) said that they also discovered a number of illegal recycling factories operating in Sungai Petani. The DOE informed the PTAS that there were only 5 recycling centers that were allowed to operate and they had instructed 21 illegal recycling centers to be shut down. The PTAS subsequently visited the illegal factories and confirmed that

they were still operating. When asked to explain the situation, the DOE said that it was difficult for them to enforce the law as they were understaffed.

Meanwhile, Kedah Climate Change and Environment Committee chairman Simon Ooi Tze Min said the state government was investigating how the plastic waste had ended up in the area.

According to ad hoc reports, we note some containers of plastic waste are being returned to countries of origin, but none on the specific measures the government intends to take to get to the bottom of the matter. There appears to be a strong stench of illegality and cutting corners in our preliminary research as Sungai Petani is not the only town affected by the sudden waste dumping into Malaysia.

It has been 6 months since the case was exposed to the public but the residents in Sungai Petani continue to suffer the harmful effects of air pollution that does not seem to subside.

Analysis

The above cases demonstrate a disturbing trend which violates sustainable development, allows dubious practices and poor governance to propel potential corruption via mega development projects which are being carried out in various states in Malaysia.

Some of the core issues identified in those cases are: powerful business interests, a lack of public consultation, conflict of interest, and non-availability of information. The collusion between business players and those in positions of power to allow the development projects to continue at the expense of the people and the environment is becoming increasingly apparent and remains unchecked. Authorities tasked with overseeing the development projects such as the National Physical Planning Council and the Department of Environment have failed to give sufficient information and explanation with regards to the processes that ought to be followed and the decisions to give approvals for the projects in question to both the affected communities and the public. It is deeply concerning that the environment and the well-being of the people are being dragged into suspicious deals and projects which involve big money and no measures to ensure transparency and accountability have been taken to immediately address these cases.

We reiterate that mega development projects that pose great risks to the environment and the well-being of the people should strictly adhere to existing laws, transparency and accountability processes and mechanisms.

Meaningful public consultations are key to ensuring that these projects are carried out solely to uphold and protect the welfare of the general public. When claims involving corruption or abuse of power surface, as apparent in the PTMP project and the plastic waste dumping in Sungai Petani, the government is duty-bound to immediately investigate and halt the process until all investigations are cleared.

Greater scrutiny should be placed on the sales of government land and the implementation of mega development projects as they involve big money that is supposed to be spent to uphold solely the interest of the people. The government and its agencies have an obligation to provide material information in relation to the dealings involving government land and the processes that ought to be strictly followed to ensure transparency and accountability.

23

Ensure government procurement produces the best value for taxpayers' money

On 18 July 2019, the Prime Minister announced that the Cabinet Special Committee on Anti-Corruption was discussing the scope of the Government Procurement Bill which will be subsequently drafted by the Ministry of Finance. The Bill was slated to be tabled in Parliament in 2020.

The government's commitment to enact a Government Procurement Act is timely given the fact that procurement is one of government's activities that is most vulnerable to corruption. This commitment was reiterated by the GIACC director-general at a forum on government procurement which was jointly organized by C4 Center and the Institute of Integrity Malaysia on 27 September 2019 which saw the participation of 221 public sector officials who currently work in various ministries and GLCs.

Despite the government's commitment to reform the current procurement system, those who are in positions of power are still continuing with the 'business as usual' approach. On 22 November 2019, it was reported that Agriculture and Agro-based Industry Minister Salahuddin Ayub admitted that he had written a letter to the Prime Minister requesting that a RM1.4 billion paddy subsidy contract be awarded to the National Farmers' Association. He defended his action by saying that he did nothing wrong as the Ministry of Finance had yet to decide on the matter. The Prime Minister also said on the same day that Cabinet ministers are allowed to award contracts that are within their respective jurisdictions.

We urge the government to focus on taking appropriate measures to expedite the process of drafting the procurement law. We would like to emphasize that to ensure its effective implementation, the law must address/embody the following:

- 1) Measures to address conflict of interest and the culture of patronage politics
- 2) Developing competitive initiatives to allow a progression towards merit and removing cronyism and patronage tendencies
- 3) Moving from compliance to integrity
- 4) Clear punitive measures to be taken against wrongdoers across the supply chain

We note with concern the fact that the process around the drafting of this law remains sketchy. It bears reminding that consultations with CSOs working on this issue is important and should be immediately initiated to kick-start the process of legislating this important law.

This in line with the government's obligation under Article 13(1)(a) of the United Nations Convention against Corruption (UNCAC) which mandates that the government promote active participation of society in decision-making processes. Consultations with civil society organizations are key to ensuring that the law truly captures all pertinent points that need to be included to ensure its effective application and implementation.

14

Reform the Malaysian Anti-Corruption Commission (MACC) and strengthen anti-corruption efforts

MACC Reform

Corporate liability

At the end of May 2019, the MACC announced that it will enforce section 17A of the MACC Act – an amendment made in Parliament in April 2018 – in June 2020. Section 17A empowers the MACC to bring corporate entities to account for their involvement in corruption and abuse of power. This new provision seeks to expand the power of the MACC which was initially confined to individual liability. This step was taken to ensure that Malaysia fulfils its international obligation under Article 26 of the United Nations Convention against Corruption (UNCAC). The close nexus between business and politics has shown how corrupt practices in the corporate sector have become increasingly pervasive and allowed to fester with impunity.

The move to enforce the provision on corporate liability is therefore without a doubt timely and necessary. It will stamp out the deeply entrenched culture of money politics by preventing businesses from influencing political parties where they would give them funding to win elections in exchange for business favours.

Beneficial Ownership

On 22 July 2019, the MACC Chief Commissioner announced that the MACC was planning to draft specific provisions requiring companies trying to win government tenders to disclose beneficial ownership. She further stated that the provisions which be incorporated into the MACC Act sought to prevent companies linked to ministers and government officials from getting government contacts.

This move is undoubtedly a step in the right direction. It is urgently needed as it will enable the MACC to effectively address and combat corrupt practices that are pervasive in the corporate sector.

Appointment of the MACC Chief Commissioner

On 4 June 2019, the government announced the appointment of Latheefa Koya as the new MACC Chief Commissioner. The appointment came as a shock to many given the fact that the tenure of the former MACC Commissioner would only end in 2020. The appointment sparked immense criticism as it did not go through a Parliamentary select committee – a commitment expressly made in the Pakatan Harapan Manifesto and subsequently reiterated by the Prime Minister himself. On 5 June 2019, the Prime Minister admitted that he did not consult the Cabinet regarding the appointment and it was his personal decision and it was final.

The Parliamentary Select Committee on Major Public Appointments tried to intervene by requesting to meet the Prime Minister to address concerns around the appointment. Instead of revisiting the appointment, the Prime Minister insisted on sticking to his decision to appoint Latheefa Koya as the new MACC Chief Commissioner.

It is incredibly unfortunate that the government turned its back on its own commitment and refused to revisit its decision even when it had the opportunity to do so. It could have seized that moment and done the right thing by allowing such appointment to be scrutinized by the Parliamentary Select Committee on Major Public Appointments.

This move would have immensely propelled the integrity and independence of the MACC which are desperately needed to effectively address the deeply embedded corruption in Malaysia without fear or favour.

Amendments to Strengthen the MACC Act

On 5 September 2019, the National Centre for Governance, Integrity and Anti-Corruption (GIACC) director-general announced that a number of constitutional amendments to the Federal Constitution to ensure that the MACC discharges its duty independently and effectively will be made within 5 years. These amendments are in relation to the appointment and dismissal of the Chief Commissioner, budget, oversight committee, and establishment of a service commission and manpower. He also noted that the government is facing a challenge to realizing this effort given that constitutional amendments require a two-thirds vote which it does not currently have.

While we acknowledge that this procedural obstacle still persists, we would like to reiterate that there are a number of measures that could be taken by the government in the interim to ensure some degree of integrity and independence is accorded to the MACC. Given that the government had reassured its commitment to ensure that the MACC reports directly to Parliament and the appointment of the Chief Commissioner be done through a Parliamentary select committee, we reiterate our call that these measures be legislated to ensure their effective application and implementation. In addition to these measures, the government should also move to set up a regulatory body under the MACC to monitor governance of institutions that deal with investments.

To strengthen these measures, amendments which do not require a two-third vote should be made to a number of provisions of the MACC Act to ensure that they are more robust and effective. The proposed amendments are:

- 1) Section 23 which provides that it is an offence for any officer of a public body to use his office or position for any “gratification” be amended to include non-pecuniary forms of corruption such as abuse of office, advancement of one’s aim, status, and promotional aspects.
- 2) Section 36 which gives the power to the MACC to obtain information in connection with an offence under the Act be amended to expand the reach of this provision to capture incidences of a public official living beyond his/her means (unexplained wealth).

To date, the government has not given any indication as to the steps it would take to implement these temporary measures.

[Reference: Memorandum for the Reform of the Malaysian Anti-Corruption Commission submitted to the MACC in 2015 by the Malaysian Bar in collaboration with IDEAS, C4 Center, CNBM, and TI-M International:

http://www.malaysianbar.org.my/index.php?option=com_docman&task=doc_view&gid=5111&Itemid=332]

Asset Declaration

On 1 July 2019, the Dewan Rakyat approved a special motion tabled by Minister in the Prime Minister’s Department Liew Vui Keong requiring all members of Parliament, senators, and their immediate family members to declare their assets. This motion which was subsequently incorporated into the Code of Ethics for Administrative Members and Members of Parliament mandates that declaration of asset be submitted to the Dewan Rakyat Speaker and the MACC Chief Commissioner. Those who do not comply with this new ruling will be held in contempt of Parliamentary regulations and will be referred to the Parliamentary Rights and Privileges Committee under Meeting Rule 80. Upon conviction, false declaration will carry a maximum jail term of three years and a fine pursuant to the Statutory Declarations Act 1960.

The government stated that this move was made to pave the way for the enactment of an asset declaration law. It announced that the bill on asset declaration will be tabled in the October Parliamentary sitting.

The Dewan Negara followed in the footsteps on the Dewan Rakyat where a motion requiring all senators to declare their assets was approved on 22 July 2019. It is important to note that Minister in the Prime Minister’s Department Liew Vui Keong noted in Parliament that no security issue had arisen following the declaration of assets by ministers and deputy ministers, which had been posted on the MACC website since October 2018.

We applaud this positive move and we would like to emphasize that a law on asset declaration is timely. The government must ensure that the new law is applicable to lawmakers at all levels of government and public officials occupying high positions of power and mandates asset declaration be made public. This can be done by making all relevant forms concerning asset declaration accessible to members of the public and machine-readable. It is important to note that the MACC itself has previously made a commitment to facilitate the process of

making asset declaration public by uploading the relevant information on its website. The law must also require business interests to be disclosed on top of income and assets.

National Anti-Financial Crime Centre (NAFCC) Bill 2019

On 10 October 2019, the Dewan Rakyat passed the NAFCC Bill 2019 which enables the setting up of a center tasked with conducting investigations into financial crimes committed locally and abroad. The Bill also seeks to manage a centralised data system on financial crimes. This step was taken by the government to address the report by the Global Financial Integrity which recorded an outflow of an estimated US\$435bil (RM1.82 trillion) in illegal and laundered money between 2006 and 2015.

As regards the appointments of the NAFCC director-general and chairman, Minister in the Prime Minister's Department Liew Vui Keong stated that they would go through the Parliament Select Committee. He also noted the government will ensure that the NAFCC reports to Parliament and all its reports be audited.

The establishment of the NAFCC which is expected to be carried out next year is certainly a step in the right direction. We implore the government to fulfil its commitment to ensure that the appointments of the NAFCC director-general and chairman go through the Parliament Select Committee to ensure that the process of appointment is transparent.

Revise the Whistleblower Protection Act 2010, the Official Secrets Act 1972, and the Witness Protection Act 2009

In pleading the corporate sector to support the government's efforts to combat corruption, the Prime Minister affirmed on 19 September 2019 that companies which provide information on corruption would be protected.

While the government's move to encourage people in the corporate sector to blow the whistle is commendable, we however would like to stress that a truly safe environment to protect whistle blowers can be only be built by strengthening the Whistle blower Protection Act 2010 and the Witness Protection Act 2009.

We note the announcement made by Minister Liew Vui Keong on 30 October 2019 stating that the Whistle blower Protection Act 2010 would be reviewed and the amendments would be tabled in Parliament next year. In light of this development, we reiterate our call for these two laws to be immediately amended:

- 1) Section 6 of the Whistle blower Protection Act 2010 be amended to ensure that disclosure can be made through other means and not just to enforcement agencies.
- 2) Section 2 of the Witness Protection Act 2009 be amended to include "whistleblower" in the definition of "witness".
- 3) Subsistence to the Official Secrets Act 1972 (OSA) and Banking and Financial Institutions Act 1989.

On 16 July 2019, Deputy Minister in the Prime Minister's Department Mohamed Hanipa Maidin announced that a committee had been set up to review the OSA. He stated that the amendments to the OSA will be made in Parliament next year. This move is commendable and urgently necessary given the OSA's wide and unchecked powers to declare any document as secret shields the government from public scrutiny and accountability, thus making the realization of the good governance agenda an impossibility.

We however would like to emphasize that consultations with civil society organizations is equally important and should be immediately initiated. This is in line with the government's obligation under Article 13(1)(a) of the United Nations Convention against Corruption (UNCAC) which mandates that the government promote active participation of society which includes civil society organizations in decision-making processes. Consultations with civil society organizations are key to ensuring that the Bill truly captures all pertinent points that need to be included to ensure its effective application and implementation.

[Reference: Memorandum for the Reform of the Malaysian Anti-Corruption Commission submitted to the MACC in 2015 by the Malaysian Bar in collaboration with IDEAS, C4 Center, CNBM, and TI-M International:

http://www.malaysianbar.org.my/index.php?option=com_docman&task=doc_view&gid=5111&Itemid=332]

Enact a Freedom of Information (FOI) Act

On 18 July 2019, the Prime Minister announced that the FOI Act will be drafted to replace the OSA. The FOI Bill is slated to be tabled in Parliament in 2020. Following this announcement, the Legal Division Affairs of the Prime Minister's department has kick-started a series of meetings with civil society organisations working on issues related to freedom of information to seek feedback on how to effectively and meaningfully conduct stakeholder consultations.

The government's effort to ensure that an FOI law is enacted is a step in the right direction. We reiterate our call for the government to ensure that this new law spells out limited exceptions, proactive obligations to disclose information, clear and simple procedures for making requests, an independent and effective oversight mechanism, and adequate promotional measures.

Ombudsman Act

In September last year, the Prime Minister announced that the existing Public Complaints Bureau would be replaced with Ombudsman Malaysia. He said that an Ombudsman Act would be drafted to enable public complaints to be effectively managed. To ensure that the Ombudsman operates independently, the Prime Minister assured that it would not be placed under the prime minister's office or under any ministry.

On 30 October 2019, Minister Liew Vui Keong announced that the working paper on Ombudsman law was ready to be presented to the Cabinet. He also noted that consultations

with stakeholders would commence once the working paper has been approved by the Cabinet. The Cabinet approved the proposal to set up the ombudsman on 1 November 2019.

We applaud this positive move which is timely and necessary. A first consultation was held on 25 November 2019.

18 Create a political financing mechanism that has integrity

On 17 September 2019, GIACC director-general Tan Sri Abu Kassim Mohamed stated that the Bill on political financing would be tabled in the October Parliamentary sitting. We are however concerned that the tabling of the Bill has been delayed and no explanation has been given to explain the reasons for the delay.

The statement made by Bersatu's vice-president Abdul Rashid Ab Rahman urging the government to give all development projects to the party to run its activities is proof that the culture of money politics is very much alive. We would like to emphasize that transparency around political financing is key to addressing and eradicating the deeply entrenched culture of money politics which could lead to corruption and abuse of power. This can only be achieved by enacting and enforcing an effective political financing law.

In light of the foregoing, we demand that the government explain the reasons for the delay in tabling the law. We would like to also urge that consultations with civil society organizations working on political financing be immediately initiated. This is in line with the government's obligation under Article 13(1)(a) of the United Nations Convention against Corruption (UNCAC) which mandates that the government promote active participation of society which includes civil society organizations in decision-making processes. Consultations with civil society organizations are key to ensuring that the Bill truly captures all pertinent points that need to be included to ensure its effective application and implementation.

25 Strengthen the role and powers of the local authorities

The Housing and Local Government Ministry said on 8 July 2019 that it was in the midst of drafting a working paper on the reintroduction of local council elections. It also noted the paper would be presented to the Cabinet by the end of 2019.

On 18 August 2019, the Housing and Local Government Minister stated that the Ministry needed three years to complete the working paper. We would like to reiterate that the implementation of local council elections is an important policy shift. While we acknowledge that it was removed from the Pakatan Harapan manifesto the 14th general elections, the subsequent commitment made by the government shows that it is without a doubt an integral part of the reform agenda and therefore it must be seriously pursued.

It bears reiterating that it is vital for local council members to be elected by the people as they are the third and most basic level of governance who understand the needs and requirements of the local community much better than the Federal Government. Local councillors will not only provide checks and balances in the administration but also enable better community participation in the decision-making process. The third vote will improve governance at all levels, elevate integrity and accountability, enforce prudent public finance management as well as enhance public service delivery.

It is important to note that the implementation of local council elections will fulfill Malaysia's commitment to localize the essence of the Sustainable Development Goals (SDG) adopted by all United Nations member states in 2015 which emphasizes the need for citizen participation, among others. In light of the foregoing, it is therefore imperative that the government expedite the process of reintroducing local council elections in Malaysia.

13

Resolve 1MDB, FELDA, MARA, and Tabung Haji mega scandals

1MDB

SRC International

Former Prime Minister Najib Razak was charged on 4 July 2018 with criminal breach of trust under section 409 of the Penal Code, abuse of power under section 23 of the MACC Act, and money laundering under section 4(1)(b) of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001. These charges are in relation to misappropriation of RM42 million from an RM4 billion loan taken by SRC International between August 2011 and January 2012. On 11 November 2019, the Court ruled that the prosecution had proven a prima facie case against Najib Razak and ordered that his defence be entered on 3 December 2019.

Audit Report Tampering

On 12 December 2018, former Prime Minister Najib Razak was charged with abuse of position to obtain gratification under section 23 of the MACC Act. Arul Kanda was also charged for

abetting him to commit the offence. Najib Razak has been accused of using his official position to avoid civil or criminal liability by instructing certain information in the final 1MDB audit report to be altered before presenting it to the Public Accounts Committee (PAC). On 21 November 2019, prosecution witness Nor Salwani Muhammad testified in Court that she made a recording of a coordination meeting linked to the final 1MDB audit report by slipping in a voice recorder into the pencil case of her superior without her knowledge. She further stated that the move would enable her to prepare minutes of the meeting as she was not allowed to participate in it. She said that as the appointed coordinator of the meeting, she did that to find out what transpired in the meeting. Nor Salwani told the Court that she and the 1MDB audit team were shocked to learn that there was a request made for the 1MDB financial statement to be omitted from the final audit report. She explained to the Court that she saved the last copy of the audit report despite being instructed to destroy it because she wanted to hand it over to the new Auditor-General to enable her to get the full picture of the matter in question. Another witness who testified on the same day told the Court that he had instructed that the final audit report be classified under the Official Secrets Act 1972 to avoid it from being sensationalised before it was presented to the PAC.

1MDB-Tanore Finance Corporation

In September 2018, former Prime Minister Najib Razak was charged with 21 counts of money laundering totalling 4.3 billion under section 4(1)(a) of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 and 4 counts of abuse of power to obtain gratification under section 23 of the MACC Act – gratification amounting to RM2.3 billion in 1MDB funds which was subsequently channelled to his personal bank account. Najib Razak has been alleged to have received a total of RM2.08 billion deposited to his account in nine tranches – RM155 million, RM155 million, RM155 million, RM188 million, RM231 million, RM138 million, RM152 million, RM304 million and RM602 million respectively. The monies were transferred from Tanore Finance Corporation's account registered at Falcon Private Bank Ltd's Singapore branch. He has also been alleged to have transferred RM656 million, RM326.8 million, RM327.3 million, RM181.8 million and RM545.8 million to Tanore Finance Corporation. He claimed that the monies deposited from Tanore Finance Corporation and other accounts were linked to a foreign prince. The trial of this case is ongoing in Court.

Forfeiture Suits

On 21 June 2019, the Malaysian Anti-Corruption Commission (MACC) filed a number of civil forfeiture suits worth RM270 million against 41 individuals and entities in the High Court. On 4 September 2019, the High Court allowed the MACC's application to forfeit RM4.9 million from Yayasan Permata Malaysia, one of the entities implicated in the forfeiture suits. The MACC also announced on the same day that a special task force led by the National Financial Crime Centre will be formed to recover assets related to 1MDB worth US\$5 billion which are located abroad. The MACC Deputy Chief confirmed on 18 October confirmed that this special

task had been formed and is now trying to establish contacts with different jurisdictions where such assets are believed to be located. In its bid to recover assets related to the scandal, on 7 October 2019 the MACC issued 80 compound notices to entities implicated in the 1MDB corruption scandal to recover the sum of RM420 million. These entities include the Puteri Umno, Umno divisions of Sepang, Bandar Tun Razak, Batu, Johor Baru, Labis, Bakri, Pekan, Kuantan, Taiping, Bagan Serai and Machang, MIC headquarters, Parti Rakyat Sarawak, Kedah PPP, Kedah Gerakan, Selangor and Kedah MCA, CIMB Group chairman Datuk Seri Nazir Razak, and Johor Baru Umno division chief Shahrir Abdul Samad.

Analysis

All the cases involving 1MDB clearly demonstrate Malaysia's deeply entrenched corruption and abuse of power which had allowed this blatant massive theft of public funds to take place with impunity. Evidence presented in Court in the ongoing trials points to systematic cover-ups and suppression of material information related to 1MDB. This situation was enabled without a doubt by repressive laws such as the OSA which severely undermines the right to freedom of information which is key to holding those in power to account. As demonstrated in the 1MDB corruption scandal, it is as clear as day that the draconian OSA was deliberately used to mask corrupt practices and obstruct the public from accessing pertinent information related to matters that are of public interest.

Given the countless shocking revelations that have emerged from the 1MDB trials, it is imperative that the government urgently review the OSA and enact an effective freedom of information law as promised in the Pakatan Harapan manifesto. This is line with Malaysia's international obligation under article 13(1)(b) of the United Nations Convention against Corruption (UNCAC) which requires the government to ensure that the public has effective access to information. We would like to commend the government's efforts to take swift action to bring the perpetrators to justice and recover all the stolen assets.

FELDA

The Federal Land Development Authority (FELDA) was formed by Tun Abdul Razak in 1956 to address and change the social and economic condition of Malaysia's poverty-stricken rural community. FELDA however was subsequently found to have been mired in corrupt practices where it lost billions to corruption.

Former FELDA chairman Mohd Isa Abdul Samad (Isa Samad) was charged on 14 December 2018 for criminal breach of trust under section 409 of the Penal Code for approving the purchase of Merdeka Palace & Suites Hotel without the consent of the Felda board of directors. He was also charged under section 16(a)(A) of the Malaysian Anti-Corruption Commission Act 2009 for receiving bribes totalling to RM3.09 million from Gegasan Abadi Properties Sdn Bhd.

On 7 October 2019, the prosecution informed the Court that it would present evidence in relation to the following:

- 1) Isa Samad had received bribes from Syarikat Gagasan Abadi Properties Sdn Bhd Director Ikhwan Zaidel (Ikhwan) through Muhammad Zahid Md Arip (Muhammad Zahid), his special officer.
- 2) Isa Samad had ordered Muhammad Zahid to obtain a bribe from Ikhwan as a reward to him for helping approve the purchase of Merdeka Palace Hotel & Suites, (MPHS) in Kuching, Sarawak by FICSB.
- 3) Isa Samad had received a RM100,000 bribe which was an advance from Ikhwan through Muhammad Zahid.
- 4) Isa Samad had signed a Telegraph Delivery Letter dated 30 June 2014 to direct the Jalan Maktab Maybank Branch to make a RM16 million payment which was a ten per cent payment from the MPHS acquisition fee to Syarikat Gagasan Abadi Properties Sdn Bhd on 1 July 2014.
- 5) Syarikat Gagasan Abadi Properties Sdn Bhd had paid a RM1 million commission to JV Evolution Sdn Bhd, an agent appointed by the company after receiving RM16 million from FICSB, on 10 July 2014.
- 6) Ikhwan had directed JV Evolution Sdn Bhd Company to withdraw money for him where RM140,000 bribe was given to Isa Samad through Muhammad Zahid.
- 7) Isa Samad had ordered Muhammad Zahid to obtain bribes from Ikhwan after the second payment of RM43,126,938.77 was paid by FICSB to JANG Assets Networking Group Ltd through Messrs. Mohamed Ridza & Co on 25 September 25 2014 pursuant to the MPHS Purchase Agreement.
- 8) On 16 October 2014 Syarikat Gagasan Abadi had paid a second commission amounting to RM2,695,433 to JV Evolution Sdn Bhd.
- 9) Ikhwan had ordered JV Evolution to withdraw the money to be given to him and bribes of RM300,000 and RM250,000 were given to Ikhwan and to isa Samad through Muhammad Zahid.
- 10) In May 2015, Isa Samad had ordered Felda Director-General Datuk Hanapi Suhada to expedite the payment of RM1 million to enable FICSB to make payments to Syarikat Gagasan Abadi.
- 11) Syarikat Gagasan Abadi had paid a third commission of RM6,304,567 to JV Evolution on 16 June 2015 after receiving RM1 million from FICSB on 29 May 2015.

While we acknowledge the government's efforts to address the multi layered FELDA corruption scandal which can be seen in the White Paper presented in Parliament on 10 April 2019, we would like to reiterate that further concrete action needs to be taken to ensure that the root of the problem is completely removed. Below are a number of steps that could be taken to effectively stamp out the sources of corruption in FELDA:

- 1) Swift criminal action also be taken against the board of directors for failing to carry out their duties in preventing such abuses;
- 2) FELDA and its subsidiary companies be monitored by a Parliamentary select committee tasked with evaluating their financial and non-financial performance. The select committee should be given the power to conduct an inquiry, compel attendance to its hearing, and demand production and inspection of

documents. The inquiry should be made public with settlers given a chance to participate in them.

- 3) FELDA settlers be given greater participation in the FELDA decision-making process. Their representation on the FELDA Board and in the agency's companies should be increased to enable them to co-manage the businesses.
- 4) FELDA and other GLCs no longer serve as vehicles for political financing. This must be reflected in the new legislation on political financing.
- 5) The government speed up the establishment of the office of the Ombudsman to supervise the conduct of government administration which is key to enhancing and strengthening corporate governance and accountability. The Ombudsman office must be an independent institution and must act as an independent officer with the responsibility to investigate the actions of government institutions and with an independent complaints commission for GLCs and statutory bodies.
- 6) A Public Sector Malfeasance Act be enacted to prevent those holding public office from misusing their power and inflicting loss and damages on government institutions. Put C4 Felda report link here.

We would like to note that as of now, the government has not shown any indication that they would implement any of the above steps.

[Reference: C4 Report: The FELDA Crisis:

<https://c4center.org/sites/default/files/Felda%20Crisis%20Booklet%20BI%20WEB.pdf>]

MARA

In January 2019, news related to a controversial purchase of the UniLodge building in Melbourne by Mara Incorporated Sdn Bhd which was based on bloated valuations by the Malaysian branch of Raine started to surface. The government however has not taken any action to investigate corrupt practices in relation to this purchase and countless other allegations facing MARA. The government's inaction on the immense corruption plaguing MARA in the face of compelling evidence is deeply concerning.

TABUNG HAJI

An internal probe into Tabung Haji's past transactions was carried out in July last year. On 17 January 2019, former Tabung Haji Chairman Abdul Azeez Abdul Rahim was charged in the Sessions Court under the following provisions:

- 1) Section 16(a)(A) of the Malaysian Anti-Corruption Commission Act 2009 for receiving RM1.2 million, RM2 million and RM2 million in three transactions as a reward for himself in assisting a company to obtain government projects;

- 2) Section 4(1)(b) of the Anti-Money Laundering Act, Anti-Terrorism Financing Act and Proceeds of Unlawful Activities Act 2001 for receiving proceeds of unlawful activities amounting to RM139.4 million from four companies.

On 25 September 2019, the prosecution filed an application to transfer the case to the High Court. The hearing for the application is pending in the High Court.

On 5 April 2019, Minister in the Prime Minister's Department Dr Mujahid Yusof announced that a dividend of 1.25% would be granted to Tabung Haji depositors for the 2018 financial year. He explained that this was due to the fact that Tabung Haji's financial position had recovered compared with the deficit of RM4.1 billion incurred according to the audited financial report for 2017.

Apart from the prosecution of the former Tabung Haji Chairman and the granting of the 1.25% dividend, the government has not taken any other actions to address the massive corruption that has been plaguing Tabung Haji. It was reported on 14 November 2019 that the government would bear RM10.3 billion premium to ensure the financial health of Tabung Haji. This move was part of the rescue and restructuring plan of Tabung Haji. The government's decision to not publicly probe into the corruption in Tabung Haji that cost billions of taxpayers' money raises the question: Is the government serious about stamping out corruption in Tabung Haji?

Public institutions formed to take care of the welfare of the Malay community such as FELDA, MARA, and Tabung Haji without a doubt were affected the most by UMNO's corrupt practices. It therefore imperative that the Pakatan Harapan government focus on amplifying efforts to restructure and reform these institutions. The efforts taken to stamp out corruption and prevent political interference in these institutions must also be effectively communicated to the affected community and the general public.

22 Make the governance of our GLC world class at par with international standards

We note with concern that to date, there has been no sign that mechanisms or guidelines have been formulated to address issues surrounding the governance of Malaysia's government-linked companies (GLCs).

It bears reminding that in October last year, Economic Affairs Minister Azmin Ali pledged that politicians will no longer have a place on the boards of GLCs and only professionals will be entrusted to run them. This commitment was reaffirmed by the GIACC in April 2019 where it stated that the government through the Jawatankuasa Khas Kabinet Mengenai Anti-Rasuah (JKKMAR) has directed the Ministry of Finance to prepare guidelines for the appointment of

senior management, chairman and board of directors in GLCs and their subsidiary companies. The GIACC also stated that no political appointees should head boards of GLCs.

We however note that there is no mention of mechanisms to address issues surrounding political appointments in GLCs and we have seen a ‘business as usual approach’ without real efforts to reform this area of governance. Professor Terence Gomez in his latest research reaffirms the ‘business as usual approach’ where he notes that:

“A major, but covert, reconfiguration of control of GLCs has occurred since PH took power, with these enterprises now under the jurisdiction of ministers primarily from one party, Mahathir’s Bersatu. As Table 5 indicates, a large number of GLCs have been shifted out of MoF to ministries controlled by Bersatu ministers, as well as Azmin’s MEA. GLCs within these four ministries have also been shifted between them, though it appears to serve the purpose of ensuring each minister has enormous influence over a core mode of enterprise, i.e. large publicly-listed firms, statutory bodies, Bumiputera GLCs and SMEs. These companies cover the entire spectrum of Malaysia’s corporate sector.”

[Reference: GLC Monitor 2009: State of Play Since GE14: http://www.ideas.org.my/wp-content/uploads/2019/10/GLC_Report_2019_V4.pdf]

We would like to reiterate that specific mechanisms ought to be put in place to ensure that political appointments can be effectively stamped out to prevent conflict of interest that would lead corruption and abuse of power. Appointments to GLCs should go through scrutiny by the PAC or a special select committee. The inquiry by the PAC would allow not just the lawmakers to question the candidates and the GLC in question, but also make the appointment process transparent, and avoid all possibilities of conflict of interest. All findings from the inquiry should be made public.

Unfortunately, there has been no status update on this initiative since it was announced. Given the lack of progress in this important area, we urge the government to expedite the process of drafting the mechanisms or guidelines which are needed to ensure that GLCs operate with accountability is integrity. A clear roadmap ought to be provided to inform the public of the steps that the government intends to take to ensure that this initiative is eventually put in place and implemented.

16 Restore the Dignity of Parliament

Promise 16 emphasizes the importance of ensuring that Parliament functions with independence in order to allow it to effectively check executive powers.

The Public Accounts Committee stated on 15 July 2019 that it would be summoning a number of agencies to explain themselves, following the discovery of several cases of discrepancies in the 2018 Auditor General's Report. These cases involved improper payment by government agencies involving RM38.73 million.

On 19 July 2019, the Dewan Rakyat Speaker announced its decision to set up an All-Party Parliamentary Group (APPG) as part of its function. Modelled after the United Kingdom's parliamentary system, the APPG will serve as a platform for CSOs to discuss matters pertaining to development directly with members of Parliament. This initiative was taken to bridge the gap between lawmakers and members of the public.

On 17 October 2019, Minister in the Prime Minister's Department Liew Vui Keong announced that four new special select committees had been set up to review government policies and serve as a check and balance mechanism against the Executive. The new four committees are:

- 5) Special Select Committee on Election
- 6) Special Select Committee on International Relations and Trade
- 7) Special Select Committee on Human Rights and Constitutional Affairs
- 8) Special Select Committee and on Science, Innovation and Environment

These new select committees are empowered to summon individuals to give statements and views on matters related to the fields specified in the terms of reference for the respective committees. The committees are mandated to table their reports in Parliament.

On 18 July 2019, the Prime Minister stated that the Parliamentary Committee on Major Public Appointments would be determining the appointments to four key institutions. These appointments are:

- 5) The chairman and members of the Election Commission
- 6) The chairman and members of the Judicial Appointments Commission
- 7) The chairman and members of the Human Rights Commission (SUHAKAM)
- 8) The chief commissioner of the MACC

The Prime Minister also noted that a guideline will be issued to assist the Committee in discharging its duties. Minister in the Prime Minister's Department Datuk Liew Vui Keong said on 10 October 2019 that the appointments of the director-general and chairman of the new National Anti-Financial Crime Centre (NAFCC) would also be scrutinized by the Committee. It is imperative that government honour this commitment by allowing the Committee to independently examine appointments to these key institutions. This step is important in ensuring that the appointments are done with transparency and integrity.

Another important measure taken by Parliament to ensure that it functions with the highest degree of integrity is the move to cut RM500 allowance meant for members of Parliament for non-attendance. This measure was announced on 23 October 2019 following Parliament's failure to obtain sufficient quorum during the proceedings on Budget 2020. Minister in the Prime Minister's Department Liew Vui Keong said on the same day that a special timetable

and rules for Pakatan lawmakers would be introduced to ensure sufficient attendance in the Dewan Rakyat.

We duly note the positive measures taken by the government to ensure progress in this area of governance.

29

Enhance the transparency and integrity of the budget and budgeting process

On 11 October 2019, the Special Select Committee on Budget tasked with scrutinising the federal budget and matters that may impact the budget execution put forward eight recommendations for the government to further strengthen management and enhance the transparency of debt and liabilities exposure based on the principles of good governance. These recommendations are:

1. To present the debt and liabilities exposure of the country to Parliament on a regular basis to enable the monitoring of debt repayment, interest payment and debt level
2. To submit a detailed report on the commitments of government guarantees, public-private partnership projects, private finance initiatives, and Pembinaan BLT Sdn Bhd in the annual Budget Estimates to reflect the actual obligations
3. To review and assess government guarantees to determine which guarantees need to be assisted.
4. To set statutory or administrative limits on government guarantees.
5. To submit a detailed report on the actual commitment of debt service charges and its percentage of revenue
6. To introduce specific coding in the annual Budget Estimates for other financial commitments.
7. Constant monitoring of the ratio of total debt and liabilities exposure to gross domestic product, Federal Government deficit to GDP and debt service charges over revenue.
8. The debt level of Malaysia and other countries in the ASEAN region and developed nations to be analysed on a regular basis.

We note that reforms that are being carried out in this area of governance are timely and urgently necessary. To strengthen the existing efforts to enhance transparency and integrity of the budget and budgeting process, we recommend that the government also include participatory budgeting. Only with the participation of society in the budgeting process can we, the people, truly enhance transparency and accountability in the country's governance.

Summary

The outcome of the Tanjung Piai by-election is but a warning to the PH government to get back onto its reform tracks. It's a crucial reminder given that there is another 3.5 years for the reform agenda to bear fruit, and the entire nation should support this agenda to move Malaysia forward.

The May 2018 opportunity accorded to all of us Malaysians, must not be in vain.