

Breaking Headlines

*C4 Center Press Statements and
Policy Positions in 2023*

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The Center to Combat Corruption and Cronyism (C4 Center)

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Table of Contents

Foreword.....	I
Introduction.....	2
Anti-Corruption.....	4
1 February 2023: Corruption Perceptions Index (CPI) 2022: Malaysia's regression ramps up the urgency to fight corruption.....	5
18 April 2023: MACC's investigations in the judiciary: A symptom of deeper institutional rot.....	9
17 May 2023: Azam Baki's term extension: A sign of MACC's persistent institutional flaws despite increased action	12
3 August 2023: Azam Baki ignoring election campaign bribery – dereliction of duty?.....	15
Institutional and Legal Reform.....	17
18 January 2023: PM should adopt a more effective check and balance approach - backing civil servants with adequate reforms	18
30 August 2023: C4 Center wishes all Malaysians a Happy Merdeka!.....	21
6 September 2023: Zahid Hamidi's DNAA: Political expediency and the need to separate the PP and AG.....	23
Good Governance	27
2 June 2023: MBPJ Councillors steamrolled, to what end?.....	28
7 June 2023: Auditor-General's Report 2021 Series 2: Parliamentary democracy reduced to a farce by Perikatan Nasional	31
4 September 2023: Why should elected officials be remunerated for not performing their duties?.....	34
Public Procurement	37
21 February 2023: Corporate social responsibility in public procurement - no responsibility for losses, no empathy for Malaysians	38
1 June 2023: LCS Scandal: Remedying corruption or simply ignoring it?.....	43
30 June 2023: Dialogue aims to open up Malaysia's procurement	46
27 September 2023: C4 Center echoes the need for procurement reform as announced by Cabinet's Special Committee On National Governance (JKKTN).....	48
25 November 2023: Auditor-General's Report 2022: Massive losses in public projects reaffirm major need for government accountability	51

Money Politics..... 54

10 February 2023: Caution urged: Minister’s invitation to businesses to ‘help’ constituencies defeats axing-out of money politics efforts, C4 supports reduced CDF move..... 55

12 June 2023: Batas Baru land sale, profiteering over state-owned lands: Why has this land sale gone unchallenged? 57

15 November 2023: Political financing law urgently needed to prevent fickle MP loyalties60

Asset Declaration 63

28 July 2023: Call for State Election candidates to declare assets64

Civil Society Solidarity..... 66

25 July 2023: Standing in solidarity with activists against violence and intimidation..... 67

C4 Center Leadership Transition 69

6 January 2023: Change of guard: C4 Center’s New leadership70

29 August 2023: C4 Center leadership transition: Board of Directors confirms Pushpan Murugiah as the Chief Executive Officer71

FOREWORD

It is with immense delight that I introduce Breaking Headlines: C4 Center Press Statements and Policy Positions in 2023, a compilation of our organisation's work in shaping public discourse over the past year. Through the production of this booklet, we hope to archive and convey the institutional memory of C4 Center and our consistent presence in national media. This booklet also aims to cultivate a clear and consistent voice for our organisation, ensuring that the principles, values and beliefs essential in the formation of C4 Center remain regardless of its composition. These endeavours will only assist in sustaining the vigour of our stances on key policy issues as we continue our battle against corruption.

As the foremost anti-corruption NGO in Malaysia, we have made it our duty to speak out against all forms of graft, whether that be simple bribery, complex grand corruption, or abuse of power. In this effort, we have relied greatly on our partnership with the press to amplify our message for the public. This work has elevated corruption as a prime topic for discussion among the public – enabling discourse and enhancing the visibility of this major issue. Not lost within this context as well is the role these actions have played in creating the political will necessary to push for major institutional reforms within government structures.

In light of this, it is with great appreciation that we thank the assistance provided to us by our partners in the media. Without their help, our message would not be carried to such prominence across different channels. I can only hope that we continue in this vein, vocalising against the scourge of corruption and galvanising the public in working towards a better future for the country.

Pushpan Murugiah
Chief Executive Officer

INTRODUCTION

When assessing reform progress in 2023, the picture that emerges is one of abject failure. Anwar Ibrahim's unity government - voted in on the promise of anti-corruption and governance reforms - reached one year in power, yet little has been achieved in that time. The Chief Commissioner of the Malaysian Anti-Corruption Commission continues to be appointed by the Prime Minister, placing it under indirect control of the executive. The office of the Attorney General remains unseparated from the Public Prosecutor's office, leaving criminal prosecutions susceptible to political interference. A Political Financing Bill is still untabled, ensuring that money politics continues to be the most effective means of winning elections. While the present administration may be acting more cautiously to ensure stability following years of political crises beginning with the Sheraton Move in 2020, the lack of movement for institutional and legal reforms is a major cause for concern.

Beyond that, several major procurement scandals involving billions of ringgit were exposed last year. Such exposes no longer shock the public as one-off incidents. Instead, these cases merely illustrate the sheer scale of misgovernance taking place in the country as well as the urgent need for the government to intervene. The bigger question on many minds is how many other scandals remain hidden?

Many of the reform calls made by C4 Center over the past twelve months are not new. It is unfortunate, then, that the current government has remained slow to act while corruption continues to hold back the country's progress. Even more worrying, perhaps, is Malaysia's readiness for the impact of the climate crisis and the other issues it will cause, involving food security, health issues, and mass migration. If the abuses of power that took place during the pandemic are any guide, Malaysia is simply not prepared. Thus, it cannot be overstated how urgently the nation needs reform. By the time we face the full scale of these global crises, it may already be too late.

Arief Hamizan

Policy & Programme Coordinator

PRESS STATEMENTS

Anti-Corruption

1 February 2023

Corruption Perceptions Index (CPI) 2022: Malaysia’s regression ramps up the urgency to fight corruption

The latest release of the Corruption Perceptions Index (CPI) by Transparency International (TI) yesterday was an eye-opener, highlighting the weaknesses of the Malaysian government’s administrative framework and institutions in fighting corruption, potentially further permeating into the lives of the rakyat.

The Center to Combat Corruption and Cronyism (C4 Center) is deeply troubled by Malaysia’s score of 47 points, ranked at the 61st spot alongside countries like China, Cuba, Armenia and Jordan; backtracking by as many as six points within the span of these three to four years (2019-2022). The damaging result positions Malaysia as a struggling nation desperate to rise beyond the worsening socio-political and economic depression perpetuated by widespread corruption.

The following table explains Malaysia’s continual backsliding since 2019 in the annual global corruption perceptions index:

CPI performance in recent years	The major event for the year	Score (0-100 points)0 — perceived to be highly corrupted 100 — perceived to be very clean	Rank (180/180 spot)— The higher the ranking, the higher the perceived corruption
2018	May 9 — Malaysia’s 14th General Election	47/100	61/180

CPI performance in recent years	The major event for the year	Score (0-100 points) 0 — perceived to be highly corrupted 100 — perceived to be very clean	Rank (180/180 spot)— The higher the ranking, the higher the perceived corruption
2019	April 2019 — SRC (1MDB Scandal) trial commenced	53/100	51/180
2020	Feb 2020: Political crisis	51/100	57/180
2021	Health, economic and political crises during the height of the Covid-19 pandemic	48/100	62/180
2022 (released on 31 Jan '23)	Nov 19 — Malaysia's 15th General Election	47/100	61/180

Note: The CPI ranks 180 countries and territories around the world by their perceived levels of public sector corruption. The results are given on a scale of 0 (highly corrupt) to 100 (very clean). — TI

One of the main reasons for Malaysia's deplorable score was the evident lack of political will among lawmakers to strategically and effectively address corruption that, by now, has become institutionalised.

It is worth noting that last week, Prime Minister Datuk Seri Anwar Ibrahim declared that corruption is the main threat against the nation. It is now more important than ever for the Prime Minister to "put action" into his words by carrying out long overdue reforms. The continual slide in perceptions will also have a negative economic impact in terms of foreign investors' confidence at a time when Malaysia needs all the support it can get to revitalise a troubled economy.

In view of this development, C4 Center hereby calls on the government to look into any outstanding and critical reform efforts, particularly those aligned with the National Anti-Corruption Plan (NACP) 2019-2023 initiatives. C4 Center remains steadfast in advocating for robust institutional reforms and stands ready to provide assistance to realise the many initiatives discussed and proposed under the NACP. The corruption that threatens to undermine the nation's institutions in favour of the self-interests of certain individuals must be arrested before Malaysia's governance worsens to the point of no return.

C4 Center urgently recommends the following:

1. Revise and amend the existing **Whistleblower Protection Act 2010** to allow disclosure to external parties, such as media, members of Parliament, civil society organisations, and other bodies not listed by the Act. In the same vein, affording public interest defence to whistleblowers that disclose information despite being prohibited by written laws such as the Official Secrets Act 1972, Section 133 of the Financial Services Act 2013 as well as Section 203A of the Penal Code;
2. **Reform the Malaysian Anti-Corruption Commission (MACC)** to include granting it full independence and autonomy in its investigative capacity as the central corruption-fighting body, freeing it from any undue influence or intervention from external parties, i.e., the Executive. In addition, an oversight entity to oversee MACC's appointments for the post of Chief Commissioner, its budget, and manpower-related areas should be set up;
3. **Separation of the Attorney General and the Public Prosecutor of-fice**, to ensure the independence of prosecuting cases;
4. Enact the **Political Funding/Financing Act** to curb the culture of 'money politics' deeply ingrained within Malaysia's political system. Rent-seeking and patronage practices provide an avenue for the nexus between politics and business to persist, thus proliferating conflict of interest and abuse of power;
5. Legislate a **Public Procurement Act** over the practice of merely issuing countless Treasury circulars and directives that have failed to curb mass wastages, leakages and abuses in the procurement of public projects, being the most vulnerable area of administration

exposed to corruption. Having a law to govern it will minimise direct negotiations, thus increasing transparency and encouraging inclusivity for public participation and scrutiny in matters relating to procurement for the people's welfare; and

6. Mandate the practice of **Asset Declaration**. C4 Center in collaboration with the Bar Council had previously prepared a Public Asset Declaration Framework (PADF) that could be integrated within the existing legal framework, demonstrating the current administration's commitment to the principles of upholding integrity, transparency and accountability to the people.

The battle against corruption can no longer be taken for granted. To that end, the government is advised to approach reforms with greater conviction and, at the same time, engage more closely with civil society members, so as to strengthen public confidence in the government's commitment to this matter. When the rule of law takes a back seat in the face of unabated corruption, civil rights, democracy, and the lives of Malaysians will ultimately pay the price.

18 April 2023

MACC's investigations in the judiciary: A symptom of deeper institutional rot

During a Dewan Rakyat sitting on 6 April 2023, Minister in the Prime Minister's Department (Law and Institutional Reforms) Azalina Othman revealed that the Malaysian Anti-Corruption Commission (MACC)'s investigations into Justice Nazlan Ghazali had found that he violated the Judges' Code of Ethics when he presided over the controversial SRC International case. According to the MACC, Justice Nazlan, who handed former Prime Minister Najib Razak a 12-year prison sentence, was involved in the conflict of interest. **The Center to Combat Corruption and Cronyism (C4 Center)** strongly objects to the MACC's overreach and reminds politicians that the guilt of corrupt individuals as proven in a court of law is not a matter to be politicised.

The MACC's current jurisdiction and powers are afforded to them through the MACC Act – there exists no stipulations in the Act that would allow them to overstep into deciding whether or not a judge has violated the Judges' Code of Ethics, an issue that remains within the judiciary's purview. As an Executive body under the supervision of the Prime Minister's Department, this action sets off alarm bells of Executive interference into the Judiciary.

The Bar Council and prominent lawyers have pointed out that this is an attempt by the MACC to intimidate the Judiciary. If the MACC continues to stand by these findings and not retract them or issue an official rectification, this would set a dangerous precedent in allowing the Executive to undermine the Judiciary. In positioning themselves as being able to decide on matters of Judges' ethical conduct in a public setting, the MACC could inadvertently erode public trust in the judicial system. This is especially dangerous considering that corrupt politicians by-and-large have been able to escape legal scrutiny owing to the gaps in existing institutions – throwing doubt on such a major decision would hamper subsequent efforts to bring corrupt individuals to justice.

Even within the current context, it needs to be said that the MACC should not be an arm of the Executive to begin with. The criticism of

the MACC's lack of independence has been a longstanding one, with concerns directed at this presenting the risk of the MACC's work being politicised or serving political ends. Crucially, public trust is not solely reserved for specific state institutions and not others – in order for the MACC to be able to perform its duties to the best of their abilities, issues that potentially detract from their work must be resolved. Hence, it is in the MACC's best interests that their functions and structure are in line with principles of independence, transparency, and the separation of powers.

However, the issue of politicking extends beyond the realm of the MACC. On 12 April, it was reported that the Bersatu Youth had lodged a police report against the MACC, alleging that they had acted out of bounds and violated the MACC Act. While these claims are valid at face value, it is abundantly clear that Bersatu Youth is attempting to politicise this situation to their benefit, either in publicly aligning themselves in opposition to Najib's corruption or in attempting to discredit the MACC in the midst of an ongoing investigation against Bersatu for their misappropriation of COVID-19 aid funds. This is not unique to Bersatu as UMNO was reportedly explicitly involved in the process of trying to secure Najib's royal pardon, notwithstanding that he still faces further impending trials for his corruption. Najib's trial has become the avenue by which political parties attempt to smuggle their own goals and self-interests, instead of treating it like a major stain on Malaysia's history.

Najib Razak's conviction was the culmination of the work of many individuals, activists, and organisations who gathered evidence, conducted investigations, and faced intimidation by the police over the course of many years when he was still Prime Minister. Malaysians turned out and demonstrated in the largest protests in the history of the nation and voted in record numbers during the 14th General Elections in 2018. Investigations into the 1MDB scandal spanned continents across many nations, some still ongoing to this day.

Our politicians need to contend with the fact that Malaysia has undergone massive strides in the direction of rejecting corruption – a cornerstone of the current unity government's agenda is one of strong anti-corruption – and this is reflective of Malaysians' attitudes in desiring to see a change in our political and societal culture. The MACC and judiciary are both key institutions in the fight against corruption and must never be manipulated and used as tools to meet political agendas

and must be held to the highest standards of conduct, guided by established principles. However, it must be said that in order for the MACC to be able to be a reliable and trusted institution, the current has to be sufficiently resolved, as well as its other outstanding controversies.

Hence, C4 Center makes the following calls:

1. A royal commission must be set up composed of independent individuals and civil society members to investigate why the MACC had overstepped its boundaries in investigating Justice Nazlan.
2. The Royal Commission will also need to be given the mandate to investigate all other serious controversies surrounding the MACC including the unresolved corporate share ownership issue involving the Chief Commissioner, various accusations of political persecution as claimed by politicians that the MACC was alleged to have been spearheading when Perikatan Nasional was in power. There is a serious trust and credibility issue surrounding the MACC and this can only be overcome if proper and independent investigations are carried out to find out the truth.
3. The political opportunism surrounding Najib's case as well as the propaganda efforts to secure him a royal pardon must be halted. Parties and politicians must remember that the crimes Najib committed – heard and tried in the highest court of law – were not the result of poor judgement that would necessitate any mercy, but rather a calculated and sustained web of deceit that led to the impoverishment and degradation of incalculable Malaysian lives. His deeds have left a deep wound in the nation – a pardon for Najib is spit in the faces of the many who tirelessly worked to bring him to justice against all odds.

17 May 2023

Azam Baki's term extension: A sign of MACC's persistent institutional flaws despite increased action

On 10 May 2023, it was reported that the current Chief Commissioner of the Malaysian Anti-Corruption Commission (MACC) Azam Baki's term as chief commissioner has been extended for another year. His term was due to end on 12 May, with the extension taking effect that same day. The Center to Combat Corruption and Cronyism (C4 Center) expresses our disappointment with this turn of events – Azam has been involved in numerous controversies during his tenure that leave a stain on the MACC's credibility as long as he continues occupying this position. His continued presence in the commission also signals that the MACC is, at present, still resistant to critique and reform.

As previously highlighted by C4 Center, it was revealed through investigations by a journalist that Azam owned millions of shares in two publicly-listed companies while he was the head of MACC's investigations department – Azam subsequently retaliated by suing them for defamation. He even used this defamation suit as one of many excuses not to appear before a Parliamentary Select Committee (PSC).

Azam Baki's alleged misconduct and his public response are unacceptable and his removal from the post is imperative, as his continued tenure is directly at odds with the principles and interests of the Commission. If this was not bad enough, Azam has displayed little interest in reforming the MACC, having previously stated that the commission did not need to be placed under Parliament only to change his stand when the unity government came into power signalling his lack of principles.

This potentially leads to a major concern that the MACC will continue their trend of being resistant to reforms for yet another year while Azam is at the helm. Up until the present day, the government has been slow to introduce any of the reforms that have been long advocated by C4 Center and other civil society organisations.

While Prime Minister Anwar Ibrahim had previously stated that

he would be agreeable to the position of Chief Commissioner being selected via a Parliamentary process, Chief Secretary to the Government Tan Sri Mohd Zuki Ali announced that Azam's appointment was made in accordance with sections 5(1) and (2) of the MACC Act, which provides for the Chief Commissioner's appointment to be made by the Yang di-Pertuan Agong on the advice of the Prime Minister. It is noteworthy that the Pakatan Harapan manifesto included a pledge that nomination of the MACC Chief Commissioner "must be vetted by a bipartisan Parliamentary Special Committee". The fact that the Prime Minister remains blatantly involved in the appointment of the Chief of the MACC despite his earlier statements brings into question his government's supposed commitment to reforms of the MACC.

On May 15, 2023, Prime Minister Anwar Ibrahim informed reporters at Perdana Putra that the decision to extend Azam Baki's tenure as Chief Commissioner was because he believed that he was doing "a satisfactory job" and "taking action without bias". He gave examples of ministers' offices being raided and action being taken against officers by the MACC as examples of the commission's good performance. The government's position in this regard clearly indicates its failure to consider the prior allegations of misconduct against Azam Baki, and the regrettable manner in which he responded.

In any event, the Prime Minister's response to the criticism against this decision misses the central point entirely: whether or not the Prime Minister/the government of the day is satisfied with the performance of an individual should not be determinative of whether that individual ought to be appointed as the leader of an important oversight body such as the MACC. Rather, it should fall to Parliament to make the decision in order to reduce, as much as possible, the influence of undue considerations upon the decision-making process – something which the Anwar administration is well aware of.

We take note of Prime Minister Anwar Ibrahim's statement in Parliament on March 28, 2023, where he stated that the implementation of an alternative process for appointing the MACC Chief Commissioner would depend on the progress made by Parliament, i.e. in the event such a mechanism is decided upon and studied by the relevant stakeholders before the end of Azam Baki's tenure, he would have no issues with it. However, the Prime Minister should not pass the buck for failing to implement an alternative appointment process and place the

blame on Parliament. Knowing that Azam Baki's term would be coming to an end and bearing in mind the allegations that have been made against him, the Anwar administration should have made this particular reform agenda a priority several months ago.

The issues surrounding Azam Baki and his appointment are also representative of the issues that the MACC faces as a whole, with the consequences mirroring each other. In this sense, both the MACC and Azam Baki are being politicised with narratives surrounding them being pushed and pulled in different directions by political entities. Both PH and PN have cried political persecution whilst serving as the opposition but subsequently refused to carry out reforms once they assumed office.

The avenues for the politicisation and narrative manipulation could have been much more restricted had reforms of the MACC been implemented, making it more independent and placing it under the purview of Parliament such that its functions can never be abused nor seen to be abused, ensuring that corruption can never take place from whichever side of the political spectrum. In this way, it is also demonstrable that for an institution as prominent as the MACC, structural and institutional flaws can be exploited to destabilise politics even outside of its immediate ambit of anti-corruption, with individuals attempting to use them to instigate further political squabbles.

With Azam Baki remaining as the chief of the MACC, having not faced open and transparent investigations into his share purchase-related misconduct, public trust in the MACC will be left wanting. Without public support and with certain individuals deepening existing cracks in the foundation of the MACC, institutional collapse is on the horizon unless adequate reform is carried out to strengthen it. As such, this unfortunate appointment should act as a catalyst for reformation of the appointment mechanism of the role of MACC Chief Commissioner to be expedited, and for amendments to the MACC Act 2009 to be tabled during the next Parliament sitting.

3 August 2023

Azam Baki ignoring election campaign bribery – dereliction of duty?

The Center to Combat Corruption and Cronyism (**C4 Center**) notes with deep concern recent developments in the campaigning for the upcoming state elections, which indicate a backslide to unsavoury methods previously used in Malaysian political history. On 28 July 2023, Minister of Rural and Regional Development Zahid Hamidi was widely reported to have announced certain federal allocations to Terengganu youth groups, wherein he expressly indicated that the amounts might be increased depending upon the results of the Terengganu state polls. Prime Minister Anwar Ibrahim has also defended this initiative, stating that the allocation had been pre-planned and maintained that there would not be any misuse of funds during election campaigning.

In response to this, the Malaysian Anti-Corruption Commission (MACC) Chief Commissioner Azam Baki stated that these grants were not an offence as they were approved by the federal government, and therefore had no element of bribery. Further, he has noted that there is no need to issue new guidelines to govern the provision of government aid and allocations during elections, as the Election Offences Act 1954 (EOA), specifically Section 10, is sufficiently clear and stringent.

To understand the absurdity of Azam Baki's response, an examination of Section 10 of the EOA is necessary. Section 10 covers the "corrupt practice" of bribery and includes the offering or promising of any money or valuable consideration for any elector or voter, which could reasonably be interpreted in a manner which covers Zahid Hamidi's actions. Further, certain EOA offences are deemed to be "prescribed offences" under the MACC Act 2009 (MACC Act), over which the MACC is empowered to exercise all investigative powers available to it.

Given that credible information on Zahid Hamidi's announcement has been widely reported, specifically mentioning the potential for an increased amount of funding to particular youth groups depending upon the results of the election, it is incumbent upon the MACC to at the very least initiate investigations into the alleged offence. Azam

Baki's assertion that allocations approved by the federal government have no element of bribery does not have any legal basis and flies in the face of the spirit of both Acts i.e. to combat corrupt practices in their myriad forms. If the MACC itself, which has been tasked with the responsibility of investigating corrupt practices under the EOA, refuses to take action when a potential instance of election bribery has occurred, who else can be relied upon to enforce the Act?

Azam Baki is right in stating that Section 10 of the EOA clearly stipulates the "do's and don'ts" which must be complied with by election candidates. However, his firm belief that the actions of Zahid Hamidi do not contravene any laws, without even conducting any inquiries into the matter, reflects a fundamental misreading of the very legislation he cites. Further, it is highly disappointing that Anwar Ibrahim also sees no error in his Deputy's behaviour. His bare assertion that the Cabinet has decided that public funds shall not be used for election campaigning is meaningless when Cabinet Ministers seem to be allowed to do so anyway with no repercussions. Each existing check and balance mechanism is failing to take Zahid Hamidi to task, which only serves to entrench and perpetuate improper practices during election campaigning – contrary to the Anwar administration's stated commitments.

Therefore, C4 Center urges the following:

1. Investigations must be commenced into Zahid Hamidi's announcement by the MACC in order to ascertain whether an election offence has indeed been committed, and if not, the MACC must explain why it does not intend to address a potential offence which falls within its statutory mandate; and
2. Urgent reforms must be implemented to ensure the independence of the MACC, including the immediate replacement of the Chief Commissioner, as Azam Baki has shown repeatedly that the credibility of the MACC has dwindled under his leadership.

Institutional and Legal Reform

18 January 2023

PM should adopt a more effective check and balance approach - backing civil servants with adequate reforms

During his monthly address to the staff of the Prime Minister's Department, Prime Minister Dato Seri Anwar Ibrahim recently commented on the excess expenditure of public funds by the previous government and urged public officials to act as a check and balance in preventing corruption and wastages of public funds. Although the sentiment is appreciated, his subsequent statement calling for any irregularities to be directly reported to him is worrying. **The Center to Combat Corruption and Cronyism (C4 Center)** disagrees with this approach – it is ineffective at best, and at worst, it further consolidates Anwar Ibrahim's dual power as both Prime Minister and Finance Minister – portfolios that should have remained separate.

The formation of the novel unity government may have possibly given rise to circumstances that led to Anwar Ibrahim's decision to occupy the Chief Executive and Finance Minister roles despite his own earlier protests against this practice. Notwithstanding, several key questions arise: would protections for whistleblowers be guaranteed should they come forward to the Prime Minister? How feasible, effective, and impartial would a whistleblowing system concentrated solely in the Prime Minister be? How else can whistleblowing be complemented in order to eliminate wastage and corruption?

C4 Center strongly recommends that in the government's agenda to eliminate wastage and leakage of funds, the tabling of a Procurement Bill which has already been laid out in the **National Anti-Corruption Plan (NACP)** under Strategy 3, should be given top priority. In the interests of good governance, an adequate Procurement Bill would prescribe a transparent procurement process – one that allows the public to access and scrutinise, doing away with the opaque direct negotiation method as promised by Anwar at the start of his tenure. This is also in line with Anwar's recent statements that an estimate of RM 3-4 billion could be saved by the government in regards to procurement of the military equipment with careful implementation of the procurement process.

However, if the current administration is intent on Anwar's proposal for public officials to act as an effective check and balance mechanism, efforts should be focused on revising the existing **Whistleblower Protection Act 2010 (WPA 2010)**. The current legislation is plagued with loopholes and gaps that would render ineffective all attempts of civil servants reporting on corruption within their departments or ministries. Amendments must be made to **Section 6(1)** of the Act to include allowing disclosure to external parties, such as media, members of parliament, civil society organisations, and other bodies not listed by the Act. Currently, the provision only allows a report to be filed with an enforcement agency and consequently loses protection if they decide to publicly disclose the information.

The same, **Section 6(1)** of the Act is to be further amended to include a public interest defence that can be raised by whistleblowers who disclose information prohibited by written laws such as **Official Secrets Act 1972, Section 133 of Financial Services Act 2013** as well as **Section 203A of the Penal Code**. Existing laws prevent whistleblowers from revealing information which are protected by the acts above and they would face a criminal prosecution if they were to disclose that information. Arbitrary laws such as these are reasons why whistleblowers are reluctant to come forward and expose corrupt practices especially if they are faced with such a hefty fine.

Section 11(1) of the Act which confers enforcement agencies the power to revoke protection from whistleblowers should also be amended. The amendment should provide enforcement agencies with discretion to exercise some degree of flexibility to weigh all factors involved when deciding on revocation of protection. The current law does not provide enforcement agencies with room for discretion when deciding on the revocation which is deemed crucial when whistleblowing.

C4 Center also calls for a provision for establishing an oversight body tasked with deliberating and deciding on revocation of whistleblower protection – one that is independent from the influence of the Executive and indeed the Prime Minister himself. This body should be equipped with power to oversee decisions made by enforcement agencies to revoke protection under **Section 11(1)** of the Act as well as reverse decisions not to grant protection under **Section 6** of the Act. This would provide some sense of security that the protection given to them as whistleblowers, would be given and not be arbitrarily revoked leaving

them defenceless against lawsuits and retaliatory actions.

Any initiative of good governance should be clear and consistent and not subjected to changes as and when a new government is formed – we saw that with the initiative to have MPs declare their assets to MACC that only resulted in inconsistencies of declaration, and was finally discontinued due to the practice not being made mandatory by way of legislation.

Transparency and effective checks and balances by civil servants can only work if there are adequate laws to protect those who are willing to spill the beans on corrupt practices or abuse of powers, as well as a dedicated body empowered to receive and process reports by whistleblowers – the Prime Minister, acting of his own accord cannot undertake this monumental task alone. We therefore strongly urge the government to look into amending the **Whistleblower Protection Act 2010** and **legislating a Procurement Act** as a matter of critical urgency.

30 August 2023

C4 Center wishes all Malaysians a Happy Merdeka!

66 years after the Federation of Malaya gained independence from British imperialism, and 60 years after the formation of Malaysia with the inclusion of Sarawak, Sabah and Singapore within the Federation, Malaysia today remains a fledgling democracy. After decades of single-party rule and numerous laws passed and misused, the nation today has a lot to improve on in order to ensure its peoples' rights and interests are safeguarded. Institutions must be reformed, and systems of checks and balances must be implemented.

In conjunction with the 66th Merdeka Day, the Center to Combat Corruption and Cronyism (C4 Center) wishes to explain 3 key reforms that Malaysia needs urgently in order for national governance, transparency and accountability to be improved:

1. Increasing accountability measures for the leaders of our nations. Currently, the guidelines for how civil service, politicians, and Ministers are supposed to conduct their functions are limited in their scope which opens the avenue for corruption to take place especially given that many of these individuals have unchecked power, especially within the realm of public procurement. Hence, the legislation of a Procurement Act, along with asset declaration laws, ministerial codes of conduct, and laws to govern political appointments to government-linked companies (GLCs) and statutory bodies are imperative. On top of that, there is a pressing need for a Political Financing Act to regulate and monitor how politicians and political parties receive their funding so that it does not remain vulnerable to corruption.
2. Ensuring the independence of key oversight bodies, such as the Malaysian Anti-Corruption Commission (MACC), the Independent Police Conduct Commission (IPCC), and the Enforcement Agency Integrity Commission (EAIC). Currently, the members of these commissions are selected by the Prime Minister, which leads to a conflict of interest as the PM leads the same administration that these bodies are supposed to oversee. Instead, they must

be placed under the administration of Parliament, and report directly to Parliament as well. Of utmost importance is also the establishment of an independent Ombudsman who has powers to investigate government maladministration and is empowered to compel disciplinary action.

3. Ensuring separation of powers in the three branches of government. This can be achieved through the separation of the roles of the Attorney General and the Public Prosecutor, as opposed to its current state where the roles of both are retained in a single individual serving under the Prime Minister, where prosecutions can be influenced by the Executive.

Besides that, the Parliamentary Service should be reinstated, which would be separate from the existing public services under the Executive branch of government. This would enable Parliament to reclaim its independence and autonomy to manage its own affairs separately from the Executive.

C4 Center wishes to instil hope in you, fellow Malaysians, that a better Malaysia is possible when we work together.

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6 September 2023

Zahid Hamidi's DNAA: Political expediency and the need to separate the PP and AG

The Center to Combat Corruption and Cronyism (C4 Center) notes with great dismay the abrupt end to Deputy Prime Minister Ahmad Zahid Hamidi's Yayasan Akalbudi trial, where Deputy Public Prosecutor (DPP) Dusuki Mokhtar successfully applied for a discharge not amounting to an acquittal (DNAA) with respect to Zahid's 47 charges for criminal breach of trust, bribery and money laundering. This trial, which began in November 2019, has gone on for 77 days with 99 prosecution witnesses and 15 defence witnesses having testified, numerous postponements, and a recent change in the lead prosecutor throughout its duration.

The decision to discontinue the prosecution was made after a *prima facie* case was made out against Zahid and he was ordered to enter his defence on all 47 charges, which means that the prosecution had already proved through credible evidence each ingredient of the offences Zahid was charged with which would warrant a conviction if unrebutted or unexplained. In other words, the prosecution had already proved their case against Zahid at this stage. Therefore, the explanation given by the DPP to substantiate the application for a DNAA, i.e. that new matters have been raised by Zahid's letters of representation to the Attorney General's Chambers (AGC) which must be investigated, is insufficient to justify the discontinuance of the prosecution.

Were the matters raised in these letters of representation not considered or available at the outset of the case? After all, at this stage of the prosecution, it is the role of the defence to raise reasonable doubts in the prosecution's case. If any of these new issues and facts do indeed rebut or explain elements of the prosecution's evidence, it should then fall upon the Court to acquit Zahid on the basis that his guilt has not been proved beyond a reasonable doubt. Moreover, as Justice Collin Sequerah noted in his judgement on the matter, the decision to discontinue the proceedings at this stage is a considerable wastage of judicial time and taxpayer money, which raises even more uncertainty as to the pressing

need for this discontinuance. Therefore, the AGC bears a heavy burden to provide a comprehensive explanation to the Malaysian public on why exactly this decision has been made.

Further, Home Minister Saifuddin Nasution's statement that the choice to grant the DNAA to Zahid was the court's decision is misguided and places the responsibility of this matter upon the wrong party. According to Article 145(3) of the Federal Constitution, the power to institute, conduct or discontinue proceedings for most offences lies with the Attorney General (AG) – who also holds the office of the Public Prosecutor (PP) pursuant to Section 376 of the Criminal Procedure Code – at their discretion. Additionally, Section 254 of the Criminal Procedure Code specifies that the PP may decline to further prosecute an accused person, if they think fit, at any point prior to the delivery of judgement.

Thus, the decision to apply for the DNAA is squarely within the discretion of the AG, who is a member of the Executive branch of government. Naturally, the fact that Zahid is currently a critical part of the Executive branch does not escape scrutiny. This is a key example of the danger inherent when the offices of the AG and the PP are not separated, as there is the inevitable possibility that decisions regarding prosecutions of key political figures may be made upon considerations aside from the demands of justice. C4 Center notes that the outgoing AG Idrus Harun has gone on leave, and in his absence the current Solicitor General and incoming AG Ahmad Terrirudin is acting as the Public Prosecutor until the beginning of his tenure on September 6th, pursuant to Section 376(2) of the Criminal Procedure Code. However, we maintain that a decision of this magnitude should not have been made during an interim period in the AG/PP office, as it leads to speculation about who exactly is responsible for deciding to apply for a DNAA in this case.

The implications of this decision are severe – discharging a sitting Deputy Prime Minister, who is also the leader of a crucial coalition member of the Anwar administration, at a stage of his prosecution where a credible case has already been made out against him, with seemingly groundless justifications, clearly leads to doubt in the integrity of this nation's criminal justice system. Bearing in mind the fact that the decision to apply for the DNAA stems solely from the AG in particular as well as the Executive by extension, to what extent can political stability and expedience be used to justify decisions which directly contradict

this administration's professed commitment to combating corruption? Is this evidence that there are certain individuals who are wholly immune from the consequences of their actions, simply by virtue of their perceived "importance"? Does this mean that one might be absolved of previous instances of corruption and abuse of power if they opt to align themselves with "the correct people", and if so, will this not lead to a culture of impunity within the upper echelons of national leadership? Is the continued presence of a single individual tainted with allegations of corruption within the current administration important enough to override basic principles of fairness and justice? These are all important questions which the Anwar administration must consider in determining a path moving forward, as they risk losing the very narrative that brought them into power in the first place.

With that said, there is a potential option for the government to select which would at least remedy the losses caused to the nation's coffers by corruption: entering plea deals or reconciliation agreements with high-profile figures accused of these offences, which would enable stolen funds to be returned in exchange for amnesty from further prosecutions. An example of this sort of arrangement was seen with the DNAA granted to Riza Abdul Aziz in 2020 upon his money laundering charges, where an agreement was reportedly reached between the prosecution and Riza, wherein the latter would hand over several million ringgit to the federal government in exchange for the discharge. Similar instances where reconciliation agreements were employed to address corruption have occurred in nations such as Angola, Egypt, and Tunisia.

These arrangements enable the state to recover illicitly removed assets while also avoiding resource-intensive high-profile prosecutions. Therefore in the interest of political stability, the Anwar administration may consider establishing an extra-judicial reconciliation commission tasked with investigating allegations of grand corruption against key political figures. Where a case is made out or where an individual wishes to admit their guilt, the commission may grant amnesty in exchange for restitution of stolen assets and a publicly announced commitment to institutional reforms. This sort of arrangement is admittedly a sub-optimal choice, as it could be perceived as a failure of justice and a breeding ground for impunity. If this government wishes to serve the best interests of this nation and its people, it must do better than repeat the patterns of its sordid past by simply allowing those accused of

corruption to walk away scot-free. The Anwar administration should at least take into consideration the option of reconciliation if it is deemed absolutely necessary and if other options are not feasible or practicable. With that being said, we invite the government to also consider the boundaries of political necessity, justice, and the duties they owe to the Malaysian people.

Therefore, C4 Center calls for the following:

1. Immediate separation of the offices of the AG and the PP, to prevent the influence of political considerations in prosecutorial decisions and discretion.
2. Given that the justifications provided by DPP Dusuki Mokhtar in court for the DNAA application are insufficiently substantiated, the AG must publicly provide a full explanation outlining the grounds supporting the decision. If the grounds are indeed too scarce to support the decision, the charges against Zahidi ought to be reinstated.
3. The AGC must create a Prosecutorial Code of Conduct to clearly stipulate the principles prosecutors should follow when conducting prosecutions and exercising their discretion to discontinue cases, similar to the UK's Code for Crown Prosecutors.

Good Governance

2 June 2023

MBPJ Councillors steamrolled, to what end?

On May 30th, 19 Councillors of the Petaling Jaya City Council (MBPJ) walked out of an ongoing Council Meeting after Petaling Jaya Mayor Mohamad Azhan Md Amir refused to heed their concerns regarding the procedure taken in granting approval for a development project on Lorong Sultan, wherein approval has been granted despite an appeal by the applicant still pending before the State Appeal Board. According to a joint statement by the Councillors released on the same day, this decision was made by MBPJ despite the disagreement of a majority of the members present at the OSC Meeting on May 17th, when this matter was discussed. Further, the Councillors have maintained that this decision is in stark contravention of the relevant laws governing local authorities and MBPJ's previously established practice in similar cases, which would set a dangerous precedent for future cases and possibly expose MBPJ to future legal challenges.

The Center to Combat Corruption and Cronyism (C4 Center) is concerned with the hasty manner in which the approval for this project is being pushed through, as well as the disdain with which the Councillors' opposing views have been treated.

As the Councillors have noted it has been common practice, where an appeal regarding an application is made to the Appeal Board, for the local authority to refrain from making any decision thereto, because the matter has been brought before a different forum. It is unclear why this particular applicant/project is being treated differently, especially when the Appeal Board is set to make its final decision on June 20th.

The question then arises: why can't MBPJ simply wait for a few weeks before deciding on their further steps regarding the approval of the application, especially when serious doubts have been raised as to the propriety of the decision? Why is MBPJ displaying such urgency in approving this particular project with little regard to potential procedural defects, to the extent of reversing established practice? We must bear in mind that the plot of land in question, upon which the iconic A&W Drive-In restaurant is situated, has sentimental value to the local community and must therefore be handled with care and sensitivity.

Any impropriety in the development process may attract legal actions which may further complicate the matter.

C4 Center also deeply regrets the manner in which the Mayor responded to the Councillors voicing their disagreements during the Council Meeting, by repeatedly stating that the matter is only being raised in order to inform the Council and that there can be no debate on it. Not only is this a clear example of stifling dissent, but it is also perplexing how the Mayor is able to insist that the decision to grant approval has been made when a majority of the members of the OSC Meeting had disagreed with the decision in the first place. According to Section 26 of the Local Government Act 1976, the general rule is that “all questions coming before any meeting of the local authority shall be decided by a majority of the votes of the Councillors present.” Hence, the Mayor’s reliance on subsidiary legislation and guidelines to support the validity of this decision is misguided, in light of the clear wording of the primary Act of Parliament.

Further, C4 Center is concerned by the Mayor’s assertion that in respect of decisions made by the OSC, the Councillors’ only role is to provide input from social and political aspects, as this indicates a fundamental misunderstanding of the role Councillors play in the structure of local government. Under Section 10 of the Local Government Act 1976, Councillors are appointed on the basis of “wide experience in local government affairs”, “distinction in any profession, commerce or industry”, or being “capable of representing the interests of their communities”. They are meant to have an important role in the system of checks and balances, i.e. to prevent concentration of power and promote diversity of opinion within local governments. Thus, to completely shut these 19 Councillors out of the decision-making process and unilaterally decide on a course of action which they have strongly opposed, seriously calls into question the commitment of MBPJ to principles of good governance and the rule of law. It is noteworthy that this is not the first time that a walkout has been staged by MBPJ Councillors, and these Councillors must be commended for steadfastly upholding their principles and demonstrating their ability to make independent decisions in the best interests of the residents of Petaling Jaya.

Worse still, the video recording of the May 30th Council Meeting which was posted on MBPJ’s official YouTube channel has inexplicably been taken down. This is further damning evidence that suggests im-

propriety on the part of MBPJ in this regard, given this crude attempt at erasing the public record of the debate. It is shocking that such tactics have been employed because this effectively leads to suppression of public awareness, and MBPJ must come forward to explain who issued the instructions to remove the recording and the grounds for doing so. This is an extremely regrettable course of action, and the C4 Center urges MBPJ to ensure full transparency in this matter and to preserve the right to access the information in Selangor.

Therefore, C4 Center urges the following:

1. Investigations are to be commenced by the relevant authorities to identify whether certain laws or procedures were not complied with, and for remedial actions to be implemented if any such non-compliance has indeed occurred.
2. The Mayor and/or MBPJ must come clean and explain their reasoning for this sudden alteration in the procedure.
3. The Mayor and MBPJ must seriously consider the concerns raised by the 19 Councillors by ensuring that any decision made is in compliance with the correct laws, procedures and practices, and to maintain full transparency regarding the decision-making process.
4. MBPJ must refrain from violating fundamental principles of freedom of information and transparency by removing data which has previously been available to the public from easily accessible channels.
5. On June 1st, Selangor Menteri Besar Amirudin Shari stated that the entire disagreement arose out of a “misunderstanding”. We call upon the MB to explain what he meant by simplifying the entire situation as being a mere “misunderstanding”, in light of the blatant manner in which the Councillors were steamrolled by the Mayor.

The law must be applied equally to all, and failure to observe this fundamental principle risks tarnishing the image of MBPJ, as well as the Selangor State itself as a beacon of democratic ideals and principles.

7 June 2023

Auditor-General's Report 2021 Series 2: Parliamentary democracy reduced to a farce by Perikatan Nasional

During a Dewan Rakyat sitting on 6 June 2023, the opposition bloc comprising politicians from the Perikatan Nasional (PN) coalition unanimously and vehemently protested the Auditor-General's Report 2021 Series 2 (AG's Report) being debated in Parliament. While Dewan Rakyat Speaker Johari Abdul moved forward with the motion to allow the report to be debated, none of the opposition politicians were present at the Dewan Rakyat for the debate, in a shameful display of irresponsibility. The Center to Combat Corruption and Cronyism (C4 Center) condemns the actions of politicians to stifle discussion of a report instrumental in highlighting potential wastages and leaks in government expenditure, as well as reiterates its stance that the Auditor-General's Reports must be subject to Parliamentary scrutiny and debate.

The actions of PN politicians in completely being opposed to the debating of the AG Report arouses suspicion – the report would cover expenses made during PN's time in government and would reveal any possible financial mismanagement or leakages under their leadership. Suspicions of financial mismanagement by PN have become much more substantiated since the unity government under Pakatan Harapan (PH) took office in November 2022 – allegations and investigations into Bersatu's misappropriation of millions of ringgit intended for COVID-19 financial aid as well as PAS' political funding by way of gambling revenue have emerged. These matters are under active investigation by the Malaysian Anti-Corruption Commission (MACC), with multiple arrests having been made in connection to these allegations, proving that they are more than just rumours and hence must be looked into further.

The disproportionately exaggerated reaction by PN politicians indicates that their time in office could have been marked by instances of corruption and self-enrichment, exacerbated by the fact that the COVID-19 pandemic had essentially provided an avenue for politicians to use government funds for ostensibly "emergency procurement". It is disappointing but also telling that PN politicians, despite being elected

officials, refuse to be answerable in any way to Parliament and by extension, the Malaysians who elected them into power.

A part of Speaker Johari's rationale in allowing the debate to take place was also that Mas Ermieyati, Chairperson of the Public Accounts Committee (PAC), was present, as were other members of the PAC as well. Their refusal to participate in the debate, even within their capacities as members of the PAC clearly demonstrates their willingness to shirk their duties by prioritising party politics above matters of public interest.

On the issue of the PAC, Takiyuddin Hassan was of the opinion that the report had been thoroughly vetted by the PAC and further debate would only waste the Dewan Rakyat's time. This is a non-issue that can easily be overcome by selecting only the most egregious and glaring examples of financial mismanagement that would warrant debate in the Dewan Rakyat due to its gravity. However, Mas Ermieyati said the report fell under the purview of the committee, and not Parliament – she added that the Dewan Rakyat should be debating reports produced by the PAC on the matter instead of those directly from the Auditor-General's office. However, this raises a key question: why was the PN bloc so opposed to debating the Auditor-General's report when the PAC had already vetted it itself under the leadership of PAC Chair Mas Ermieyati?

Additionally, Mas Ermieyati also added that the government would be better off heeding a call for PAC sessions to be made public, as they are currently all private. In response to these statements, C4 Center would like to remind the opposition that increased transparency into institutional mechanisms where it concerns public interest is paramount in advancing good governance. The PAC, while having the benefit of greater independence as it is governed by Parliament, still produces reports which are largely not publicised.

As the opposition bloc, PN is supposed to be bound by a duty to ensure that governance, especially in the government's management and record-keeping of finances is up to par. It is concerning that PN's priorities seem to lie in manoeuvring around oversight mechanisms and attempting to minimise the involvement of Parliament and democratically elected officials in the scrutiny of government expenditure. It is also worth noting that since the fracas in the Dewan Rakyat yesterday, representatives from PN have provided a multitude of reasons as to why

they refused to participate in the debate – PN is very clearly grasping at straws, using as many excuses as they can to conceal the fact that they simply did not wish to publicly confront the findings laid out in the AG's Report.

With all that has been said, C4 Center urges the following:

1. The government must amend the standing orders to formalise the debate of the AG's Reports as part of Dewan Rakyat sittings;
2. The government must also make all PAC sessions publicly available and accessible for viewing;
3. Parliament must re-table the motion of debating the AG's Report, and Perikatan Nasional politicians including former Ministers must be in attendance to justify or provide explanations for the major findings of the report in regard to their past ministry.

4 September 2023

Why should elected officials be remunerated for not performing their duties?

Last week, Dewan Rakyat Speaker Tan Sri Johari Abdul suggested that the meeting allowances payable to Members of Parliament (MPs) who fail to attend Parliamentary sittings should be deducted. This allowance is provided for under Section 5 of the Members of Parliament (Remuneration) Act 1980 and set at the rate of RM400 per day according to Statute Paper 235 of 1983.

The Center to Combat Corruption and Cronyism (C4 Center) supports this suggestion, as the meeting allowance should not be considered an entitlement but an assistive tool to facilitate MPs' attendance in Parliament. Based on a reading of the Hansard dated 18.06.1980 (when the Members of Parliament (Remuneration) Act 1980 was debated), the increased salary and allowances for MPs was intended at the time to support less wealthy elected officials in performing their official duties and responsibilities. Of course, the continued relevance of this assertion over 40 years later is debatable, yet the principle is still applicable – financial standing must not be an impediment to any person wishing to be an elected MP. Therefore, the continued provision of this allowance is useful, but if an MP does not perform the very purpose that the allowance is meant to support, there is no logical basis for them to receive the payment at all.

However, it is imperative to also consider the bigger picture here. In response to Johari's suggestion, several MPs have reportedly voiced their concerns – stating that they may be absent from Parliamentary sittings due to other official duties within their constituencies or their involvement with government-linked companies (GLCs). This leads to a pressing question: Should MPs – who are elected by voters to advocate on their behalf in the federal legislature on matters of national concern – be allowed to hold positions that impede that duty? As it stands, there is nothing preventing an MP from also being an elected member of the State Legislative Assemblies, and numerous elected officials currently sit on GLC boards as well. If these roles are preventing MPs from

performing their responsibilities, the Government should seriously consider restraining this overlap of duties.

Foregoing one's duties as an elected official in favour of their involvement with GLCs is also another example of the insidious nexus between business and politics, where elected officials seem more focused on doing business instead of representing their voters. This is further exacerbated by the lack of regulation on political financing, which enables GLCs to be potentially used as vehicles to siphon funds for politicians' personal interests.

The engagement of MPs in GLCs not only hampers their effectiveness in their roles as parliamentarians but also poses challenges for the GLCs they lead. This is due to the divided attention between their constituency work and their responsibility to ensure the GLCs fulfil their objectives, a commitment that demands significant time and dedication. Furthermore, many MPs are simultaneously engaged in their personal business ventures and other professional work which makes it unfeasible for them to fully dedicate themselves to their parliamentary duties.

Further, the length of each Parliamentary session should also be increased to allow for more laws and reforms to be tabled. Presently, the second session of the 15th Parliament shall sit for a total of 80 days, including a 6-day special meeting for the mid-term review of the 12th Malaysia Plan. Taking away the days allocated for the debate on the royal address and the budget, only a fraction of the time is left for the tabling of bills and questions to the government. By comparison, the UK House of Commons sat for a total of 147 days from May 2020 to April 2021 and for 152 days from May 2021 to April 2022 (with sittings every month), whereas Article 54 of the Constitution of the Islamic Republic of Pakistan requires the National Assembly to meet for not less than 130 working days in each year. Thus, in order to facilitate the development of a more mature legislative process, the Malaysian Parliament should also aim to increase the duration of Parliamentary sittings, which would allow MPs more time for debate and also to utilise measures such as questions to ministers or private member's bills.

The proposed extension of the Parliamentary session aligns with the current government's agenda of reforming institutions, the economy, and various legislation. In order for these reforms to be executed efficiently, every MP should fully commit to their responsibilities and

actively engage in substantive debates, parliamentary select committees, and task forces established by the government to pursue these reform initiatives. To effectively participate in these meaningful debates and contribute constructive suggestions to the reform process, MPs must dedicate significant time to conducting in-depth research on various issues. This becomes challenging if they are also involved in activities related to GLCs and personal businesses. Hence, there is a compelling need for MPs to devote their efforts full-time to their parliamentary duties.

Therefore, C4 Center urges the following:

1. Implementing Dewan Rakyat Speaker Tan Sri Johari Abdul's proposal to deny payment of the meeting allowance to MPs who fail to attend sittings.
2. Expediting the introduction of laws to govern political financing, regulate political appointments to GLCs, prevent MPs from being appointed to GLCs, and prevent the holding of both Dewan Rakyat and State Legislative Assembly seats simultaneously.
3. Increasing the duration of Parliamentary sessions, to allow for sittings throughout the year.
4. Involving MPs in the various government task forces which are currently pursuing reforms.

Public Procurement

21 February 2023

Corporate social responsibility in public procurement - no responsibility for losses, no empathy for Malaysians

The Auditor-General's 2021 Report (Series 2) has brought to light damning revelations regarding the procurement of ventilators during the COVID-19 pandemic leading to the delivery of 93 defective units and an estimated RM13.07 million in losses. These findings highlight how the loopholes and flaws in our institutions are not merely issues removed and out-of-touch from general society, but directly affect and impoverish the lives of Malaysians. **The Center to Combat Corruption and Cronyism (C4 Center)** is appalled by these revelations and strongly urges further investigations into the matter, and the parties responsible to be held accountable.

According to the Report, the Ministry of Health – with approval from the Ministry of Finance after a Cabinet meeting – had paid RM30 million to Company 260790-T (Pharmaniaga Logistics) to procure 500 ventilators estimated to cost RM 50 million. Of the 500 units, Pharmaniaga delivered only 136; of the 136, only 28 ventilators were in usable condition. The supply of 136 ventilators had cost RM20.1 million – an additional RM3.97 million was also approved to upgrade certain ventilators, pushing the cost of the overall procurement of 136 ventilators to RM24.07 million.

Additionally, the government could not claim for the losses from the defective ventilators, estimated by the national audit to be RM13.07 million, “because there were no documents on the appointment of the procurement of ventilators between Company 260790-T and MOH and the said procurement was done based on the company’s corporate social responsibility (CSR)”. The lack of documents also meant that the auditors were unable to verify the exact roles and responsibilities of Pharmaniaga Logistics in their dealings with the ventilator manufacturers.

It is difficult to overstate the degree to which good governance principles were flouted in this series of events, all of which speak to the inability of existing institutions to prevent wastage and leakages at this

scale. The numerous issues and their intersections with each other that have culminated in these losses must be identified and examined.

First, the Report stated that a Cabinet meeting on 25 March 2020 agreed that Pharmaniaga Logistics would take on the role of supplying the ventilators in what is very likely a case of direct negotiation. Direct negotiation in the public procurement process has long been criticised as being opaque and shielded from scrutiny due to the lack of a publicly-accessible tender that would allow independent assessment of the merits by which the tender recipient was chosen. The lack of transparency presents a high conflict of interest risk whereby politicians would be able to offer tenders to companies which they have a financial stake in. Pharmaniaga Logistics' parent company, Pharmaniaga Bhd, was itself chosen to procure the Sinovac vaccines by way of direct negotiation. Here it is also worthwhile to note that Pharmaniaga is a government-linked company (GLC) whose two major shareholders are the Armed Forces Fund Board (LTAT) and Boustead Holdings, whose shares are also majority owned by LTAT.

Second, the above is directly exacerbated by the lack of a contract for Pharmaniaga Logistics' services in procuring the ventilators due to the operation being a component of the company's CSR initiatives. The lack of official documentation outlining the contractual mandates of a company undertaking public procurement of public goods using public funds is simply unacceptable and is extremely vulnerable to abuse – companies handpicked behind closed doors simply being entitled to huge amounts of money under a “CSR” initiative where that money could be funnelled back into the pockets of politicians is a real risk. Without a contract, the government is also unable to hold any entity liable or to account for the failure to procure and deliver potentially life-saving medical equipment at the height of a global pandemic. The use of “CSR” is emerging slowly as a worrying trend as an easy way to secure government funding at the expense of Malaysians' well-being and security – it bears reminding that the MySejahtera application which has been besieged with controversy over its ownership and data security was also conceived as a CSR project.

Third, the abysmal performance of Pharmaniaga Logistics in acquiring the ventilators – only 28 of the 136 procured ventilators were functional, well under the target of 500 total units. This casts serious doubt over the company's ability to manage these operations to begin

with – did the company not conduct proper quality assurance checks to ensure they were receiving functional goods? Why were they unable to even come close to acquiring the targeted number of units? On the former question, if the company did not have the expertise or procedural know-how to manage operations, the Cabinet’s decision to appoint them to this role seems even more baffling. On the latter question, it is acknowledged that global supply chain issues may have affected the company’s ability to procure the ventilators in a timely fashion. However, seeking a remedy for either of these issues was rendered completely ineffectual because a contract for procurement does not exist and hence there was no way of knowing to what extent Pharmaniaga Logistics’ role is and how the responsibility was shared with the manufacturer.

Fourth, the methods by which the funds were handled can also be called into question – the numbers hint at either a gross underestimation of the actual costs needed to procure the ventilators or that money was spent frivolously and not in accordance with any budgeting undertaken beforehand. The estimated cost to procure 500 units of ventilators was initially estimated at RM50 million, but the Report showed that the cost to procure and upgrade a mere 136 units was RM24.07 million. To put these figures in perspective, almost half of the total budget was spent to procure less than one-third of the target number of ventilators. Was the initial RM50 million estimation the result of a miscalculation, or were there leakages along the way and if so, what decisions led up to these leakages and who made them? The Report even stated, “... no documents related to transactions on the procurement of ventilators were provided to Auditors.”

Fifth, the flaws of “emergency procurement” by the then government formed the base from which all these aforementioned issues emerged. Parliamentary oversight into approving RM30 million for the procurement was notably absent – it was decided in a Cabinet meeting and according to the Report, the Ministry of Finance approved this on the very same day and the sum of RM30 million was disbursed to Pharmaniaga Logistics, demonstrating how “emergency procurement” concentrates the power to control public funds exclusively in the hands of the Executive branch of government. Pharmaniaga Logistics eventually returned RM6.97 million of the advance payment.

Further to the above point is that this whole incident highlights with utmost clarity how the supposed merits of “emergency procure-

ment” are ultimately crushed by the weight of its own implementation. The rationale by which the government continuously used to defend its use of “emergency procurement” procedures is that Parliamentary approval of a budget to purchase medical supplies would be too time-consuming as COVID-19 ravaged our healthcare system and therefore, it was imperative that these supplies were purchased and supplied to hospitals as fast as possible to prevent the needless loss of lives. With the Auditor-General’s findings, it is clear that failure to practise good governance in the procurement process ultimately led to Malaysians losing out on 472 more ventilators than they would have had had procurement been conducted in a more transparent and accountable manner. How many more lives could have been saved?

At its core, all of these institutional gaps could simply be distilled to reveal a callous attitude towards the lives of Malaysians. Prioritising the well-being of Malaysians at the height of the pandemic would have necessitated proper governance in ensuring the delivery of services and equipment needed to treat those suffering from COVID-19. This also extends to the proper management of funds – the RM13.07 million in losses could have been avoided, and could have been an additional RM13.07 million re-directed into alleviating the burdens of those who were suffering financially as the national economy was crippled by the pandemic.

Casting further shadows over the findings of the Report is that these events all date back from between 2020 and 2021 are only now revealed to us in 2023, years ahead when the damage sustained as a result of poor governance can no longer be completely remedied. The more concrete and permanent solution to ensuring that such harms can no longer take place is in the form of institutional reforms that ensure transparency and accountability in our governance.

As such, C4 Center strongly urges the following:

1. For a Procurement Act to be tabled and enacted as soon as possible, greatly limiting the circumstances which allow for direct negotiations, that contains specific provisions that refer to procurement in times of national crisis, and limiting the scope of powers granted to the government in order to carry out “emergency procurement”;
2. For the Malaysian Anti-Corruption Commission to continue on

with their investigation into this procurement unimpeded, for investigations to be conducted transparently, and should any individual be found abusing their power or position for self-enrichment, for them to be charged and tried in court;

3. For the unity government to suspend and review all existing procurements made on the grounds of “emergency procurement”, reevaluating each of these projects on their merits and procedural integrity;
4. For the regulation of CSR programmes in public procurement projects to ensure that it is not abused or used to circumvent procurement rules and regulations, in the interests of self-enrichment – clear terms and conditions must be laid out before any CSR initiative is accepted by the government.

1 June 2023

LCS Scandal: Remediating corruption or simply ignoring it?

On 26 May, it was reported that Boustead Naval Shipyard Sdn Bhd (BNS), a subsidiary of Boustead Holding Berhad (BHB) signed a sixth supplemental contract for the procurement of the littoral combat ships (LCS), reducing the deliverables from six ships to five, but ballooning the total cost of the project from RM9.13 billion to RM 11.2 billion. It was also announced that the Ministry of Finance had established a special purpose vehicle (SPV) to take over BNS as a subsidiary, essentially giving MOF greater control over the project and also enacting more accountability measures to ensure the project's completion.

The Center to Combat Corruption and Cronyism (C4 Center) acknowledges that this is a step in the right direction in order to ensure that the project does not encounter further obstacles and delays. However, C4 Center also questions why those responsible for the project's catastrophic failures still have not been held accountable, and what the continuation of the project means for future anti-corruption efforts.

Defence Minister Datuk Seri Mohamad Hasan stated that the LCS project will be monitored by a newly-formed Project Monitoring Committee (PMC), jointly chaired by the Treasury secretary-general and the Defence Ministry secretary-general. Mohamad Hasan additionally stated that periodic progress reports to the Cabinet would be prepared in accordance with the conditions set by the Auditor-General, and periodic reporting to Parliament through the Public Account Committee (PAC) will be done at least once every three months as well.

While the increased oversight over the LCS project is a welcome development on paper, the administration of oversight itself must be practised and maintained to its fullest extent to ensure the project itself can meet its obligations, adhering to the timelines for delivery that have been set without failure or delays. If those reports are to be made to the Cabinet and to the PAC, they should also be made publicly available for the public – with the RM 6 billion that has already been sunk into this project, all of which came from people living in Malaysia but with not a

single ship to show for it, the government has an obligation to uphold transparency, both in terms of fulfilling their mandate of public service and also for rebuilding trust in government institutions where it has been eroded after countless corruption and financial mismanagement controversies. The capacity of our navy to defend our shores, for which these ships were purchased in the first place, has already been severely limited by this misstep.

Many questions about the project remain unanswered, and the government's response towards those outstanding issues remains wanting – why haven't the investigations behind those responsible for the poor decision-making that led to the demise of this project been made public yet? In March 2023, Chief Commissioner of the Malaysian Anti-Corruption Commission (MACC) Azam Baki stated that statements from involved parties were still being taken – this follows a string of statements from the MACC since August 2022 that the investigations were already near completion and would be released to the public. BHB's internal audit revealed inconsistencies and key figures serving in the Ministry of Defence at the time making questionable decisions; C4 Center's own research from September 2022 uncovered strong connections between this scandal and the Scorpene submarine controversy, with the same individuals quite possibly orchestrating both these projects. Why has the government been slow to act on this?

Prime Minister Anwar Ibrahim's comment that the government had "no choice" to continue with the project is unsettling in light of their inaction in holding the perpetrators of this scandal to account. If mega-projects that cost taxpayers billions of ringgit were allowed to continue despite clear mismanagement and the strong possibility of corruption based on the logic of 'sunk cost', this sets a dangerous precedent where the mismanagement of projects is retroactively disregarded in favour of ensuring delivery. The validity of the project becomes secondary to the need for completion, all while using up more public funds. The cost of the LCS project has inflated to RM11 billion by way of the supplementary contract – with RM6 billion already spent on this but no ships fully completed, the logic of sunk cost compels the government to spend another RM 5 billion. That is not to say the project is a complete waste of money – defence spending is undeniably important for the nation. However, cost-benefit analysis and the return on investment for public procurement must be prioritised.

It is worth mentioning that while he was still the leader of the opposition in August 2022, Anwar stated that the next phase of the project must be halted, with the remainder of the budget funds redirected to people in need, especially veterans. As the Prime Minister, he later stated in March 2023 that investigations into the LCS project must continue and that previous prosecutions were not enough as they did not even involve the main culprits behind the project's failure. Anwar's current statements seem to contradict these previously-held sentiments.

This is where strong enforcement of anti-corruption laws and policies would play a crucial role. If enforcement bodies such as the MACC are not able to conduct investigations and bring charges against individuals liable for corruption-related offences in a timely manner, Malaysia risks losing billions of ringgit more to flawed projects and politicians abusing their office for self-enrichment. Without proper oversight and enforcement, the procurement system will just be used as a mechanism for further extraction of funds, and the corruption that led to it is simply treated and accepted as an aspect of 'sunk cost'.

Hence, C4 Center strongly urges the following:

1. For the monitoring reports by the PMC and the PAC to be publicly released and kept in accordance with the set period as determined;
2. For the results of the MACC's investigations so far to be released promptly, made available and accessible to the public, accompanied by periodic updates on the status of ongoing investigations;
3. For the Attorney General's Chambers to initiate prosecutions against individuals found to be engaging in corruption-related offences at the point of contracting, and for those involved in the financial mismanagement of the project to be held publicly accountable;
4. For Parliament to enact the requisite institutional reforms such as the Procurement Act that would act as a preventative measure against massive wastage and poor delivery of infrastructure, and also reforms to the MACC that would ensure that public sector corruption can be dealt with more effectively.

30 June 2023

Dialogue aims to open up Malaysia's procurement

To help achieve the Malaysian Government's announcement of introducing a new Procurement Act with extensive consultation and public input, The Center to Combat Corruption & Cronyism (C4 Center) and the United Nations Office on Drugs and Crime (UNODC) brought together key stakeholders from civil society, the private sector, the Finance Ministry and Parliament for a three-day introductory procurement dialogue this week.

"Having Finance Ministry representatives engaged in mutual dialogue with procurement stakeholder is an important step in making the journey of developing the best possible procurement system based on principles of transparency and integrity for Malaysia achievable," said Pushpan Murugiah, Acting CEO of C4 Center. Participants identified good practices that should be included in a draft Procurement Bill – Freedom of Information provisions; extensive and diverse consultations; media engagement; the harmonization between State and Federal procurement processes; effective and robust e-procurement systems, among others.

"Participants can share experiences and policy thinking on the public procurement challenges and gaps, and how to align reforms with Article 9 (Public procurement and management of public finances) of the United Nations Convention against Corruption (UNCAC)," said Ms Annika Wythes, UNODC Asia and Pacific Anti-Corruption Adviser. The Center to Combat Corruption and Cronyism has also been actively engaged with officials from the Ministry of Finance to look at drafting a comprehensive Procurement Act. The many inputs that were received during the past three days will provide strong starting points in terms of identifying baseline core principles in the drafting of a Procurement Bill that takes into account the views and expectations of the many stakeholders.

C4 Center urges the government to follow through with the tabling of the Procurement Act as announced by the Prime Minister at the next parliamentary sitting and also reiterates its readiness to engage with continuously relevant government agencies such as the Finance Min-

istry and the Legal Affairs Department of the Prime Minister's Office in order to assist in drafting a strong Bill that sufficiently addresses the current loopholes and shortcomings of the public procurement system.

The Malaysian procurement dialogue is part of UNODC's integrity work under the Association of Southeast Asian Nations (ASEAN) Parliamentary–Civic Partnership to Combat Corruption Project. This is in partnership with East-West Management Institute, Inc. (EWMI) and the Parliamentary Centre of Asia (PCAsia).

27 September 2023

C4 Center echoes the need for procurement reform as announced by Cabinet's Special Committee On National Governance (JKKTN)

The Cabinet's Special Committee on National Governance (JKKTN) announced on 14 September 2023 that it had decided at a meeting to enact a Government Procurement Bill to “strengthen governance on the government’s procurement through laws aimed at increasing accountability of those involved in government procurement,” amongst other reforms. JKKTN’s statement on the matter also mentioned that the principle of transparency should be taken into account in the upcoming Government Procurement Bill through the creation of a complaints and objection mechanism in line with international standards.

The Center to Combat Corruption and Cronyism (C4 Center) welcomes these announcements as a positive and progressive step forward in reforming Malaysia’s procurement process. C4 Center has long advocated for procurement reform and also subsequently supported the enactment of a Government Procurement Act in order to regulate the procurement process, recognising it as extremely vulnerable to corruption, especially in the Malaysian context. C4 Center formed part of the committee consulted in the initial drafting of the National Anti-Corruption Plan 2019-2023 (NACP) and also has provided input to the drafting of the new National Anti-Corruption Strategy (NACS). Regrettably, over the past four years, every administration has fallen short in implementing procurement legislation, even though it constitutes a vital component of the NACP’s strategic objectives.

On Monday, 18 September 2023, C4 Center held a forum called “Crafting the Future of Malaysia’s Public Procurement” in collaboration with the United Nations Office on Drugs and Crime (UNODC) – the forum was attended by academics, civil society, members of the public sector, and subject matter experts both domestic and international, where C4’s Draft Policy Paper on the Government Procurement Act was presented. The paper formed the basis for subsequent discussions surrounding urgent reforms that need to be made in the field of public

procurement and the related challenges to be overcome in doing so.

In the draft policy paper, C4 Center identified five key issues that must be addressed in the Act or any upcoming future procurement reforms. These include the wide powers ministers have over financial operations and the procurement process; ensuring compliance of the civil service to procurement procedures; the accessibility and transparency of procurement-related information; the need to enact an adequate complaints and review mechanism for addressing flawed procurements; and lastly, defence procurements and the need to adopt adequate transparency measures to prevent the abuse of “national security” exemptions in procurement.

The issues listed above remain contentious within public discourses, but it is vital that the government prioritise these areas in drafting the Government Procurement Bill as the weaknesses in these areas hold open the avenue for bad practices to take place. These issues reflect a need to strengthen transparency and accountability in governance – the operations of public procurement need to be made open and accessible for public scrutiny, with individuals responsible for subverting the procurement process held responsible. The decentralisation of unfettered power from politicians in deciding on procurement matters must also be accounted for.

The forum was not the only platform at which stakeholders were engaged on the subject of public procurement – C4 Center had also previously conducted a consultation session with members of the private sector including both SMEs and MNCs on how Malaysia’s public procurement system should be improved. The feedback from this session was also incorporated into the draft policy paper.

The measures for doing so are already prescribed in international legal instruments of which Malaysia is a signatory, such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which compels the enactment of a complaint and review mechanism. The model for such a mechanism is also available for study and adaptation into the local context via the application of the United Nations Commission on Trade Law (UNCITRAL) Model Law on Public Procurement.

Hence, **C4 Center reiterates** its long-standing willingness to engage in further discussions with all stakeholders on the policy positions that need to be taken in order to move procurement reform forward.

Particularly, we hope to be able to meet with the Prime Minister to present our full research and recommendations as a reference for a robust and effective Procurement Bill.

Additionally, since the tabling of the Government Procurement Act was announced to be tabled by the end of 2023, we urge the government to release the Bill for public scrutiny ahead of time in the interests of upholding transparency and public participation in governance. The government has stated that the legislation of the Act was to curb corruption and wastage in the procurement process – it is important that the preamble and provisions to the Act should reflect this intention. The participation of the private sector and civil society in assessing that the draft Bill fulfils its stated purpose is vital to the success of this law.

25 November 2023

Auditor-General's Report 2022: Massive losses in public projects reaffirm major need for government accountability

On 22 November 2023, the Auditor-General's Report on the Activities of Federal Government Ministries/Departments and Federal Statutory Bodies was published revealing losses amounting to RM681.71 million from 6 projects out of the 16 performance audits carried out across 14 ministries. Auditor-General Wan Suraya Wan Radzi said that the biggest loss came from the Padi Planting Programme (RM606 million), while the other major losses were in the Langkawi Development Board's (LADA) real estate development programme (RM14.3 million), firearms supervisory and management under the home ministry (RM6.3 million), a marine rehabilitation programme (RM490,000), factory investment incentives (RM300,000), and safe city initiatives (RM120,000).

The audit additionally showed that of the 16 projects, a staggering 11 failed to meet their objectives. Furthermore, the performance of 3 could not be ascertained, while only 2 succeeded in their objectives. **The Center to Combat Corruption and Cronyism (C4 Center)** is appalled at the above revelations and demands that the government takes these findings seriously. The Malaysian Anti-Corruption Commission (MACC) must open investigations into these cases in collaboration with the Auditor-General's Office in order to ascertain if corruption had contributed to these losses. These revelations further illustrate the urgent necessity for institutional reforms such as the legislation of a Government Procurement Act and the establishment of an Ombudsman Office.

The breadth of failures across projects in multiple ministries is stunning, especially because many of these projects were concerned with the provision of important goods and services that directly benefit the Malaysian public. Wan Suraya's statements on the Padi Planting Programme reveal that the government had failed to manage the use of land and logistics of supplies needed for the operation of this pro-

gramme. On the procurement of firearms and accessories by the Ministry of Home Affairs for the Royal Malaysian Police (PDRM), the Ministry had failed to adequately follow up on the delivery of supplies valued at RM7.5 million since 2014, leading to losses of approximately RM6.3 million. In both cases, the government had failed to implement a continuous and periodic progress reporting system. Additionally, the government did not take action despite the failure of the contracted party to supply the contractually required goods and services for an extended period of time, and subsequently did not face any repercussions at time of audit. The question that must be answered is how such massive operational failures went unnoticed and unaddressed for so long?

These failures additionally call to mind the existing flaws in Malaysia's public procurement system – C4 Center has long highlighted the lack of transparency as well as lack of legal mechanisms that can be invoked in the case of non-performance of contractual obligations by suppliers. With the revelation of many such cases, it casts further doubt on whether the selection process for contractors was carried out openly and transparently, and whether they indeed possessed the merit and qualifications to carry out these projects. Public procurement is an area particularly vulnerable to corruption, and the lack of an entrenched law to regulate the related processes as well as impose accountability measures means that the notion of “wastage” potentially camouflages the more detrimental issue of public monies being directed into the personal accounts of corrupt officials.

It is incredibly frustrating that this is just another notch in a long-standing record of public funds being mismanaged and leading to massive losses. Within the last two years, there have been massive scandals that have emerged as a result of poor governance which saw millions of ringgit flushed away, including the catastrophic defence procurement in the form of the LCS ships fiasco, the delivery of non-functioning ventilators that were completely lacking in any legal documentation, and the alleged mismanagement of COVID-19 relief funds that possibly ended up in the bank accounts of political parties. The common thread between these scandals is that their harm could have been prevented or minimised through the introduction of institutional reforms that narrow the avenue for public officials to be able to exploit the lack of transparent government for their own gain.

The unity government under the leadership of Prime Minis-

ter Anwar Ibrahim has repeatedly touted their strong stance on good governance and a zero-tolerance attitude towards anti-corruption, but have been slow to introduce a slew of promised reforms. It is acknowledged that many of the scandals listed above took place before the current administration took office and that they have been left to clean up the messes. Nonetheless, almost exactly a year has passed since the government came into power, and the window of time for the public to extend goodwill towards inaction is surely slimming. It is not difficult to see why – the Merdeka Centre recently found that Anwar Ibrahim's approval rating has reduced significantly, with many respondents citing dissatisfaction with Malaysia's stagnating economic situation. Certainly, many Malaysians are able to situate this alongside the many scandals that continue to unfold, understanding that the gross wastage is equivalent to the deprivation of welfare and infrastructure that would have materially benefitted the lives of many. The current government has made it known that they are working on some of these reforms, including the Procurement Act – nonetheless, we call upon them to expedite the process without any further delay.

Hence, C4 Center strongly urges that:

- The government prioritise these reforms such as consistent and periodic public reporting on projects so that their progress can be tracked throughout its lifespan to prevent the losses from being revealed only after millions have been wasted;
- The role of the Auditor-General's office is further empowered and their capacity strengthened to be able to conduct audits more regularly and unannounced on government bodies.
- The government table a Government Procurement Bill that would codify procurement procedures that would ensure transparency in the selection of suppliers and contractors, as well as their merit and proven track record in providing goods and services;
- Finally, we call upon the MACC to ramp up efforts in investigating these failures, especially in the cases where irregular payments have been made in order to eliminate corruption from within our governance structures.

Money Politics

10 February 2023

Caution urged: Minister's invitation to businesses to 'help' constituencies defeats axing-out of money politics efforts,
C4 supports reduced CDF move

The Center to Combat Corruption and Cronyism (C4 Center) urges caution over Communications and Digital Minister Fahmi Fadzil's statement early this week calling upon the private sector to assist Members of Parliament (MPs) to 'help' their constituencies.

This follows the government's reduction of backbencher MPs' (constituencies) development allowances, as confirmed by Prime Minister Anwar Ibrahim on 3 February, from RM3.8 million to RM1.3 million, to allay the financial constraints currently faced by the country.

In principle, C4 Center agrees with the government's move to cut down constituencies' development funds (CDF). We are also aware that the expectations of an MP by constituents differ from those of a policy-maker, but it is time to cultivate our MPs and constituents to recalibrate their mindset towards effective policy-making, governance and management of the funds instead.

While the CDF represents a legitimate mechanism for development and an important tool for MPs' involvement in grassroots community development, MPs' main roles are as policy-makers and lawmakers, not occupying a majority of their time plastering potholes and other menial tasks that should remain the responsibility of the local councils and relevant ministries to execute. Allocation given to MPs should be used for research, staffing, advocacy, and town-hall sessions to generate public participation on policy issues. There is certainly more need to empower and encourage local councils and state governments to play a more effective role in local development and maximise any amount allocated by the government to serve the constituents.

We acknowledge that on Monday, Fahmi Fadzil had encouraged government-linked companies (GLCs) and companies to keep giving back to the communities via their corporate social responsibility (CSR) efforts, which is a good reminder. At the same time, we understand that the minister also mentioned he believed: "...we can think of ways

to work closely with companies that have bigger profits, and that they would consider helping constituencies as part of their CSR efforts". On the other hand, that should have been more intelligibly conveyed.

The minister's statement can easily be misconstrued and lead to grave consequences, risking the perpetuation of the political-business nexus. Already, the detrimental practices of rent-seeking and political patronage have become entrenched within the Malaysian political economy.

When alluding to the idea of businesses 'helping' MPs in their constituencies, clarity is advised and caution to all public officials in their speech and actions is urged against giving rise to any opportunity for 'personal relationships' to be forged between politicians and business people, except for the purpose of formal engagement in policy-related efforts opened to public participation and scrutiny.

In hindsight, 'close ties' linking federal executives with the business world have been the subject of extensive literature. Our own Malaysian history has shown how private connections between politicians and mega-tycoons behind closed doors could lead to the proliferation of rent-seeking, cronyism and patronage in the solicitation of government contracts.

One such instance of 'money politics' scenario involves an ongoing high-profile court case of Ultra Kirana Sdn Bhd (UKSB) which admitted to paying tens of millions of ringgit to almost a dozen politicians purportedly as 'political donation'. To date, many questions still remain unanswered; what happened to the millions it doled out to those politicians? Where did the money come from, despite the company's poor financial performance from 2015-2020?

As the country begins to embrace reform efforts in the hopes of stamping out decades of corruption and the culture of money politics, it is in the best interests of the nation and its citizens to ensure that our lawmakers' relationship with the business community is kept at arm's-length.

In view of this, it is C4 Center's top priority alongside other civil society organisations (CSOs) to curb the pervasive culture of 'money politics'. What should no longer be delayed right now is for the tabling of the Political Funding/Financing and Asset Declaration Acts to be expedited and made as a major reform agenda under the current administration.

12 June 2023

Batas Baru land sale, profiteering over state-owned lands: Why has this land sale gone unchallenged?

Chief Minister of Terengganu Samsuri Mokhtar is alleged to have decided on the sale of state government-owned land in Batas Baru to the Khairunnisa' association for only RM 500 thousand, 58 times cheaper than its valuation of RM 29 million. Khairunnisa' is an organisation whose members are wives of elected officials, both current and former – it is also affiliated to PAS, of whom Samsuri is a member and also currently serving as Vice President since 2019. **The Center to Combat Corruption and Cronyism (C4 Center)** calls for the Chief Minister to come clean on this matter and provide a comprehensive explanation to the people of Terengganu. We further urge investigations by the Malaysian Anti-Corruption Commission (MACC) due to the weight of allegations that conflict of interest and abuse of power were involved in the sale of land to Khairunnisa'.

Reports about the sale had emerged in mid-May 2023 about Khairunnisa's acquisition of the land from the Terengganu state government, citing unverified documents from the Kuala Terengganu Land Registry that showed the valuation of the land at RM 29 million. These documents also show that between 2018 and 2019, the premium paid for the purchase of land had dropped from RM 5.87 million to RM 500 thousand. The sale of land was apparently not deliberated either, as it was gazetted for public use under Section 62 of the National Land Code on 28 April 2011.

These reports eventually gained traction, enough that Samsuri himself eventually commented on the matter, stating that it was a non-issue, that there was no problem with the sale as the transaction had adhered to the existing laws and processes of Terengganu, and that these claims were being sensationalised for election fodder as the Terengganu state elections were approaching. Samsuri notably refused to disclose the actual current market value of the land. Following this, the Terengganu PKR Youth wing urged Samsuri to halt all land sales and to provide justifications for the land sale. UMNO Terengganu Chairman Ahmad Said also challenged the land sale and said that he wished

to debate the issue with Samsuri, who in turn responded dismissively. Aside from these instances, politicians and parties were deafeningly silent in their lack of outrage and calls for accountability.

Samsuri's admission that the sale of land did take place is damning enough – he made no attempt to conceal his knowledge of the sale, or that it was sold to Khairunnisa', an organisation blatantly dedicated to support of his political party. This is a cut-and-dry case of conflict of interest as state governments have absolute control over land matters. Samsuri, being the Chief Minister, has a great degree if not complete power over the sale of state land, and has potentially abused his power and office in order to transfer land over to his political supporters.

However, these are no ordinary supporters – Khairunnisa' is explicitly constituted by wives of elected officials, presumably almost if not all from PAS, guaranteeing that a valuable asset would be under the control and ownership of Samsuri's political allies and cronies. This modus operandi is nothing new: Previous research conducted by C4 Center compiled in the 2021 report "Foundations and Donations: Political Financing, Corruption, and the Pursuit of Power" outlines that foundations and charitable organisations have often been used by politicians in order to secure political funding and as an avenue for self-enrichment, especially by way of land sales.

Upon further searches conducted by C4 Center, this may not necessarily be an isolated case coming from the Terengganu government. Mention of the Batas Baru land sale to Khairunnisa' can be found in the minutes of the Terengganu State Legislative Assembly (DUN) Meeting that took place from 15 to 18 November 2021. In that meeting, the attendee who raised concerns over the land sale to Khairunnisa' also mentioned land in Kuala Ibai transferred to Koperasi Kokhidmat Batu Burok Kuala Terengganu (KOKHIDMAT) Berhad. It was valued at RM 4.7 million, whose premium was set at RM 2.37 million at a 50% rate – this sum was later reduced by 90% to RM 237 000 by the Kuala Terengganu Land and District Office.

The meeting also mentions the purchase of property in Egypt valued at millions of ringgit, ostensibly used as student accommodations, as well as the sale of properties at a loss. Land transfers to Yayasan Terengganu were also mentioned multiple times, demonstrating once more that foundations are often used as a vehicle for the moving of assets. Samsuri Mokhtar was present at this meeting.

What is presently clear is that Samsuri Mokhtar has very possibly abused his position and power over land matters to ensure that land is owned and controlled by his party mates, in this current instance and in others, and concerns raised by ADUN going unaddressed. Samsuri's shameless nonchalance in the face of being confronted by these allegations is a bitter reminder that there are some politicians attempting to normalise corrupt practices in Malaysian society, and attempting to desensitise us against corruption by brushing it aside as "non-issues."

Hence, C4 Center strongly urges the following:

1. The state government must come clean and provide explanations as to why the transaction was approved and why it was sold at such a low value to a politically-affiliated party;
2. The MACC must investigate Samsuri Mokhtar's dealings and approval of land sales, and if he is found liable for offences relating to abuse of power and corruption he must face the full force of the law;
3. Institutional reforms must take place to ensure transparency in the ways in which chief ministers and state governments handle land transactions, and to regulate the absolute power that they, in particular, have over land matters.

15 November 2023

Political financing law urgently needed to prevent fickle MP loyalties

Four MPs from Bersatu, a constituent party of the opposition Perikatan Nasional (PN) coalition, have declared their support for Prime Minister Anwar Ibrahim – the MPs are Suhaili Abdul Rahman (Labuan), Iskandar Dzulkarnain Abdul Khalid (Kuala Kangsar), Mohd Azizi Abu Naim (Gua Musang), and Zahari Kechik (Jeli). The reason cited for the switching of party loyalties was the guarantee of receiving federal funds for the welfare of their constituencies. The Center to Combat Corruption and Cronyism (C4 Center) raises the alarm on multiple fronts: that this represents the persistence of money politics within Malaysia's electoral democracy; the failings of existing anti-party hopping provisions; and the ongoing erosion of the democratic process.

The guarantee of receiving federal funding for their constituencies as the primary reason for shifting coalitions brings to the forefront the issue of money being used as a political tool. Currently, the Federal Government has complete autonomy to make arbitrary choices over which constituencies receive funding or not at all. As a result, the coalition leaders of successive ruling governments will be able to solidify their position on the promises of constituency funding alone. This could result in MPs pre-emptively forming political alliances with the ruling coalition post-election with the anticipation that they will receive federal funding for their constituency.

The larger issue at hand, however, is that MPs are meant to be Federal-level legislators, meeting with constituents and raising their concerns at the Parliamentary level – MPs are not lobbyists for constituency funds and should not be forming alliances on this basis to begin with. Normalising this practise would open the path to this money possibly being channelled through political parties instead. Political financing as a basis for corruption is already endemic, and the avenues for it should not be made even wider through the overreach into constituency fund-seeking by MPs. A Political Financing Act removes the incentive of MPs to seek funds through underhanded means, or relying

on “constituency funds” which should not fall within their mandate to begin with.

The defection of the Bersatu MPs also reveals the ineffectiveness of the anti-party hopping provisions under Article 49A of the Federal Constitution Article. Despite the defections having the effect of party hopping, the MPs are not caught under the anti-party hopping provisions as the law only compels the vacating of a seat by an MP in the case of their resignation from the party. All four members who have declared this switch have maintained that they remain Bersatu members, and although they will face disciplinary action, their expulsion from the party would still allow them to maintain their seats. This odd feature essentially opens the loophole for new and volatile political alliances to be forged at any given moment – this is especially dangerous given the high degree of infiltration of money politics within our political systems.

At the surface level, it is clear to see how this switching of party loyalties is an usurpation of the democratic principles. While it is true that these candidates were voted in by their constituents, they were also likely voted in based on their party or coalition affiliation. If politicians are allowed to change allegiances and parties at the drop of the hat, it renders the electoral system defunct. It is reminiscent of the infamous “Sheraton Move” of early 2020, and continues the precedent that the people’s mandate to decide representation in Parliament has become an increasingly meaningless process. The hung Parliament resulting from Malaysia’s last general election and the subsequent formation of the unity government has also shed light on how citizens’ attitude towards our political landscape have shifted – our anti-party hopping laws need to account for the need to form stable governments.

In addition to this, however, money politics also affects voter decision-making, in that desirable political choices are made on the basis of which parties and candidates are able to secure constituency funding as opposed to how the funding itself can be directed and expended in ways that can actually benefit the communities they belong to. Elections then become merely about where money flows and which MPs are most likely to secure funds through forging loyalties.

If money continues to determine the course of Malaysian politics, governance will continue to be seen as a means of resource accumulation and control as opposed to actually protecting the welfare of Malaysian

citizens. While the upkeep of welfare is undeniably connected to MPs having more funding at their disposal, the question of why some constituencies deserve funding while others do not remains unanswered – the political affiliations of MPs is not a justifiable reason for denying funding.

Hence, C4 Center urges the following:

- The government needs to enact a Political Financing Act that removes the incentive of MPs to seek funds through underhanded means, or relying on “constituency funds” which should not fall within their mandate to begin with;
- The government needs to guarantee funding to all constituencies, both aligned with the ruling coalition as well as the opposition, the amount of which shall be decided based on sensible metrics such as population size and the need for basic infrastructure;
- An Asset Declaration framework needs to be put in place as well, in order to ensure that political funding is never abused for personal gain and would actually end up being put to use for the development of the constituency and its inhabitants;
- Article 49A of the Federal Constitution requires refining to account for a wider scope of situations whereby politicians can simply be bought over by promises or anticipations of funding or appointments to positions of power.

Asset Declaration

28 July 2023

Call for State Election candidates to declare assets

As announced by the Election Commission on July 5th, the upcoming elections for the State Legislative Assemblies of six states – Kedah, Kelantan, Negeri Sembilan, Penang, Selangor, and Terengganu – shall be held on August 12th, with nomination day being fixed on July 29th. Given that political parties are in the process of currently naming their chosen electoral candidates, The Center to Combat Corruption & Cronyism (C4 Center) urges each party/coalition to announce their commitment to asset declaration by political candidates, both during the lead-up to polling day as well as upon their legislative agenda.

Article 8(5) of the United Nations Convention against Corruption (a universally binding anti-corruption instrument which Malaysia ratified in 2008 and is thereby bound) stipulates that State Parties shall endeavour “to establish measures and systems requiring public officials to make declarations to appropriate authorities” regarding their investments, assets and substantial gifts or benefits from which a conflict of interest may arise. Presently, Malaysia still does not have any statutory requirement for mandatory asset declaration by elected officials. Yet this should not be an excuse for political aspirants to not comply with the spirit of the convention – who are perfectly capable of volunteering such information to be made publicly available.

Asset declaration is an important element of open government policies, as it allows for increased transparency of the financial positions of those in power. The public availability of such information enables civil society to also serve as watchdogs to monitor potential instances of illicit enrichment and corruption. However, an important consideration is the extent to which candidates are truly honest when making such declarations. Previously, asset declarations have been made by elected officials and electoral candidates which have not included sufficient details or which have doubtful veracity. Therefore, when making these declarations, C4 Center reminds candidates of the oath they must take upon election as members of the State Legislative Assemblies: to bear true faith and allegiance to their State and the Federation. Their personal interests must never be allowed to conflict with or supersede their

functions as public officials.

Therefore, we call upon all political parties/coalitions to require all candidates they nominate to declare their assets, movable or immovable, in a public manner. This may be done by making the declarations available on online platforms, and to submit copies to the Office of the Speaker of their respective State Legislative Assemblies, and must be accessible by the public. Further, we urge each party/coalition to insert the enactment of an asset declaration law targeted at elected officials and electoral candidates into their election manifestos, and to commit to this pledge upon coming into power in order to entrench mandatory asset declaration at the state level. We welcome the decision by the Kedah Barisan Nasional and Harapan alliance's recent manifesto pledge that biennial asset declaration requirements shall be imposed upon the Menteri Besar, State executive councillors and assembly persons, should the alliance emerge victorious. We urge all the other political parties to adopt a similar commitment.

Over the coming weeks, C4 Center shall also schedule meetings with each and every party/coalition in order to get their firm commitment to this matter. It is our genuine hope that this call to action shall be taken up by all candidates, in the best interests of their states and the electorate to which they are beholden, as well as to show their commitment to combating corruption within our society.

Civil Society Solidarity

25 July 2023

Standing in solidarity with activists against violence and intimidation

The recent attempt on Siti Kasim's life is a cause for alarm and completely unacceptable as it indicates the hostile environment faced by local activists and human rights defenders. The Center to Combat Corruption and Cronyism (C4 Center) strongly condemns these acts and calls upon the police to prioritise investigations into the matter and uncover the identity of the perpetrator so they can be brought to justice, especially now that Inspector-General of Police Tan Sri Razarudin Husain has confirmed it to be an attempted murder. Violence and threats thereof against activists have no place in any society.

On 21 July 2023, an object was found attached to the bottom of Siti Kasim's car – it was later confirmed to be an IED (improvised exploding device) by the police. Siti Kasim has long campaigned on behalf of indigenous people, both as an activist and as a lawyer defending them in court, and this incident took place days before she was due to drive to Kelantan to appear in court. Siti is also well-known for her outspokenness against religious extremism in the country. As a result, she has faced much criticism and hostility from people who oppose her work and beliefs.

This is not the first case of its kind – activists in Malaysia have previously faced similar threats. Amnesty International Malaysia's 2018 report, "The Forest Is Our Heartbeat: The Struggle to Defend Indigenous Land in Malaysia" details how 'gangsters' armed with swords or other weapons have been found to confront, harass and physically attack community leaders and activists with impunity and also mentions how indigenous activist Bill Kayong was gunned down in broad daylight in Miri in June 2016. Enforced disappearances against social activists have taken place multiple times, such as the cases of Pastor Raymond Koh and Amri Che Mat who still remain missing without explanation. While there are no recent cases of this nature, the re-emergence of such an occurrence is a concerning regression.

In light of the seriousness of the situation, we call upon the au-

thorities to afford Siti the protections she needs under the law. The government has a duty to defend the constitutional right to freedom of expression. Those who exercise this right must be protected against intimidation and threats to their life and limb.

Hence, investigations into the matter must take place as urgently and efficiently as possible, prioritising the apprehension of the individual or group responsible before they can act again. This is in line with Article 12 of the United Nations Declaration on Human Rights Defenders which imposes an obligation on states to ensure protection against “violence, threats, retaliation,” etc. as a consequence of the legitimate exercise of fundamental human rights. These matters must be taken seriously by the authorities so as to prevent the normalisation and escalation of violence against those who speak out against injustice as they see it.

C4 Center stands in solidarity with Siti Kasim and all human rights defenders.

C₄ Center Leadership Transition

6 January 2023

Change of guard: C4 Center's New leadership

Dear Friends and Colleagues,

New Year greetings from us at C4 Center.

As the new year beckons, and with a new government in place for more than a month now, C4 Center hopes that civil society will remain focused and pursue much-needed reforms to combat corruption with strength, perseverance and good strategies.

As Malaysia looks forward with new hope, the Board of Directors of C4 Center would like to announce that:

1. Cynthia Gabriel is stepping down as Executive Director after seven (7) productive years at the helm. She will remain as Founding Director and continue as a member of the Board of Directors. She will serve as a Senior Advisor and help C4 Center set direction and policies.
2. Pushpan Murugiah, a former corporate executive trained in the discipline of Law, will assume the role of Acting Chief Executive Officer (CEO).
3. Sudhakaran Stanley, Programme Manager at C4 Center, will take on the role of Deputy Chief Executive Officer.

We trust the new leadership will uphold the credibility and reputation that C4 Center has built over the last seven years and will seek to raise anti-corruption efforts in Malaysia in the coming years.

We thank Cynthia Gabriel for her remarkable contributions to combat corruption and wish her well in her new endeavours. We would also hope that all civil society partners will continue to work with and support C4 Center under this new leadership.

On to a productive 2023. Attached below is the PDF version of the statement for your reference.

Thank you.

29 August 2023

C4 Center leadership transition: Board of Directors
confirms Pushpan Murugiah as the Chief Executive
Officer

At the beginning of 2023, the Board of Directors of the Center to Combat Corruption and Cronyism (C4 Center) announced a leadership transition within the organization with the departure of former Executive Director Cynthia Gabriel – Pushpan Murugiah was thereafter appointed as the Acting Chief Executive Officer of C4 Center. The Board is delighted to officially confirm the appointment of Mr Murugiah as the Chief Executive Officer of C4 Center effective immediately, and congratulate him on his appointment.

As the newly-appointed CEO, we have full confidence in Mr Murugiah's ability to continue upholding the highest standards of credibility and professionalism that C4 Center has subscribed to and practised since its establishment.

The Board of Directors, along with the C4 Center team, remain steadfast in our dedication to combating corruption and promoting transparency and accountability in Malaysia. With Mr Murugiah at the helm, we look forward to enhanced anti-corruption efforts, including continuing to work hand-in-hand with all relevant government institutions and civil society organizations.



THE CENTER TO COMBAT
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