This report was made to give an analysis of the 13 institutional reform areas in the administrative system that C4 Center has been tracking since the past general election.
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The historic General Election in 2018 that resulted in the Barisan Nasional (BN) Government being ousted provided a plethora of opportunities to carry out critical structural reforms to the government administration of Malaysia.

The exposé on the 1 Malaysia Development Berhad (1MDB) scandal and former Prime Minister Najib and his henchmen’s brutal response in trying to quell public anger became the final straw that broke the camel’s back. Millions of Malaysians come out in droves to exercise their democratic right on the 8 of May 2018 to topple the UMNO-led Barisan Nasional government.

This “New Malaysia” brought renewed hope to Malaysians that reforms in the administration and politics of our country was finally possible, after 6 decades of rule by a single coalition.

It was a period of high spirits and transformation in the country, and Malaysia’s new landscape was hailed around the world. Numerous consultation sessions and town halls were conducted and many high-level committees were formed to discuss the possible directions the country could take in this new journey and the areas that reforms were urgently required.

The Council of Eminent Persons [1] was formed to assist the government in researching and laying out a plan of action for reforms and change. The Institutional Reform Committee [2] and the 1MDB Special Investigative Committee was established quickly. C4 Center’s Executive Director was selected to be a part of the 1MDB investigative committee, given our noteworthy work prior to the General Election.

Civil society and various non-government organisations (NGOs) were also roped in for their input, suggestions and expertise. The honeymoon period came slow decline, as the new Pakatan Harapan (PH) government’s appetite towards reforms started to recede as they dealt head-on with the reality and challenges of governance, not to mention the alleged growing anti-Malay narratives being propagated by the-then opposition coalition made up of among others, the United Malays National Organisation (UMNO) and Parti Islam Se-Malaysia (PAS).

The drama leading to the decision not to ratify the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), despite an earlier pledge to do so, was a turning point for the Mahathir administration to change its tune and start playing the racial card to appease the groundswell of those who volleyed accusations of anti-Malay sentiments at the government.

Then began the rollback and conflicting statements, with even Mahathir Mohamad himself throwing the Buku Harapan Manifesto out the window. There were times where PH had gone against their own pledges made in the election manifesto, the appointment of Azhar Harun as Chairman of the Election Commission being an example. [3] PH’s manifesto had previously committed that the appointment of any Election Commission members must go through Parliament’s process of approval and that the Commission would be placed directly under Parliament. Prime Minister Tun Dr Mahathir Mohammad had also at one time remarked that the “Manifesto is not a bible, and Pakatan did not expect to win the elections.”[4]

In January 2019, Mahathir launched the National Anti-Corruption Plan (NACP) 2019-2023.[5] It was a five-year roadmap to strategically address poor governance and combat corruption in the country. The NACP was a result of intensive consultations held earlier with various interest groups including C4 Center and was developed by the National Centre for Governance, Integrity and Anti-Corruption (GIACC). The NACP incorporates 115 initiatives which cover six sectors, namely politics, law enforcement, public procurement, legal and judiciary, public administration and corporate management. Within the 115 initiatives of the NACP, there are 22 initiatives listed and marked as “Top Priority”. These 22 top priority initiatives were identified based on the urgency to deal with the intensity of existing problems and required immediate action. One year away from the deadline of the NACP’s full implementation by December 2023, Malaysia is not only regressing in its reforms but performing disastrously in keeping up with the promises made in the NACP.

In the NACP Progress Report 2020 and 2021, it was reported that a total of 29 out of the 115 initiatives has been implemented in the year 2019.[6] It was further stated that a total of 13 initiatives had been postponed. The reason stated for this postponement is the need to further conduct a study on the 13 initiatives as these areas of reform would need amendments to the Federal Constitution.

As would be proven from the examples and detailed observations written in the specific reform tracking areas of this C4 Report, the reasoning or excuse given to postpone the initiatives could not hold water. It is clear from C4’s tracking that the current joint Barisan Nasional and Perikatan Nasional (BN+PN) government is slowing down reforms and refusing to move ahead in many important areas. Many initiatives where the original plan was to implement reform or enact a new law has been changed in the NACP Mid-Term Review, to instead conduct further studies or research on the suitability of implementation. This is a huge setback for many of the reform areas.

C4 Center started tracking developments on the implementation of the NACP since it was launched. A total of 11 out of the 115 initiatives are being tracked by C4 Center. Two other initiatives which are not part of the NACP, (Anti-Party Hopping Law and Environmental Governance) are also being tracked and included in this report as these topics became important to the overall reform plan of Malaysia.

The areas being tracked are:

1. Whistleblower Protection Act 2010 (Reform)
2. Freedom of Information Act
3. Independent Police Complaints and Misconduct Commission
4. Asset Declaration Law
5. Separation of the AG &PP
6. Establishment of Parliamentary Select Committees
7. Parliamentary Service Act
8. Ombudsman Act
9. Reform the Malaysian Anti-Corruption Commission
10. Political Finance Law
11. Public Procurement Act
12. Anti-Party Hopping Law
13. Environmental Governance

These 13 areas being tracked are initiatives that are crucial to addressing the poor governance and corruption problem holistically in our country. This report tracks the various announcements made by the Prime Minister, Cabinet Ministers and their Deputies, government head of departments and agencies, and the reports published by GIACC. Readers will be able to track various promises and announcements made and how politicians and the government have been flip-flopping on their words.

All three governments since the 2018 General Elections have failed in different ways and times to implement the NACP. This is discussed further on the next specific reform area tracking pages. It is important to note the key dates and events below to gauge which of the unelected governments post Sheraton move had spurned the reform agenda and set the country spiralling downward.
• 8 May 2018 - Pakatan Harapan wins the 14th General Election
• September 2018 - Special Cabinet Committee on Anti-Corruption (JKKMAR) formed
• 29 January 2019 - The National Anti-Corruption Plan 2019-2023 Launched
• 23 February 2020 - Infamous Sheraton Move and collapse of Pakatan Harapan Government
• 2020 - Progress Report 2019 of the National Anti-Corruption Plan published
• May 2021 - National Anti-Corruption Plan mid-term review published
• 17 August 2021 - Muhyiddin resigns and collapse of the Perikatan Nasional Government
• 13 September 2021 - The signing of Memorandum of Understanding between Pakatan Harapan and Ismail Sabri Government
• March 2022 - National Anti-Corruption Plan Progress report 2020 and 2021 published

In the following pages, the specific reforms being tracked will be discussed in more detail.

For Reference: Rating Status Meaning:

- 🦀 Sidetracking reform agendas
- 🐐 Speedy implementation of reforms
- 🐄 Failure to implement reforms
- 🐢 Slow implementation of reforms
This is not part of the National Anti-Corruption Plan 2019-2023 (NACP).
Law Minister Liew Vui Keong said that an anti-party hopping law to deter lawmakers from defecting is not in the works. The Election Commission is of the view that, for now, all citizens are guaranteed freedom of association. “This is in line with Article 10(1)(c) of the Federal Constitution,” Liew said in a written parliamentary reply today. [7]

A bipartisan parliamentary caucus to reform the country’s electoral system, which includes addressing party-hopping, was formed today by MPs across the political divide. Chaired by UMNO’s Padang Rengas MP Datuk Seri Nazri Aziz, the caucus has been given six months to gather views from relevant stakeholders before tabling the recommendations to the Dewan Rakyat. [8]

Law Minister Datuk Takiyuddin Hassan said the government currently does not see a need to create new laws to prevent Malaysia’s elected lawmakers from hopping to another political party after being voted in, but will study it in detail if such laws become necessary in the future. At this time, the Government is of the view that every citizen is guaranteed the right to freedom of association in line with Article 10(1)(c) of the Federal Constitution where this right to form association was also discussed in the Supreme Court’s decisions in the case of Dewan Undangan Negeri Kelantan & Anor v Nordin bin Salleh & Anor [1992] 1 CLJ 343 and the case of Tun Datu Haji Mustapha bin Datu Harun v. State Legislative Assembly of Sabah & Anor (No. 1, No. 2 and No. 3) 1993 [1 MLJ 26], [1 CLJ 86] and [3 CLJ 546]. [9]
Law Minister Datuk Seri Wan Junaidi Tuanku Jaafar said that the Attorney General has been asked to draft the anti-hopping law. “The government has just started, the legal process will not take three days or three weeks, it takes time,” he said during the winding-up session on the motion of thanks on the royal address during the Dewan Rakyat sitting here today.[11]

Barisan Nasional + Perikatan Nasional
(Ismail Sabri Yaakob)

23 September 2021

Law Minister Datuk Seri Wan Junaidi Tuanku Jaafar said that the Attorney General has been asked to draft the anti-hopping law. “The government has just started, the legal process will not take three days or three weeks, it takes time,” he said during the winding-up session on the motion of thanks on the royal address during the Dewan Rakyat sitting here today.[11]

15 November 2021 (BN+PN)

Law Minister Datuk Seri Wan Junaidi Tuanku Jaafar said a series of amendments to the Federal Constitution will be tabled in Parliament by July next year, including on the issue of party-hopping. “This is in our CSA (Confidence and Supply Agreement between the opposition Pakatan Harapan coalition and the government) which I am required to implement, at least must be tabled before or during the July meeting,” he said.[12]

20 January 2022 (BN+PN)

The government announced it will table an anti-hopping bill during the 28 February Dewan Rakyat sitting. Law Minister Datuk Seri Wan Junaidi Tuanku Jaafar said the tabling of the bill was in line with Prime Minister Ismail Sabri Yaakob’s desire to speed up the enactment of an anti-hopping law.[13]

18 February 2022 (BN+PN)

Law Minister Datuk Seri Wan Junaidi Tuanku Jaafar today said the proposed new laws against switching political parties will be tabled in March. He said it had been difficult to get the new law approved but was made possible with the signing of the memorandum of understanding (MOU), which he said brought about some peace and stability to the country.[14]

The Anti-Party Hopping Bill will be tabled at a special parliamentary sitting, which has been scheduled for 11 April, said Minister in the Prime Minister’s Department (Parliament and Law) Datuk Seri Dr Wan Junaidi Tuanku Jaafar. Wan Junaidi said he had discussed the date with Prime Minister Datuk Seri Ismail Sabri Yaakob. “I had the opportunity to discuss this with the prime minister and we have agreed to hold a meeting on April 11 for us to debate on the Anti-Party Hopping Bill,” he said.[16]

The proposed anti-hopping law will not be tabled in the Dewan Rakyat on Monday after all. The proposed law has been deferred again after the Cabinet, which met yesterday, called for more study to be done on the definition of “party hopping”. [17]

Amendments to the Federal Constitution have been tabled in Dewan Rakyat to enable the Anti-Party Hopping Bill to be tabled at a later date. Minister in the Prime Minister’s Department Datuk Seri Dr Wan Junaidi Tuanku Jaafar tabled the proposed the constitutional amendments in Parliament.[18]

The government and Opposition MPs have agreed for matters relating to the proposed constitutional amendments to be referred to the Parliamentary Special Select Committee (PSSC) before it is tabled in the next Parliamentary sitting. The Dewan Rakyat did not vote on the constitutional amendment after reaching a consensus to let the PSSC fine tune the bill. During the debate, many have stated their concerns for the clause which is deemed to be too broad and does not specifically address the issue of party hopping.[19]

The draft of the proposed anti-hopping law is ready and the Parliamentary Special Select Committee (PSSC) is racing to table the Bill in the Dewan Rakyat in July, says Datuk Seri Dr Wan Junaidi Tuanku Jaafar. The Attorney General’s Chambers has submitted the draft to the committee, which will meet on May 19 after studying the draft in detail, the Minister in the Prime Minister’s Department said in a statement yesterday.[20]
The much-awaited anti-hopping bill does not require further Cabinet approval as it is now the responsibility of Parliament, says law minister Wan Junaidi Tuanku Jaafar. Wan Junaidi said the moment a Parliamentary Special Select Committee (PSSC) was given the responsibility of drafting and refining the Bill, Cabinet approval was no longer required. “When the Bill is passed to the select committee, it becomes the responsibility of Parliament and a memorandum is no longer required to be submitted to the Cabinet for approval. This is because the select committee is an instrument of Parliament and is not under the executive (branch),” he said.

The Malaysian government tabled its revised anti-party hopping legislation in Parliament on today, just a fortnight before the expiry of its pact with the opposition bloc Pakatan Harapan (PH) to hold off calling elections.

The much-awaited anti-hopping bill is being tabled in the Dewan Rakyat for its second reading by Prime Minister Ismail Sabri Yaakob. This comes after months of deliberation by the Parliamentary Special Select Committee tasked with drafting the bill and nearly a year after Ismail and Pakatan Harapan signed their memorandum of understanding.

The Dewan Rakyat has passed the Anti-Party Hopping Bill today by making amendments to the Constitutional (Amendment) Bill (No. 3) 2022 on Provisions Preventing Members of Parliament from Switching Parties — or better known as the Anti-Party Hopping Bill. The bill required a two-thirds majority vote from MPs in Dewan Rakyat, with a total of 209 agreeing to it, while 11 were not in attendance meaning they hit a two thirds majority. No MPs voted against it.
C4 CENTER'S OBSERVATION

The enactment of an Anti-Party Hopping Law is not an initiative under the National Anti-Corruption Plan 2019-2023 (NACP). However, the need to pass this important legislation became a key and central agenda for Malaysians after the infamous “Sheraton Move” and the continued political instability after that. As revealed by Law Minister Datuk Seri Wan Junaidi Tuanku Jaafar, a total of 39 Members of Parliament (MPs) switched political parties since 2018 and this has caused huge problems for the country and the economy, especially through the challenging times of managing a pandemic.[25]

When Pakatan Harapan (PH) was in power, they were not interested in passing this legislation and this could be due to the fact that they themselves were benefiting from MPs switching over their alliance to their parties. It was not until the Sheraton Move that PH MP’s started seriously pushing for a law to address the problem. The Perikatan Nasional (PN) government under Prime Minister Muhyiddin Yassin thereafter was also not keen on seriously addressing the matter as his administration was actively pursuing MPs from other political parties to join the undemocratic government by dishing out positions in Government Linked Companies (GLCs) and the Cabinet. Three days before his government collapsed, on 13 August 2021, he offered a slew of reforms to the opposition and among these was the promise to enact the Anti-Party Hopping Law if the opposition supported his term as Prime Minister. The opposition rejected his offer and the “Backdoor Prime Minister,” a nickname Muhyiddin earned after the Sheraton Move, was forced to resign.

C4 Center started tracking developments regarding the Anti-Party Hopping Law because it became important to safeguarding the democratic rights of voters and regaining public trust in the electoral system. Without the law being passed, voter turnout for the coming general elections would have been adversely affected as evident from past by-elections and this would have been a huge threat to democracy in this country. The recent state elections in Melaka, Sarawak and Johor saw a voter turnout of only 65.85%[26], 60.67%[27] and 54.92%[28] respectively.

Prime Minister Ismail Sabri and Law Minister Wan Junaidi must be credited for pushing this important legislation forward and overcoming various hurdles in passing legislation. The successful passing of this legislation is a historic moment for Malaysian politics and the success of the Ismail Sabri government. The events leading to the passing of this legislation and the tracking of this area gives us an important message. It tells us that where political will is present, reforms could take place within a short period of time even when a two-thirds majority is needed to make amendments to the Federal Constitution.

The Anti-Party Hopping Bill was passed within a 11-month time period from the first announcement made by Law Minister Wan Junaidi on 23 September 2021 that the government has instructed the Attorney General (AG) to draft the law until the passing of the bill on 28 July 2022. This was despite the various challenges and hurdles in getting the bill passed: firstly, the government needed a two-thirds majority to make amendments to the Federal Constitution. Secondly, the government also had to take into consideration freedom of association and legal precedent. On the other hand, as reported, there were influential figures within Ismail Sabri’s Cabinet that were engaging in sabotage and trying to prevent the law from being passed.[29] Despite all these hurdles, the government stood its ground and managed to pass the bill in such a short period of time.

The success in the passing of this legislation also tells us that the opposition and government can work together on matter of national interest and importance. The memorandum of understanding (MOU) between Ismail Sabri’s administration and the opposition enabled this to happen, despite some concern that the opposition was losing its valour by cooperating with the government of the day. Passing the anti-hopping bill was among the agreements in the MOU.

It is thus evident from this episode that if the government is serious in passing reforms, they could push it through even within a short period of time despite this initiative not being part of the NACP. The prolonged engagements, research and discussions taking place with regards to other areas in this tracker, in which we will discuss below, does not seem to be justified especially when Malaysia already has an anti-corruption plan (NACP) in place with clear objectives and timelines for implementation. For what it was worth, the MOU could have incorporated several additional areas of reform and be applied to all other reform areas in this tracker. But the question remains: does the government have the political will to push other reform areas forward as it did in this matter?

Initially not part of the NACP, however, the plan to improve the Whistleblower Protection Act 2010 (WBPA) was inserted in the midterm review of the NACP as a new initiative. See timeline of event for details.
**PAKATAN HARAPAN (MAHATHIR MOHAMAD)**

22 MAY 2018

As part of Pakatan Harapan’s promise to fight corruption, Kepong MP Lim Lip Eng said he will table a motion in Parliament to improve the Whistleblower Protection Act 2010. “Harapan promises a clean government and anti-corruption is on the top of our priorities. Corruption cannot and will not be tolerated under the new government. I will seek to amend and improve the Whistleblower Protection Act 2010 to offer real protection to whistleblowers and to successfully root out corruption in Malaysia,” Lim said in a statement today.[30]

**9 AUGUST 2018 (PH)**

On the matter of the law’s effectiveness, Law Minister Liew Vui Keong said the matter would require a more holistic policy study. This includes best practice from other countries and incorporating effective ways to provide protection to whistleblowers.[31]

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**PERIKATAN NASIONAL (MUHYIDDIN YASSIN)**

4 OCTOBER 2020

MACC Chief Commissioner Datuk Seri Azam Baki said that a total of 290 individuals were given protection by MACC under the Whistleblower Protection Act 2010 for providing information relating to corrupt activities and abuse of power since 2016.[32]

**6 NOVEMBER 2020 (PN)**

Abu Kassim Mohamed, Director-General of the Governance, Integrity and Anti-Corruption Centre (GIACC), said that because protection is only afforded to those who report offences to an official authority, internal compliance units within companies could harm whistleblowers who report to them before reaching out to the authorities. This needs to be amended so that internal compliance officers are included as enforcement authority to better protect whistleblowers, he said.[33]

Punitha Silivarajoo, Research and Policy Director at the Legal Affairs Division of the Prime Minister’s Department said that the Whistleblower Protection Act 2010 is currently under review. [34]
Only 0.01% of the 1.6 million civil servants are brave enough to report on corrupt practices in their departments and agencies, MACC Deputy Chief Commissioner Shamshun Baharin Mohd Jamil said today. He said the figure was low despite the various incentives provided. Based on MACC’s data, he said, only 343 civil servants came forward to provide information on corrupt practices between 2012 and last year.[35]

Reform of the Whistleblower Protection Act 2010 was not initially part of the NACP. However, in the Midterm review report of the NACP, this initiative was added under clause 5.4.3: To improve the provisions in the Whistleblower Protection Act 2010. The lead agency is the Legal Affairs Division under the Prime Minister’s Department and the timeline is from January 2021 to December 2023.[36]

Minister in Prime Minister’s Department (Parliament and Law) Datuk Seri Wan Junaidi Tuanku Jaafar said existing whistleblower laws were inadequate and needed to be reviewed. “On the matter of whistleblowers, I’m still reviewing it. Since 2017, I’ve said that whistleblower laws were still lacking and needed to be studied carefully,” he said.[37]

Law Minister Wan Junaidi Tuanku Jaafar said that the outcome of a study and parameters for the proposed amendments of the Whistleblower Protection Act 2010 (Act 711) will be tabled to the Cabinet next month. Seven issues have been identified to be given priority in the process of improving the Act he said.[38]

The NACP Progress Report 2020 and 2021 updated that a working task force on the amendments to the Whistleblower Protection Act 2010 has been formed to conduct a review of the current legislation. 13 suggestions categorised under 7 main areas for reform has been identified by the taskforce and they are aiming to finalise amendments by December 2022.[39]
Whistleblowers are an integral part of turning the tide against corruption. These are the people that often have proximity to the alleged crime and witness the malpractice that could be taking place first-hand. The information given by them is crucial in strengthening investigations and in exposing corrupt behaviours and abuse of power taking place away from the public eye.

Malaysia ratified the United Nations Convention against Corruption (UNCAC) in 2008 and as a result of the ratification, Malaysia enacted the Whistleblower Protection Act 2010 (WBPA) to protect those that come forward. The preamble of the WBPA reads as follows:

“An Act to combat corruption and other wrongdoings by encouraging and facilitating disclosures of improper conduct in the public and private sector, to protect persons making those disclosures from detrimental action, to provide for the matters disclosed to be investigated and dealt with and to provide for other matters connected therewith.”[40]

In the last 12 years since the Act came into force, very few whistleblowers have been granted protection under the Act. In 2020, The Malaysian Anti-Corruption Commission (MACC) Chief Commissioner Azam Baki revealed that since 2016, only 290 individuals were given protection under the WBPA.[41]

MACC data also revealed that from the year 2012 to 2019, only 343 civil servants came forward to blow the whistle.[42] The existing WBPA is ineffective and does not encourage whistleblowers to come forward with information. Past experience has shown that whistleblowing can be hazardous, leaving them vulnerable to strategic lawsuits against public participation (SLAPP suits) and defamation charges.

Among the most notable problems with the WBPA is S.6 which provides for a report to be filed only to enforcement agencies and the information must not be prohibited by any written law. This effectively prevents a whistleblower from disclosing information protected under the Official Secret Act 1972 and other financial and banking related laws. A whistleblower would also lose their protection if they decide to go public with the information i.e., to the media or to members of parliament; the whistleblower can only disclose information to an enforcement agency. Another roadblock is the inconsistencies with S.203A of the Penal Code which criminalises public servants revealing information obtained in the course of performing their duties, slapping them with harsh punitive measures if found to be in violation of this provision.

[40] Whistleblower Protection Act 2010 (Act 711) Malaysia
One of the many such and more recent examples is the case of Lalitha Kunaratnam being sued by the MACC Chief Commissioner Azam Baki. Lalitha had earlier exposed Azam’s stock trading activities and ownership of vast amounts of corporate shares.[43]

Despite the WBPA providing immunity to a whistleblower from civil and criminal action, Lalitha was not provided such protection as she had gone public with her information instead of to the enforcement agencies, a requirement under the Act. In such a situation, where the allegations are being made against the Chief of the anti-corruption agency, it would only be right for such matters to be made public as these allegations are a matter of accountability and are of great public interest.

However, the existing WBPA does not provide protection in such a situation. The case of Lalitha being investigated by the police and sued by the Chief Commissioner of the MACC sent shockwaves and disturbing signals in the form of a strong message to the public on the risk potential whistleblowers face if they were to come forward, especially against those in high positions of power.

It is ironic here that the very person who repeatedly vowed to protect whistleblowers in the country, was the one using defamation laws and attacking a whistleblower himself.

Xavier Andre Justo who blew the whistle on the 1MDB scandal earlier implicating top-level officials from around the world and in Malaysia is another case in point. When the PH government came into power, Justo was roped in to assist in the 1MDB and SRC investigations, travelling to Malaysia often and giving statements to the MACC.[44] He eventually settled down in Malaysia with his family. However, one week after the collapse of the PH government, on 5 March 2020, Xavier announced that he had left the country for Switzerland for fear of retaliation as the very people that he exposed are back in power. “We as a family have suffered a lot and I couldn’t take the risk of making the people I love the most suffer again in case things went wrong,” he said in a statement to the media.[45] The incident is a glaring example of the huge mistrust whistleblowers have in our laws and the system. He simply did not trust that existing laws would be able to protect him and his family if they were to remain here.

If reforms to whistleblower protection laws are not forthcoming and passed urgently, the fight against corruption in the country will face significant setbacks. Reforms to this area of law are also low-hanging fruit compared with all the other areas mentioned in this paper as it would not entail any amendments to the Federal Constitution. Disappointingly, the government seems to be delaying the reforms and not treating this with urgency.

FREEDOM OF INFORMATION ACT

THE NATIONAL ANTI-CORRUPTION PLAN 2019-2023

PRIORITY AREA: Political Governance

STRATEGY 1: Strengthening Political Integrity and Accountability

STRATEGIC OBJECTIVE: 1.2: Ensuring Better Transparency and Accountability in Government’s Administration

INITIATIVE 1.2.8: To introduce new legislation on Freedom of Information

LEAD AGENCY: Ministry of Communications and Multimedia Malaysia

TIMELINE: Within 5 years (Jan 2019-Dec 2023)
PAKATAN HARAPAN (MAHATHIR MOHAMAD)
18 JULY 2019

Prime Minister Tun Dr Mahathir Mohamad announced that a Freedom of Information Act will be drawn up to replace the OSA in 2020. He said that the Ninth Meeting of the Special Cabinet Committee on Anti-Corruption, which he chaired, had agreed in principle that sufficient time must be given to the process of drafting the law. Dr Mahathir said that the drafting process must focus on public engagement with sufficient outreach programmes with the people.[46]

27 NOVEMBER 2019 (PH)

Former de facto law minister, Liew Vui Keong, launched the country’s first National Stakeholders Consultation on the Right to Information Legislation forum. Liew said the OSA would be repealed but some of its vital functions would be incorporated into the proposed Freedom of Information Act. Liew said the Legal Affairs Division of the Prime Minister’s Department had several discussions as early as January 2019, with stakeholders, including Selangor and Penang, that have their own state-level Freedom of Information Enactment. Continuous discussions were held with the Ministry of Communication and Multimedia, Malaysia Administrative Modernisation and Management Planning Unit (MAMPU), and the Office of the Chief Government Security Officer (CGSO) to better understand the scope and challenges of this legislation.[47]

PERIKATAN NASIONAL (MUHYIDDIN YASSIN)

NACP PROGRESS REPORT (2019)

The report updated that the Ministry of Communications and Multimedia Malaysia (KKMM) is currently drafting a Freedom of Information Bill. To determine the parameters and policies of the proposed Bill, stakeholders’ view on Open Data Charter (ODC) and the existing laws and regulations such as the Official Secrets Act 1972 will be taken into account towards the feasibility of this Bill. Several engagements and consultations have been made thus far over the proposed Freedom of Information Bill in 2019, as follows: i. Four (4) series of meetings with Ministries/Departments/ Agencies such as the Selangor and Penang State Legal Advisor’s Offices, Ministry of Communications and Multimedia Malaysia, Chief Government Security Office (CGSO), Malaysian Administrative Modernisation and Management Planning Unit (MAMPU) and Legal Advisor’s Office of the Prime Minister’s Department (JPM); ii. The National Stakeholders Consultation Seminar on the Right to Information Legislation jointly organised by the Centre of Independence Journalism (CIJ) and BHEUU from 27 to 28 November 2019; and iii. Sharing of Experience session on The Right of Information Commissioner of Sri Lanka on 29 November 2019. [48]

2 DECEMBER 2020 (PN)

In reply to R Sivarasa (PH-Sungai Buloh) in Parliament, on whether the government is considering implementing the Freedom of Information Act and amending the Official Secrets Act (OSA) while protecting the country's secrets, de facto law minister Takiyuddin Hassan responded by saying certain improvements could be made to balance the interests of both the public and the country. “This is crucial as each law has its own objectives,” Takiyuddin said adding that Putrajaya is reviewing certain laws, including the OSA, from time to time.[49]

NACP MID-TERM REVIEW
MAY 2021 (PN)

A new initiative was inserted into the midterm review under Initiative 1.2.5: To undertake a study on the viability of a new legislation on Freedom of Information. The lead agency was changed to the Legal Affairs Division and the timeline of the study is from January 2021 to December 2022.[50]

BARISAN NASIONAL + PERIKATAN NASIONAL
(ISMAIL SABRI YAAKOB)
16 NOVEMBER 2021

In his parliamentary written reply to Wong Shu Qi (Kluang-PH), the minister in the Prime Minister’s Department Datuk Seri Wan Junaidi Tuanku Jaafar said Putrajaya is studying possible amendments to the Official Secrets Act 1972 (OSA) to ensure that it is relevant to current times. We are making considerations to ensure that provisions in the Freedom of Information Bill are in line with the Official Secrets Act 1972, which will continue to be enforced. “On this matter, a review and further study are being conducted by the department responsible for this matter to amend certain provisions in the OSA and ensure that it is relevant to current times,” said Wan Junaidi.[51]

10 DECEMBER 2021 (BN+PN)

Minister in the Prime Minister’s Department Datuk Seri Wan Junaidi Tuanku Jaafar said that the government is currently studying the parameters involved in enacting a Freedom of Information legislation for Malaysia. Wan Junaidi said the right to information holds a significant impact for Malaysia in the current global human rights scenario as the country was working towards a transparent and open nation.[52]

[50]NACP Mid-term review published by GIACC, Prime Minister’s Department May 2021
The report stated that the Legal Affairs Division (BHEUU) Prime Minister’s Department, had various consultation sessions with different state governments across the country in September 2021 and received positive feedback on the enactment of the act. In December 2021, BHEUU partnered with the Centre for Independent Journalism (CIJ) and SUHAKAM in organising a consultation session (Forum Right to Information) with civil society organisations, media groups and lead agencies to gather feedback and ideas on the proposed law. According to BHEUU, these consultation sessions were held to prepare a policy paper to be presented to the Special Cabinet Committee on Anti-corruption (JKKMAR) and further deliberated at the upcoming cabinet meeting for a decision to be made by mid-year 2022 on whether to proceed on drafting the law.

Minister in the Prime Minister’s Department Datuk Seri Wan Junaidi Tuanku Jaafar said that engagement sessions on a possible right to information law have been carried out at both state and federal levels. The engagement sessions were to ensure the policy decision is well-founded and can be presented to the government for a decision soon.
C4 CENTER'S OBSERVATION

The right to information (RTI) is an important aspect of ensuring transparency and accountability in governance. This is a key element needed to hold the government accountable for their actions and to provide for public participation in the decision-making process. Having the right to information would also curb corruption and abuse of power as citizens would be empowered to access information regarding decisions by public authorities and government procurement. The then-Pakatan Harapan (PH) government had committed to ensuring that a right-to-information law would be enacted within 5 years by December 2023 as clearly spelt out in the National Anti-Corruption Plan (NACP).

The PN government had attempted a delay tactic, first opting for studies to be conducted by December 2022 and thereafter for the Cabinet to decide if the government would want to pursue this. Originally, this initiative was to be carried out by the Ministry of Communications and Multimedia. However, this was handed over to the Legal Affairs Division (BHEUU) under the Prime Minister's Department.

Consultation sessions were already conducted back in January 2019 under the then PH government, however, this was again conducted throughout 2021, by BHEUU under the joint BN and PN government. From the timeline of events, it is clear that the consultation sessions have been completed but Cabinet has yet to decide on whether to proceed with the drafting of the law. This initiative appears to be now at the mercy of the cabinet for approval. A clear lack of will is evident from those in power much to the detriment of good governance.

The parliament sitting in July 2022 has not provided any updates and it appears unlikely that a law on this matter would be passed by the end of 2022. The government must realise that gone are the days when they were able to conduct business secretly, away from public scrutiny. Modern democracies and the advancement of technology require that government data is available publicly. Hiding government data is unjustifiable except for that which concerns national security details. Citizens have a right to information and the government must facilitate this process.
Examples can be drawn from the enactments in Penang and Selangor which have long come into effect. The existence of these enactments tells us that it is possible for the government to enact RTI legislations. Notwithstanding the enactments’ shortcomings, in both Penang and Selangor, citizens and media alike have to a large extent been able to request for various state-level documents, tender-related documents and state contracts, enabling the public to scrutinise these documents and hold the state governments accountable.

A major issue that must be addressed in the federal RTI legislation is the confidentiality and non-disclosure clauses often present in government contracts with the private sector. These clauses go against the spirit of the RTI, also presenting a problem at the state level. Any entity entering into business with the government must be barred from stamping such clauses into their contracts as transparency and public participation should supersede the interest of these businesses.
PRIORITY AREA: Law Enforcement

STRATEGY 5 - Institutionalising Credibility of Law Enforcement Agencies

STRATEGIC OBJECTIVE:
- 5.3: Strengthening Law Enforcement Agencies
- 5.3.4: to transform and convert the Enforcement Agency Integrity Commission (EAIC) into Independent Police Complaints and Misconduct Commission (IPCMC) to address integrity issues and curb misconducts among members of the Royal Malaysia Police

LEAD AGENCY:
i) Enforcement Agency Integrity Commission (EAIC)
ii) Attorney General’s Chambers (AGC)
iii) Ministry of Home Affairs (MOHA)

TIMELINE: Within 5 years (Jan 2019-Dec 2023)
Prime Minister Tun Dr Mahathir Mohamad after chairing the fourth meeting of the Special Cabinet Committee on Anti-Corruption said that Malaysia will establish the Independent Police Complaints and Misconduct Commission (IPCMC) replacing the Enforcement Agency Integrity Commission (EAIC), and would act as an independent body to look into police complaints more holistically. Dr Mahathir said there were many complaints against the police force and the government wanted to ensure the police would “clean up” their act. Deputy Inspector-General of Police Tan Sri Noor Rashid Ibrahim said the government’s decision was in line with Bukit Aman’s goal of enhancing integrity among its personnel. The commission will ultimately enable us to deliver a better service for the public, he said.

Former de facto Law Minister Datuk Liew Vui Keong said the government is expected to table the IPCMC bill in the first Dewan Rakyat session next year.

Datuk Liew Vui Keong tabled a Bill in Parliament to pave the way for the setting up of the long-awaited IPCMC.

The IPCMC Bill, in a historic move, has been referred to the Parliamentary Special Select Committee after its second reading for further improvement. The motion was debated by 30 members of parliament from both sides of the political divide. Former home minister Datuk Seri Hishammuddin Hussein, said the second reading of the bill should be postponed. Hishammuddin said this was a matter concerning the police and as such, it should not be taken lightly. He also said there was something “not right” about the formation of the police oversight body and that it must be properly implemented.

Parliament’s special select committee for consideration of bills postponed the tabling of its recommendations for improvements to the IPCMC Bill to Nov 25 from Nov 18. The special select committee’s chairman Ramkarpal Singh reportedly said the feedback received during the fourth and final session of public hearing on the IPCMC Bill has been positive and encouraging. He also said the feedback received at hearings conducted in Sarawak, Penang, Johor, and Sabah, beginning Oct 26, comprised supportive views and some suggestions as well as of those that were against the establishment of the IPCMC.
2 DECEMBER 2019 (PH)

The IPCMC bill which was earlier referred to the Parliamentary Special Select Committee would be tabled the next day by its Chairman Ramkarpal Singh with 13 additions and 24 amendments. Datuk Liew Vui Keong hoped that more Members of Parliament will take this opportunity to debate the bill to ensure the views of the people are voiced out.[60]

3 DECEMBER 2019 (PH)

Datuk Liew Vui Kong read out a motion to withhold the Bill until the next meeting of Parliament in March 2020. Chairman of Special Select Committee for Consideration of Bills Ramkarpal Singh said he was only informed of the delay in the morning. Federal Opposition Leader Datuk Seri Ismail Sabri Yaakob said his bloc remains fundamentally opposed to the commission.[61]

PERIKATAN NASIONAL (MUHYIDDIN YASSIN)

NACP PROGRESS REPORT (2019)

2020

The IPCMC bill has been tabled in Parliament for its first reading on 18 July 2019. The second and third reading is expected to take place in the coming session. The IPCMC will act as an oversight body and receive complaints on the abuse of power by the police.[62]

26 AUGUST 2020 (PN)

The PN government has withdrawn the IPCMC bill tabled earlier by the PH government. Minister of Law Datuk Takiyuddin Hassan informed Parliament that the Independent IPCMC Bill has been withdrawn.[63]

Deputy Home Minister Datuk Seri Ismail Mohamed Said has tabled the Independent Police Conduct Commission (IPCC) Act 2020 for its first reading in the Dewan Rakyat. The bill is a watered-down version and replacement to the IPCMC Bill tabled last year by the PH government. [64]
NACP MID-TERM REVIEW
MAY 2021 (PN)

Initiative changed to 5.3.4: To establish an Independent Police Conduct Commission (IPCC) to address integrity issues and curb misconduct among police officers of the Royal Malaysian Police (RMP). Lead agency: MOHA. Timeline: January 2021 - December 2023.[65]

BARISAN NASIONAL + PERIKATAN NASIONAL
(ISMAIL SABRI YAAKOB)

NACP PROGRESS REPORT 2020 & 2021
MARCH 2022

A task force had been setup by PDRM in drafting the IPCC bill. Briefing sessions have also been conducted to PDRM staff and interest groups since September 2020.[66]

26 JULY 2022 (BN+PN)

The IPCC Bill 2020 was passed in Parliament after being tabled by Home Minister Datuk Seri Hamzah Zainuddin for its second reading. The Bill was stuck in limbo for almost two years up to this day, despite numerous meetings since — making it the only Bill that was not passed from two concluded Parliament sittings.[67]

The Independent Police Complaints and Misconduct Commission (IPCMC) was first mooted in 2005 by the Royal Commission to Enhance the Operation and Management of the Royal Malaysian Police. Thirteen years later in 2018, upon Pakatan Harapan (PH) coming into power, Tun Dr Mahathir announced that the government would finally be setting up the IPCMC, replacing the Enforcement Agency Integrity Commission (EAIC). This was a monumental decision taken by the government as it was high time that PDRM was held accountable for their previous transgressions and for strong mechanisms to be put in place to balance their power. On 18 July 2019, former Law Minister Liew Vui Keong tabled the IPCMC bill in parliament. This was only 10 months after the announcement was made by Tun Mahathir, earlier in September 2018. The swift tabling of the bill reflected the setting up of the IPCMC being placed in the NACP as a “Top Priority Agenda No. 19”.

However, the bill was not only met with fierce protest from the opposition bench at that time, but there were also those from within the government bench opposing it. This resulted in a weak IPCMC bill being tabled in Parliament. The bill was criticised by civil society groups at that time for being even weaker than the existing EAIC. In a historic move, the IPCMC bill was then referred to the Parliament’s Special Select Committee for consideration of bills on 7 October 2019 for further deliberations and improvements.

In the NACP Mid-Term review published in May 2021, the initiative on setting up the IPCMC was changed to the setting up of an Independent Police Conduct Commission (IPCC). As independent as it sounded, the IPCC is a watered-down version of the IPCMC and is not in any way independent as the IPCC would report to the Home Ministry, with former members of the police even being allowed to join the IPCC. The IPCC would place the power to impose a penalty at the discretion of the Police Force Commission and allow any of the witnesses or persons of interest in an investigation of misconduct to refuse to answer questions asked during the investigation. Additionally, it empowers the witness’ Head of Department to intervene with investigations by allowing these superiors to classify information as ‘sensitive’. These provisions are a mockery against the very spirit for such a bill that was mooted in the interests of police accountability in the first place. Disregarding criticisms and massive public outcry, the IPCC bill was passed under the Ismail Sabri government in July 2022.
From allegations of corruption, abuse of power, underworld secret society connections, extortions, all the way to deaths in custody and enforced disappearances, the Royal Malaysian Police (PDRM) has been accused of scandal after scandal with no end in sight. In 2021, a total of 19 deaths in custody were reported by the human rights group SUARAM.[68] Up until April this year, a total of 15 deaths in custody cases have already been reported.[69] These numbers are made all the more chilling as the causes of these deaths are not being investigated independently.

In December 2021, Home Minister Datuk Seri Hamzah Zainudin announced that a 14-man unit would be formed to investigate all cases of deaths in custody cases beginning in 2022. The unit is under the Federal Police's Integrity and Standards Compliance Department and will be headed by a police superintendent. This again mocks the idea of the need for an independent body to investigate deaths in custody. How can the police impartially investigate possible misconduct that occurred under their own jurisdiction?

There is also heavy political interference in the police force as revealed by former Inspector-General Abdul Hamid Bador. Hamid had in May 2021 revealed that the Home Minister, Datuk Seri Hamzah had attempted to appoint his favoured candidate to lead the Special Branch after the police intelligence unit snubbed the minister's request to conduct “Political Operations”. [70] Hamzah had earlier in April 2021 also admitted that the voice in a viral audio clip discussing the selection of a new police chief was his and he defended his actions. In that audio clip, Hamzah had suggested for “our boy” to be appointed as the police chief. [71] The powers of the police are being continuously misused to harass political opponents, and human rights activists and to suppress dissent.

Adding to the irony is the revelation by the NACP Progress Report 2020 & 2021 that a task force had been set up by PDRM to draft the IPCC bill — one need not imagine why the IPCC bill was drafted so poorly. The opportunity to reform PDRM has been lost. As claimed by former MACC Chief, Tan Sri Abu Kassim, numerous “sad excuses” by politicians hindered the IPCMC. [72]

The strongest opposition to police reform seems to have come from the police themselves as revealed by the late Law Minister, Liew Vui Keong. “… the police are not happy that we have an external independent body such as the IPCMC to look into complaints of their misconduct,” he said in an interview with the media. [73]
1.2: Ensuring Better Transparency and Accountability in Government’s Administration
1.2.1: To introduce a proper asset declaration system for Members of the Administration
1.2.9: To introduce a written law on the declaration of asset and interest by Members of Parliament

PRIORITY AREA: Political Governance

STRATEGY 1 - Strengthening Political Integrity and Accountability

STRATEGIC OBJECTIVE:
- 1.2: Ensuring Better Transparency and Accountability in Government’s Administration
- 1.2.1: To introduce a proper asset declaration system for Members of the Administration
- 1.2.9: To introduce a written law on the declaration of asset and interest by Members of Parliament

LEAD AGENCY:
- i) Parliament of Malaysia
- ii) Prime Minister’s Department (PMD)

TIMELINE: Within 5 years (Jan 2019-Dec 2023)
Minister in the Prime Minister’s Department Datuk Liew Vui Keong, tabled a special motion in Parliament to compel all lawmakers to declare their assets. Failure to declare would result in MPs being hauled to the Parliament’s Select Committee on Rights and Privileges. On the other hand, MPs who make false declarations will be subject to prosecution under Section 3, Act 783 (Statutory Declaration) and Section 193 of the Penal Code, which carries a jail term not exceeding three years or a fine. The Dewan Rakyat approved the motion compelling MPs from both sides of the political divide, as well as their wives and children, to declare their assets through a voice vote.[74]

Prime Minister Muhyiddin Yassin said that all Cabinet ministers have been instructed to declare their assets in a form and submit them to the MACC within a month.[75]

MACC Deputy Chief Commissioner (Prevention), Datuk Shamshun Baharin Mohd Jamil said that a bill to make it compulsory for Members of Parliament to declare their assets would be tabled in Parliament by end of this year. He said that the current asset declaration was only governed by the parliamentary code of ethics.[76]

Minister of Law, Datuk Takiyuddin Hassan said that all ministers and deputy ministers have declared their assets to the MACC. Takiyuddin also said MPs who failed to do so would be referred to the Parliament’s Rights and Privileges Committee.[77]

Asset declaration portal is in operation since 1 November 2018. As of 31 December 2019, all 85 Members of Administration had declared their assets (100%). As of 31 December 2019, 150 (67.56%) out of 222 members of the House of Representatives had declared their assets, while 32.43% members have not done so. Members of the House of Representatives – Government (135 - Declared, 4 have not declared), and – Opposition (15 - Declared, 68 have not declared). As of 31 December 2019, 33 out of 62 members (53.20%) of the Dewan Negara have declared their assets while 29 members (46.80%), of the Dewan Negara have not declared.[78]
### 2020 (NACP PROGRESS REPORT) (PN)
#### Initiative 1.2.9
The report only states that Members of the Administration and Members of Parliament must declare their assets and those of their spouses, children and trustees every two (2) years. The report does not state what are the updates in regards to having a written law on declaration of assets.[79]

### 4 FEBRUARY 2021 (PN)
Cabinet Ministers' asset declaration details have been removed from the MACC website. The monthly income statements for members of the government administration previously displayed on the website have been removed and only states if officials have declared their assets or not.[80]

### NACP MIDTERM REPORT
#### MAY 2021 (PN)
A new initiative was inserted under clause 1.2.6: To undertake a study on the viability of a written law on asset declaration by Members of the Administration and Members of Parliament. The Lead agency is MACC and the timeline is January 2021 to December 2022.[81]

### 13 JULY 2021 (PN)
MACC Deputy Chief Commissioner (Prevention) Datuk Seri Shamshun Baharin Mohd Jamil said that as of July 6, 97 members of the administration, 198 MPs, and 39 senators have declared their assets, while six members of the administration, 22 MPs, and 26 senators have yet to do so. Shamshun said that there is currently no specific law with regards to the declaration of assets and the MACC recommends for a law to be passed to make asset declaration compulsory.[82]

### BARISAN NASIONAL + PERIKATAN NASIONAL
#### (ISMAIL SABRI YAAKOB)
#### NACP PROGRESS REPORT (2020 & 2021)
#### MARCH 2022
A meeting with GIACC was conducted on the 24 August 2021 and it has been decided that the MACC would further research related matters pertaining to an asset declaration law and present to Cabinet the findings for a decision on whether to proceed with enacting a law.[83]

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Prime Minister Datuk Seri Ismail Sabri Yaakob said that the asset declaration mechanism for government officials, parliamentarians and senators will be strengthened to improve government integrity. “A new Code of Ethics will be introduced for MPs under the House of Parliament (Privileges and Powers) Act 1952 (Act 347), taking into account the principle of separation of powers between the executive and the legislative body,” he said in a statement after chairing the Special Cabinet Committee on Anti-Corruption yesterday. The meeting also agreed that chief executives of government-linked companies (GLCs) and government-linked investment companies (GLICs), along with the judiciary, must declare their assets to the Malaysian Anti-Corruption Commission (MACC). “The details of the new Code of Ethics will be re-tabled by the MACC at the next Special Cabinet Committee meeting,” added Ismail Sabri.
C4 CENTER’S OBSERVATION

Asset declaration law is an important pillar for the accountability of public officials, members of parliament (MPs) and state assembly representatives. These individuals are considered of high risk by the nature of their job holding key decision-making powers and influence over policies and laws being passed. It is essential that the public and relevant government institutions are able to scrutinise the wealth of these officials, uncover any possible conflict of interest during their term in office, and seek explanations for unexplained wealth gained during this period.

The initiative to introduce a proper asset declaration system for members of the administration and members of parliament is listed as top priority number 2 in the National Anti-Corruption Plan 2019-2023 (NACP). A year after Pakatan Harapan (PH) came into Power, the government tabled a motion in parliament to compel MPs into declaring their assets. Earlier in November 2018, the Malaysian Anti-Corruption Commission (MACC) published for the first-time assets and income willingly declared by MPs and Ministers on their web portal.[85] However, those from the opposition bench at that time refused to declare their assets as there were no laws to compel them in doing so. They continued in their refusal even after the motion was tabled in Parliament in 2019.[86] This effectively tells us that without proper asset declaration legislation in place, MPs and members of the administration could not be compelled to declare their earnings and properties owned.

In September 2020, information on assets and income earned by cabinet ministers under the Perikatan Nasional (PN) government was published by the MACC on their portal. However, it was discovered in February 2021 that the information published have been removed. Since then, no information on the assets and income declared by MPs or Ministers has been provided on the website.

The NACP Mid-Term Review inserted a new initiative, 1.2.6 which is “to undertake a study on the viability of a written law on asset declaration.” The term used here is different from the original initiative 1.2.9 which was “to introduce a written law on the declaration of asset and interest by Members of Parliament.” Note the change in language and tone. With the new initiative, it is now up to the government if they would want to enact an asset declaration law for MPs once the study is presented to Cabinet. As of March 2022, the NACP progress report stated that the GIACC is still researching the matter and the suggestion would be presented to the cabinet for a decision.

Individuals that become MPs must understand that accepting to be voted into parliament places a high standard of accountability and transparency upon them. They cannot complain that their safety is being compromised and that it is a violation of their right to privacy to be compelled to publish information about their personal wealth. Accountability and transparency should be prioritised over their personal interests. The information on assets declared by MPs must also be made public in the interests of public participation in scrutinising possible corruption and conflict of interest.

It is unjustified to take such a long time for research before this legislation is passed. In fact, this is one of the subjects that MPs from across the political divide have been silent on recently.

The push for an asset declaration law must be continued and accelerated. Prime Minister Ismail Sabri had recently announced that a new Code of Ethics will be introduced for MPs under the House of Parliament (Privileges and Powers) Act 1952 to compel MPs to declare their assets. He also stated that the judiciary and head of government-linked companies would also be made to declare their assets to the MACC. While this is very much welcomed, the government must be reminded that without a holistic asset declaration law which includes penalties for failing to declare assets, members of the administration would not be compelled to declare their assets as we have seen in the past.
SEPERATION OF THE ATTORNEY GENERAL’S OFFICE FROM THE PUBLIC PROSECUTOR’S OFFICE

STATUS:

NATIONAL ANTI-CORRUPTION PLAN 2019-2023 (NACP)

PRIORITY AREA: Legal and Judicial
STRATEGY 4 - Enhancing Credibility of Legal and Judicial System

STRATEGIC OBJECTIVE

- 4.1: Improving Institutional Efficacy of the Legal and Judicial System
- 4.1.5: To promote clear separation of powers and impartiality, i.e. the power of the Attorney General should be separated from the power of Public Prosecutor
  i) Attorney General. The Attorney General should no longer assume responsibility and power in prosecution matters. He should attend Cabinet and Parliament meetings by invitation
  ii) Public Prosecutor. The Public Prosecutor takes over the prosecutorial duties and powers from the Attorney general and may direct an inquest into the cause and circumstances of any death.

LEAD AGENCY: Attorney General Chambers (AGC)

TIMELINE: Within 5 years (Jan 2019-Dec 2023)
The newly appointed Attorney General, Tommy Thomas said that separating the powers between the AG and the Public Prosecutor’s office is among his objectives. “I am very happy that the reforming government, whom I now serve, has adopted that, and we will work towards that,” he said.[87]

Deputy Minister in the Prime Minister’s Department Mohamed Hanipa Maidin said that the government has not set a firm deadline to separate the role of Public Prosecutor from the Attorney-General.[88]

Prime Minister Tun Dr Mahathir Mohamad said that the move to carry out separation of powers between the Public Prosecutor’s Office and the Attorney-General’s Chambers has been postponed as it requires an amendment to the Federal Constitution. He said the government needs a two-thirds majority in the Dewan Rakyat for the amendment to take place.[89]

Law Minister Datuk Liew Vui Keong said a working committee had been formed by the Attorney-General’s Chambers to prepare a report on the study of separation of powers between the Attorney-General and Public Prosecutor and a report will be tabled at the Cabinet meeting in the middle of this year.[90]

A working committee has been established within the AGC to undertake a study based on global best practices and to present the findings to Cabinet by mid-2020. Should Cabinet approve the proposal to separate the roles of the Public Prosecutor and the Attorney General, the Federal Constitution and relevant legislation will be amended accordingly and a new Public Prosecutor’s Office (PP Office) will be established. The function of prosecution will be separated from the AGC and will be performed by the new PP Office. Currently, the Working Committee is making concerted efforts to create a new PP office, to identify the basic and logistical requirements in terms of staff, organizational structure, working premises and infrastructure.[91]
Law Minister Datuk Takiyuddin Hassan said that AGC is finalising a report on the move to carry out separation of powers between the Public Prosecutor’s Office and the AGC. The report will also include suggestions to amend Article 145 of the Federal Constitution and will be presented to the Cabinet by the end of 2020. He said the previous Pakatan Harapan administration had given the "excuse" that the move to carry out the separation of powers between the Public Prosecutor’s Office and the AGC had to be postponed as it requires an amendment to the Federal Constitution.

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### NACP MIDTERM REVIEW (PN)
**MAY 2021**

Timeline adjusted to January 2021 - December 2023

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### BARISAN NASIONAL + PERIKATAN NASIONAL
**(ISMAIL SABRI YAAKOB)**

**15 SEPTEMBER 2021**

Datuk Seri Azalina Othman Said (BN-Pengerang) said in Parliament that the powers of the AG and a Public Prosecutor must be separated. “I am making this suggestion as a reminder that we need to accept the reality that the power to prosecute is a big responsibility and we don't want to have the perception that the AG is being politically pressured,” she said.

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### 27 OCTOBER 2021 (BN+PN)

Law Minister Datuk Seri Dr Wan Junaidi Tuanku Jaafar said the proposed amendments on the separation of powers between the Public Prosecutor’s Office and the AGC as well as making the AG accountable to Parliament have not been finalised yet. “In view of the fact that the proposed separation requires amendments to the Federal Constitution, the government has to be careful in the matter as it touches on the powers of the Public Prosecutor,” Wan Junaidi said in a written reply to a question by Datuk Johari Abdul (PH-Sungai Petani) in the Dewan Rakyat the day before. He said the AGC had carried out a study on the proposed amendments as part of NACP. He added that the study took into account the best practices of nine countries, and also the structure and implementation of an independent public prosecutor’s office. “The findings of the study have been finalised and related proposed constitutional amendments identified,” he said. However, Wan Junaidi said that the government will have till 2023 to decide on the implementation of the NACP proposal.

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NACP PROGRESS REPORT (2020-2021)
MARCH 2022 (BN+PN)

The research paper on this matter has been submitted to GIACC and the Law Minister’s Office on 29 September 2021 and 5 November 2021. As of 31 December 2021, the AGC’s office is finalising the research and in the process of preparing a Cabinet paper.[96]

21 MAY 2022 (BN+PN)

Law Minister Wan Junaidi Tuanku Jaafar said the proposed law to regulate political funding and separate the roles of the AG and Public Prosecutor is not likely to be enacted before the 15th General Election, if it is called this year. He said this was because engagement sessions with stakeholders on the proposed laws haven’t been held yet, and both proposals are still at their ‘infant stage’. “We have to invite experts, parties, civil societies, NGOs and interested groups,” he added.[97]
C4 CENTER’S OBSERVATION

The separation of powers between the office of the Attorney General (AG) and Public Prosecutor (PP) is placed as a top priority No. 15 in the National Anti-Corruption Plan 2019-2023 (NACP).

However, three years later, the priority has diminished with the political turbulence. In fact, a study and the setting up of a working committee was announced back in March 2019 by then-Minister Liew Vui Keong and a subsequent report tabled to Cabinet in the middle of 2020 as stated by the NACP progress report 2019. This demonstrates empty promises were being made by all three governments over the last 4 years.

Perhaps the reason all three governments showed a lack of will to implement the separation of powers between the AG and PP is that they could lose prosecutorial powers if successfully implemented. This would mean the ruling party can no longer influence the Attorney General to conduct selective prosecutions. They would also no longer have the power to initiate or drop charges against anyone as this would have fallen under the purview of the PP’s office.

The recent call by UMNO members to replace the AG and for the Prime Minister to intervene in the case of disgraced former Prime Minister Najib Razak is a glaring example of why Malaysia needs to implement this reform urgently. UMNO Supreme Council member Azalina Othman, who previously called for the office of the AG and PP to be separated, changed her tune and questioned the Prime Minister Ismail Sabri on why the current AG appointed was not from “one of our own.” She said the power of the AG is too wide and therefore it only made sense for a prime minister to choose a “yes man” to take on the position, speaking at an UMNO gathering to show support for Najib and protest his conviction by the Federal Court.[98]

Even under the Pakatan Harapan (PH) government, the administration was reluctant to go ahead with this reform. The reason given back then was that the government lacked the two-thirds majority needed to make changes to the Federal Constitution. However, examples from other reform areas in this report would tell us that this is reasoning is weak. Former AG Tommy Thomas stated that it was the lack of political will that caused the failure to implement this reform under the PH government.[99]

The country is in urgent need now to implement this reform as the very principles of the rule of law are being threatened. The power to prosecute and drop charges must be taken away from the executives to ensure a clear separation of powers and an independent prosecution office, features fundamental in a true democracy.

PRIORITY AREA: Political Governance

STRATEGY 1 - Strengthening Political Integrity and Accountability

STRATEGIC OBJECTIVE:
- 1.4: Enhancing Parliamentary Authority and Governance Administration
- 1.4.8: To establish a Parliamentary Select Committee on Expenditure to examine the thrust of Government’s monetary policies on income and expenditure
- 1.4.2: To establish separate Parliamentary Select Committee (PSC) to oversee Malaysian Anti-Corruption Commission (MACC), Ombudsman Malaysia (Previously known as Public Complaints Bureau) and Election Commission of Malaysia

LEAD AGENCY:
- i) Parliament of Malaysia
- ii) Malaysian Anti-Corruption Commission (MACC)
- iii) Election Commission of Malaysia (EC)
- iv) Public Complaints Bureau (PCB)

TIMELINE: Within 5 years (Jan 2019-Dec 2023)
<table>
<thead>
<tr>
<th>PAKATAN HARAPAN (MAHATHIR MOHAMAD)</th>
<th>4 DECEMBER 2018</th>
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<tr>
<td>Six new bipartisan parliamentary select committees have been formed to scrutinise the federal government. Each committee will have seven members and is headed by a Pakatan Harapan lawmaker. The opposition have been allocated two places in each committee.[100]</td>
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<tr>
<th>4 DECEMBER 2018 (PH)</th>
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<td>Eleven new special parliamentarian select committees are to be set up in an effort to improve the institutional system, said Dewan Rakyat Speaker Datuk Mohamad Ariff Md Yusof. He said the committees will be in addition to the existing six and the proposal for their establishment will be made soon in stages.[101]</td>
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<th>17 OCTOBER 2019 (PH)</th>
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<tr>
<td>Law Minister Datuk Liew Vui Keong said that four new special select committees have been formed in Parliament for better check and balance. The four Special Select Committees are for Election; International Relations and Trade; Human Rights and Constitutional Affairs; and Science, Innovation and Environment.[102]</td>
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| Parliament has approved the setting up of the All-Party Parliamentary Group Malaysia, which is a platform to discuss a common topic among parliamentarians and senators, as well as stakeholders comprising academicians, professionals, NGOs and partners.[103] |

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<tr>
<th>PERIKATAN NASIONAL (MUHYIDDIN YASSIN)</th>
<th>2020 (NACP PROGRESS REPORT)</th>
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<td>Initiative 1.4.8</td>
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<tr>
<td>The Dewan Rakyat on 16 August 2018 approved the establishment of the Special Select Committee on Budget. The committee is appointed for a period two years/two terms. The Committee meeting will also be attended by permanent representatives among officers from the Ministry of Finance (National Budget Office, Tax Division and Fiscal and Economic Division), Ministry of Economic Affairs, Attorney General's Chambers and Accountant General's Department of Malaysia. The main function of this Committee is to examine and discuss any matters arising from the Supply Bill before it is tabled and debated in the Dewan Rakyat.[104]</td>
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[100] https://www.malaysiakini.com/news/454684
The NAACP has proposed:
1. The establishment of Special Select Committee on Election.
2. The establishment of Special Select Committee on Major Public Appointments for: (a) Public Complaints Bureau (Ombudsman Malaysia) and (b) Malaysian Anti-Corruption Commission (MACC).
3. The existence of Special Committee on Corruption (SCC) under the Malaysian Anti-Corruption Commission Act 2009.[105]

The Dewan Rakyat passed the motion to set up the nine bipartisan Special Select Committees that will replace the 10 committees formed during the previous Pakatan Harapan (PH) administration. [106]

The nine existing parliamentary special select committees have been restructured involving the composition of lawmakers from both the opposition and the government, according to Dewan Rakyat Speaker Datuk Azhar Azizan Harun. Azhar said that the restructuring exercise was a follow-up to the signing of the Memorandum of Understanding on Transformation and Political Stability between the federal government and Pakatan Harapan on Sept 13.[107]
A total of ten Parliamentary Special Select Committees were formed under the Pakatan Harapan (PH) Government covering different areas. These areas were:

1. Budget
2. State and Federal Relations
3. Consideration of Bills
4. Defence and Home Affairs
5. Major Public Appointments
6. Rights and Gender Equality
7. Election
8. International Relations and Trade
9. Human Rights and Constitutional Affairs
10. Science, Innovation and Environment

These Special Select Committees were replaced with the following areas under the Perikatan Nasional Government (PN) on 11 November 2020:

1. Fundamental Liberty and Constitutional Rights
2. Finance and Economy
3. Security
4. Agencies under the Prime Minister’s Department
5. Agriculture and Domestic Trade
6. Infrastructure Development
7. Education
8. Women and Children Affairs and Social Development
9. Health, Science and Innovation

Notably, key and important Special Select Committees on State and Federal Relations, Consideration of Bills, Elections and Major Public Appointments had been terminated under the Muhyiddin-led PN government.

When Prime Minister Ismail Sabri came into power under the joint Barisan Nasional and Perikatan Nasional (BN+PN) Government, and as a result of the memorandum of understanding between the new government and PH coalition, the nine existing Parliamentary Special Select Committees were restructured involving the composition of lawmakers from both opposition and government. This saw an increase from seven members to nine, with a composition of five government Members of Parliament (MPs) and four opposition MPs in each select committee. The chairmen of the select committees were also divided between the government and the opposition in a ratio of 5:4. Apart from this, two additional committees were added, namely the Special Select Committee on International Affairs and the Special Select Committee on the Constitution (Amendment) Bill (No.3) 2022 and the Provision to Prohibit Party Hopping for Members of the House of Representatives.
The All-Party Parliamentary Group Malaysia (APPGM) which was formed under the PH government has been continued and new thematic areas added under the current Ismail Sabri government. The APPGM is a platform for members of the House of Representatives and the Senate as well as other parties including academicians, professionals and NGO representatives to discuss, research and submit reports of recommendations to Parliament or its committees on matters of interest. This is a positive development in regard to parliamentary reforms. One of the latest APPGMs announced recently is the APPGM on Integrity, Governance and Anti-Corruption which aims to focus on the independence of institutions such as the Judiciary, MACC and Election Commission (EC), as well as to separate the powers of the Attorney General and the Public Prosecutor and to Improve the Whistleblower Protection Act 2010.

The current APPGMs are:

1. All-Party Parliamentary Group Malaysia on Sustainable Development Goals (SDG)
2. All-Party Parliamentary Group Malaysia on Policy on Refugees in Malaysia
3. All-Party Parliamentary Group Malaysia on Prison and Detention Centre Reforms
4. All-Party Parliamentary Group Malaysia on Urban Poverty & B40 Community
5. All-Party Parliamentary Group Malaysia on Political Financing
6. All-Party Parliamentary Group Malaysia on Integrity, Governance and Anti-Corruption

The NACP Progress Report 2019 highlights that the Special Select Committee on Budget was formed on 16 August 2018 under the PH government. However, this committee was terminated under the PN government and replaced by the Special Select Committee on Finance and Economy. It is not clear if the functions of this new committee are similar to the previous one under the PH government. There is also no evidence that the previous supply bill was sent to the committee before being passed in Parliament, or if the committee is being engaged for Budget 2023 which is one of the main tasks of the budget committee as mentioned under the NACP. There is no evidence available online nor on the Parliament website on the undertakings of this new committee as compared to the previous one where meetings were held on a monthly basis, and recommendations were given to the government on managing debt and liabilities. The involvement of this special select committee in preparing the budget is an opportunity to practice good governance principles and to initiate the process of creating a healthy national budget above political considerations. The select committee can play its role effectively in engaging various stakeholders including industry players and grassroots communities to gather valuable feedback that could help the executives shape the national budget. However, this does not seem to be happening in the current context.

On a similar note, the NACP also promised to establish a Parliamentary Select Committee to oversee the MACC, the Elections Commission, and the Public Complains Bureau. In the NACP Progress Report 2019, regarding the MACC, the existence of a Special Committee on Corruption (SCC) under the Malaysian Anti-Corruption Commission Act 2009 was highlighted. This does not adhere to the promise of establishing a Separate Parliamentary Select Committee to oversee the MACC. The SCC cannot be equated to a Parliamentary Select Committee and it is confusing for the NACP Progress Report 2019 to provide irrelevant updates on this matter.

Currently, the Parliamentary Select Committee on Agencies under the Prime Minister's Department would understandably be able to oversee the MACC. For one, this does not reflect the original idea under the NACP for a “Separate” Parliamentary Select Committee to oversee the MACC and secondly, there is no proof that the current committee is able to perform its duties efficiently, as evident from the case of Azam Baki, when he failed to appear before the current committee to answer allegations on the share trading and corporate ownership issue.[113]

On the other hand, the Parliamentary Select Committee for elections and major public appointments which were set up by the PH government was abolished by Muhyiddin during his premiership. This is a major step backwards for parliamentary and institutional reforms. It threatens the independence of the Elections Commission (EC) as opposition members would now have no avenue to monitor and hold the EC accountable, and also threatens the independence of other institutions such as the MACC, Police and major government-linked companies where the power to nominate the Chief rest solely in the hands of the Prime Minister.

Another major issue with regard to the Parliamentary Select Committees under all three governments is that the works of these committees are publicised insufficiently or not at all. These Committees need to be transparent in their work, publish regular reports and update the public from time to time on what is being done. It is preferred if the meetings of these committees are aired live so that interest groups and civil society could follow proceedings and lobby their MPs on related areas — MPs need to carry the voices of the constituency and people they serve into Parliament.

A similar problem arises with regard to the work of the various APPGM. Parliament’s website lists all the APPGMs but there is no update on the work they have done. The only APPGM exempted from this issue is the APPGM on Sustainable Development Goals (SDG). The APPGM on SDG has published a comprehensive report on their activities, the number of meetings conducted, and their expenditure which can be accessed from the Parliament website. [114] This is a great example that should be followed by all APPGMs and Parliamentary Select Committees. Another example is the Public Accounts Committee (PAC) which has a separate page within Parliament’s website with all information on their work including the various reports made available for viewing. However, PAC’s reports since 2019 are unavailable at the time of writing and raise questions regarding the efficient management, user-friendliness and consistency of updating of Parliament’s website.[115]

NATIONAL ANTI-CORRUPTION PLAN 2019-2023

PRIORITY AREA: Political Governance

STRATEGY 1 - Strengthening Political Integrity and Accountability

STRATEGIC OBJECTIVE:
- 1.4: Enhancing Parliamentary Authority and Governance Administration
- 1.4.11: To re-enact the Parliamentary Service Act 1963

LEAD AGENCY: Parliament

TIMELINE: Within 5 years (Jan 2019-Dec 2023)
Port Dickson MP Datuk Seri Anwar Ibrahim said he hopes to have the defunct Parliamentary Services Act (PSA) 1963 revived, via a Bill for the proposed law which he is seeking to be tabled in the next parliamentary session. Speaking to reporters after chairing the parliamentary caucus on reform and governance, he said that the law is very much needed for the smooth operations of the Parliament, via its own administration.[116]

Law Minister Datuk Liew Vui Keong said a study on the Parliamentary service commission was now in the final stages and the bill is being prepared. The commission is expected to be set up next year. He added that he and the Dewan Rakyat Speaker, Tan Sri Mohamad Ariff Md Yusof, have held several meetings on the matter to ensure that it goes smoothly.[117]

The draft bill is still under consideration by Parliament and the Attorney General's Chambers.[118]

Dewan Rakyat Deputy Speaker Nga Kor Ming said that the Parliament Services Bill will be tabled in March 2020. Nga said the bill will allow the legislature to be removed from the Prime Minister's Department and, to a large extent, lead to a separation of powers as Parliament becomes an independent entity.[119]

Law Minister Takiyuddin Hassan said that the draft of the Parliament Service Bill has been prepared. The government is fine-tuning and reviewing the establishment of Parliament Service Commission.[120]

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**PAKATAN HARAPAN (MAHATHIR MOHAMAD)**

**27 MARCH 2019**

Port Dickson MP Datuk Seri Anwar Ibrahim said he hopes to have the defunct Parliamentary Services Act (PSA) 1963 revived, via a Bill for the proposed law which he is seeking to be tabled in the next parliamentary session. Speaking to reporters after chairing the parliamentary caucus on reform and governance, he said that the law is very much needed for the smooth operations of the Parliament, via its own administration.[116]

**29 NOVEMBER 2019 (PH)**

Law Minister Datuk Liew Vui Keong said a study on the Parliamentary service commission was now in the final stages and the bill is being prepared. The commission is expected to be set up next year. He added that he and the Dewan Rakyat Speaker, Tan Sri Mohamad Ariff Md Yusof, have held several meetings on the matter to ensure that it goes smoothly.[117]

The draft bill is still under consideration by Parliament and the Attorney General's Chambers.[118]

**30 JANUARY 2020 (PH)**

Dewan Rakyat Deputy Speaker Nga Kor Ming said that the Parliament Services Bill will be tabled in March 2020. Nga said the bill will allow the legislature to be removed from the Prime Minister's Department and, to a large extent, lead to a separation of powers as Parliament becomes an independent entity.[119]

**PERIKATAN NASIONAL (MUHYIDDIN YASSIN)**

**24 NOVEMBER 2020**

Law Minister Takiyuddin Hassan said that the draft of the Parliament Service Bill has been prepared. The government is fine-tuning and reviewing the establishment of Parliament Service Commission.[120]

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New initiative was inserted under clause 1.4.2: To undertake a study on the viability of reintroducing the Parliamentary Services Act 1963. The lead agency being Parliament with a timeline from January 2021 to December 2022.[121]

Law minister Wan Junaidi Tuanku Jaafar said that a revival or reintroduction of the Parliamentary Service Act was on the agenda during his discussion with Dewan Negara president Rais Yatim and Dewan Rakyat Speaker Azhar Azizan Harun the day before. "I am happy to inform that both the Yang di-Pertua Dewan Negara and Yang di-Pertua Dewan Rakyat took the proposal positively and are, in fact, prepared to take on the lead role in the transformation of our Parliament,” he said.[122]

Law Minister Wan Junaidi Tuanku Jaafar said that the transformation of Parliament is one of his top three key performance indicators (KPI) for his first 100 days helming the portfolio. One main area the transformation will focus on is the reintroduction of the Parliamentary Services Act, which will be more comprehensive, to give independence to Parliament. “In line with this, we have also agreed to form a joint committee between Parliament and the Prime Minister’s Department (Parliament and Law) to ensure that the proposals discussed can be executed swiftly,” he said. He added that he has discussed this with Prime Minister Datuk Seri Ismail Sabri Yaakob and the PM has agreed in principle for the ministry to look into these transformation plans.[123]

Deputy Law minister Mas Ermieyati Samsudin said the government was studying a new draft bill to create a Parliamentary Services Act. She said all efforts to implement the proposal were based on the principle of separation of powers in accordance with the spirit of democracy in recognising the three branches of government – the legislature, the executive and the judiciary. As such, the Parliamentary Services Act is very much needed for all of us to maintain and restore public trust, she said.[124]
**NACP PROGRESS REPORT 2020 & 2021**

**MARCH 2022 (BN+PN)**

The draft bill has been submitted to the AG Chambers on 5 October 2021 and in reply, Parliament was requested to consult stakeholders for more input. Parliament is in the process of consulting the Public Service Commission, Ministry of Finance and the Prime Minister’s department.[125]

**5 JUNE 2022 (BN+PN)**

Prime Minister Ismail Sabri said the Cabinet has yet to decide on a proposal to bar members of Parliament with court trials from attending Parliament sittings. He said this was something that has been proposed by Law Minister Datuk Seri Dr Wan Junaidi Tuanku Jaafar, adding that the matter had not been comprehensively discussed at the Cabinet level. “It is still too early as we will be reintroducing the Parliamentary Services Act, and among the provisions is that members of Parliament who are facing charges are not allowed in Parliament (sittings). We have to look at this in a more comprehensive manner,” he said.[126]

**8 JUNE 2022 (BN+PN)**

The Parliament Transformation Committee agreed to provide Law Minister Datuk Seri Dr Wan Junaidi Tuanku Jaafar with the mandate to conduct engagement sessions with stakeholders about preparations involved in the Parliament transformation. The Malaysia Parliament Communication Department announced in a statement on Wednesday that the matter would involve the formulation of the Parliamentary Services Act, amendments to the House of Parliament (Privileges and Powers) Act 1952 and the drafting of a Code of Ethics for MPs. “All this needs to be settled before the upcoming Parliament sitting. The Malaysian Parliament will put this matter as its priority and always support and cooperate to ensure the success of this agenda,” the statement read.[127]

**18 JUNE 2022 (BN+PN)**

Prime Minister Ismail Sabri Yakob said that in ensuring the proper functions of Parliament, the Government would help the institution to conduct transformation, including re-introducing the Parliamentary Services Act which was repealed in 1992.[128]

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[126]https://www.thedegemarke.../article/pm-ismail-sabri-has-yet-set-appointment-zuraida-discuss-her-cabinet-post
This is yet another critical reform area where the Ismail Sabri government is clearly delaying reforms and showing reluctance in reviving the Parliamentary Service Act. Research and groundwork had begun way back in 2018 under Pakatan Harapan (PH) government, and in fact, the bill was already being prepared in 2019 as announced by then-Law Minister Liew Viu Keong. The bill was planned to be tabled in the 2020 March Parliament sitting, however, this was disrupted due to the Sheraton Move.

Despite the Perikatan Nasional (PN) Law Minister Takiyuddin Hassan announcing in November 2020 that the bill on Parliamentary Service is ready and being fined-tuned by the government, a new initiative was inserted into the NACP Mid-Term Review published in May 2021, 1.4.2, to instead undertaking yet another study on the viability of reintroducing the Parliamentary Services Act 1963.

For one, this is a clear deviation from the original wording of the NACP which clearly spelt out that the plan was to re-enact the Parliamentary Service Act 1963. Secondly, as explained earlier, the research on this area was already undertaken previously and completed. Why is there a need to repeat the process here? It is a complete waste of time and resources that the government and its institutions could use to channel into other reform areas.

When the new Law Minister Wan Junaidi was appointed after the downfall of the Muhhyiddin government, he announced that parliamentary reforms and reintroducing the Parliamentary Service Act is one of his three key performance indicators (KPI) for his first 100 days in office. He also announced a joint committee between Parliament and the Prime Minister’s Department to swiftly act on this.

It has been more than a year now since he took office — we have yet to see the bill being presented or passed in Parliament. As of June 2022, the Parliament Transformation Committee is still talking about stakeholder engagement. Who should bear the responsibility here?

Subang MP Wong Chen stated that it was members of the civil service themselves that had opposed the reintroduction of the Parliamentary Service Act during PH’s time in government as they allegedly wished to be promoted to other posts in ministries or the Prime Minister's Department after serving in Parliament.[129]

The Prime Minister himself had announced in June 2022 that he would re-introduce the Parliamentary Service Act to help transform Parliament. To date, however, no mention has been made that the bill would be tabled in the coming October 2022 session which is very much likely to be the last before elections are held.

Re-introducing the Parliamentary Service Act is an important step to pave the way for parliamentary independence and effectiveness in performing its function. Private members’ bills often get rejected. Ruling MPs are not being dealt with accordingly for their unbecoming behaviour of sexist, racist and vulgar remarks. The Speaker of the house also constantly prevents important current affairs and emergency motions from being debated, an example being the important and recent share trading controversy involving the Chief Commissioner of the Malaysian Anti-Corruption Commission (MACC), Azam Baki.[130]

The Act if passed, will allow parliament to manage its own affairs, hire staff and manage finances, thus allowing it to be independent of executive influence and impartial in the performing of its function. The government seems to be reluctant here to lose its control over the August House.

STATUS:

PRIORITY AREA: Political Governance

STRATEGY 1 - Strengthening Political Integrity and Accountability

STRATEGIC OBJECTIVE:
- 1.2: Ensuring Better Transparency and Accountability in Government’s Administration
- 1.2.6: To transform the Public Complaints Bureau (PCB) into Malaysian Ombudsman

LEAD AGENCY: Public Complaints Bureau (PCB)

TIMELINE: Within 2 years (Jan 2019-Dec 2020)
Prime Minister Tun Dr Mahathir Mohamad said the Public Complaints Bureau will be known and function as Ombudsman Malaysia and for this an Ombudsman Act would be drafted to ensure a more effective management of public complaints in Malaysia.[131]

GIACC Director General Abu Kassim Mohamed said that the bill is being examined by the Attorney-General's Chambers and will be brought to the Cabinet for approval before it is raised in Parliament. It is expected to be passed in the current sitting and would come into operation by the first quarter of next year.[132]

GIACC Director General Abu Kassim Mohamed said the federal government has agreed to the Ombudsman Bill based on the NACP, but it will be focusing on federal agencies. He advised states to have their own ombudsman. He also said that the draft bill is now at the AG Chambers and is expected to be tabled in the next parliament sitting by December.[133]

Law Minister Takiyuddin Hassan said the proposed Ombudsman Bill has been submitted to the Attorney-General's Chambers for review and approval before it is tabled in Parliament for the first reading. He added that the policy has been finalised after studying the model in nine countries including the UK, New Zealand, Philippines, Thailand, Hong Kong and engaging with various stakeholders.[134]

The report stated that an ombudsman bill will be tabled in Parliament in the coming sitting. The AG Chambers is currently going through the bill and it will be presented to cabinet before being tabled in parliament.[135]
Prime Minister Ismail Sabri Yaakob said that the government was in the final stage of drawing up the Ombudsman Bill and had already submitted a draft to the AG Chambers on 24 August 2021. He said the bill would be tabled in Parliament by 2022 at the latest after presentation to the Cabinet for approval before the end of this year. [137]

The Policy and establishment of the ombudsman in Malaysia has been finalised, presented and agreed upon by Cabinet on 1 November 2019. The bill has also been drafted and is now in the AG Chambers for review before being tabled in Parliament. [138]

Law Minister Wan Junaidi Tuanku Jaafar had discussed the current status of the Ombudsman Bill, which is due to be tabled this year, with GIACC Director General Mohd Sallehhuddin Hassan. [139]
The setting up of an Ombudsman institution in Malaysia is yet another failed reform promise by all three governments in the last four years. The timeline under the National Anti-Corruption Plan 2019-2023 (NACP) to set up the Ombudsman body was from January 2019 to December 2020. However, till today we have yet to see the Ombudsman Malaysia replace the Public Complains Bureau.

The drafting of the bill was completed back in 2019 and is expected to be passed in Parliament that year, supposedly coming into operation by the first quarter of 2020. However, the Pakatan Harapan (PH) government failed to keep to their promise in passing the bill in the 2019 Parliament sitting. It was well within their control to get this done as the Sheraton Move only occurred much later in February 2020. It is disappointing to note that such unnecessary delays occurred under the PH government in many other areas being tracked in this paper too.

The urgency of passing this bill to hold civil servants accountable for their actions seems to be intentionally neglected.[140] In 2020, RM82 billion in taxpayer money was spent to keep the 1.6 million civil servants on the payroll.[141] Prime Minister Ismail Sabri recently announced that RM1.5 billion would be forked out to give civil servants a special pay rise in 2023.[142] This is of course not including all the various other goodies, bonuses and special payments that will be announced in the coming budget 2023 speech as part of his election strategy to attract the votes of the civil service. Despite such a huge and substantial amount of money being spent on the civil service, Malaysians are forced to accept poor-quality of services from government departments. The Auditor General’s Report 2020 revealed that non-compliance of federal ministries and departments with financial management has led to issues involving irregular payments, loss of public funds and wastage amounting to RM620.07 million. [143]

The World Bank Economic Report released in 2019 stated that the public sector’s performance has declined since 2014. Malaysia also ranked below its regional peers in accountability, impartiality and the openness of its public sector.

It must be mentioned that there are of course exemplary employees within the public service. Over the years of our work, C4 Center has had the opportunity to work with so many government departments and institutions at the state and federal level which have dedicated high-calibre employees driving through a culture of change in the way duties and responsibilities to the public and country are carried out. However, equally, there are many who take their job for granted and provide immensely poor service and attitude to the public.

[141]https://www.thesundaily.my/local/time-now-to-review-bloated-civil-service-to-reduce-expenditure-DN7924445
[142]https://www.freemalaysiatoday.com/category/nation/2022/08/30/govt-to-fork-out-rm1-5bil-for-special-pay-raise-for-civil-servants/
The current Public Complains Bureau established in 1971 is ineffective to hold civil servants accountable for their lack of responsibility and the system in itself is not independent from executive control and not transparent in its investigations.

The introduction of an Ombudsman for Public Service would serve as a first check and balance to investigate obstacles and roadblocks and resolve the issues. It is mandated to make recommendations to Parliament. These reports are open to public scrutiny and allows the results of inquiries to be scrutinised by individuals across the political spectrum, opening them up for further inquiry if need be.

Additionally, the Ombudsman can also compel the relevant ministry or agency to publicise its own KPIs and progress.
STATUS:

PRIORITY AREA: Law Enforcement

STRATEGY 5 - Institutionalising Credibility of Law Enforcement Agencies

STRATEGIC OBJECTIVE:
• 5.3: Strengthening Law Enforcement
• 5.3.3: To empower the Malaysian Anti-Corruption Commission (MACC) in terms of the appointment of Chief Commissioner, budgetary, oversight committee, establishment of service commission and manpower

LEAD AGENCY: MACC

TIMELINE: Within 5 years (Jan 2019-Dec 2023)
The government proposed restricting the powers of the prime minister in the appointment of the Auditor-General and Malaysian Anti-Corruption Commission Chief Commissioner. Several parliamentary select committees will be formed and tasked with the appointments of these top posts, said Prime Minister Mahathir Mohamad.

Deputy Minister in the Prime Minister’s Department Mohamed Hanipa Maidin said, reforming the Malaysian Anti-Corruption Commission is under way. The appointment of the chief commissioner will be done via a Parliamentary Select Committee, and this has been approved by the cabinet.

MACC chief commissioner Azam Baki said that the government has agreed to the proposal that the appointment of the chief of the MACC will go through a constitutional process. He added that the Special Cabinet Committee on Anti-Corruption (JKKMAR) chaired by Prime Minister Muhyiddin Yassin has also agreed for the MACC to form their own service commission.

The report stated that the MACC 2.0 Transformation Committee Coordination meeting was convened on 10 - 12 April 2019 and are deliberating on the following sub-initiatives.

i. Amendment to the Federal Constitution to insert a new provision on the appointment of the MACC Chief Commissioner. The draft provisions were agreed in principle at the JKKMAR meeting on 7 January 2020;

ii. Amendments to the Federal Constitution in regards to the establishment of Anti-Corruption Service Commission;

iii. Additional of 400 new posts in the MACC;

iv. Establishment of a lower-rank officer service scheme for MACC;

v. Strengthening of five MACC oversight bodies;

vi. New policy to determine the annual budget; and

vii. The insertion of a statutory provision in the Malaysian Anti-Corruption Commission Act 2009 that provides for returning of a certain percentage of forfeited proceeds to MACC.
NACP MID-TERM REVIEW
MAY 2021 (PN)

Initiative remains the same but new timeline is from January 2021 to December 2023.[148]

BARISAN NASIONAL + PERIKATAN NASIONAL
(ISMAIL SABRI YAAKOB)
12 JANUARY 2022

The Special Committee on Corruption (SCC) was set to meet in its efforts to push for the Malaysian Anti-Corruption Commission (MACC) to be parked under the Parliament’s prerogative. SCC chairman Tan Sri Rais Yatim said the Cabinet must have the political will to do so since currently, the MACC is placed under the Prime Minister’s Department. Rais explained that there are two ways to ensure the idea to park the MACC under Parliament is realised - one would be a recommendation from the MACC itself or alternatively, by him as the SCC chairman. He said the recommendation must be made to the Prime Minister, who would then advise the Yang di-Pertuan Agong to place the MACC under Parliament. When asked, Rais said he would continue to push for the recommendation even if the MACC refused to do so, saying that it was crucial to prevent a public backlash against the executive branch.[149]

14 JANUARY 2022 (BN+PN)

Datuk Seri Azalina Othman said it was unnecessary to set up another committee to oversee the appointment of the MACC. She added that perhaps what is required here is to enhance the role of Parliament to oversee the appointment of heads of agencies, especially law enforcement agencies.[150]

NACP PROGRESS REPORT 2020 & 2021
MARCH 2022 (BN+PN)

The proposal paper on appointment of chief commissioner and the establishment of the service commission has been prepared and will be discussed by the top management of MACC after receiving feedback from the Attorney General’s office on 9 August 2021. The proposal would enable MACC to operate under the Federal Constitution similar to the Election Commission. The proposal would also require amendments to the Federal Constitution.[151]

Reforming the Malaysian Anti-Corruption Commission (MACC) is a critical initiative being tracked by C4 Center. Despite all their assertions of independence, there are numerous instances where the MACC has fallen short of public expectations and acted without fear or favour.

Direct meddling from the executive branch became most glaring during the 1MDB scandal — the forced resignation of the former Chief Commissioner Abu Kassim Muhammad in 2016 and the appointment of Najib Razak’s ally, Dzulkifli Ahmad afterwards on 1 August 2016 to lead the commission is one of the many examples.

Successive Chief Commissioner Latheefa Koya had later in 2020 revealed audio clips of alleged conversations Zulkifli took part in between 5 January 2016 and 29 July 2016 updating Najib on the investigation of the 1MDB and SRC case.[152] Zulkifli was a deputy public prosecutor in the Attorney-General's Chambers at that time the conversations were taped.

It was a period of darkness and fear within the MACC in 2016 according to its Deputy Commissioner Datuk Seri Shamshun Baharin Mohd Jamil.[153] It took the fall of the UMNO government to eventually result in Najib being held accountable for his grand heist of the 1MDB stolen loot. In short, the MACC simply fell short of its ability to perform its duties effectively, and bring power to account, especially when Najib was in power.

The MACC is parked under the Prime Minister’s Department and hence reports directly to the Prime Minister. The appointment of the Chief Commissioner is also at the behest of the Prime Minister.

As such, when the Pakatan Harapan Government came into power, they made a promise to reform the MACC as a key priority. In 2018, Mahathir Muhammad said that the appointment of the Chief Commissioner would be made via a Special Select Committee in Parliament. However, in June 2019, he broke his promise by appointing Latheefa Koya, a politician from Parti Keadilan Rakyat (PKR), to head the commission. The appointment was viewed by observers as a political move to check-mate the purported incoming Prime Minister Datuk Seri Anwar Ibrahim and further cause division within the fragile PKR party that was dealing with internal conflicts at that time.[154] Latheefa was known to be aligned to PKR’s Azmin Ali who had fallen out with Anwar earlier and who had later orchestrated the Sheraton Move. Yet again this appointment demonstrated the vulnerability of the MACC. Mahathir Muhammad had made this appointment unilaterally and was in effect using the MACC to strengthen his own power base.

[153]https://www.sinarharian.com.my/article/154416/BERITA/Nasional/SPRM-mahu-peristiwa-hitam-tahun-2016-jadi-iktibar?fbclid=IwAR0VDx0oxCIcfns8RmYe5SE6T02pyZ3eoA-FSNO2q7s7A_oDNsfnqF3amg
Latheefa eventually resigned when the PH government collapsed and Azam Baki was appointed by the Muhyiddin’s administration to head the commission in 2020. He, too, would be mired in much controversy and allegations of abuse of power.

When the Perikatan Nasional (PN) government came into power, they were accused of using the enforcement agencies including the MACC to go after Members of Parliament (MPs) from Pakatan Harapan, and threatened them into supporting his unelected government.[155]

Xavier Jayakumar and his close associate MA Tinagaran were investigated in February 2021 by the MACC on suspicion of accepting bribes from several companies for a project awarded by the water, land, and natural resources ministry in 2019 when Xavier was a minister under the PH government. A total of RM1.2 million in cash was seized by the MACC and RM77 Million in bank accounts were frozen in relation to the case.[156]

In March 2021, Xavier announced his resignation from PKR and pledged support for Muhyiddin, a move that shocked many in the Reformasi movement.[157] In an immediate response, MP for Sungai Buloh, R. Sivarasa stated that the MACC probe was targeted to intimidate Xavier in which several of his associates and former ministry staff were arrested and remanded. “It is obvious to all and sundry that Dr Xavier would not have done this if not for the selective investigation by MACC,” he said.[158] Over a year has passed since, and the MACC’s silence on the investigations speaks volumes of political power play.[159]

In another example, it was recently revealed in the trial of Muar MP and MUDA President Syed Saddiq that the MACC had pressured the MP to support Muhyiddin as the Prime Minister. Saddiq’s parents had testified to the court that the MACC had questioned them from morning to night on several occasions and had also suggested to them to tell Saddiq to support the government of the day so they would not be harassed.[160] Saddiq is being charged for criminal breach of trust involving RM1 Million and misappropriation of RM120,000 belonging to the youth wing of the Bersatu party.

One of the most glaring examples of the lack of independence of the MACC is on how Muhyiddin was initially able to stay on to power by dishing out a buffet of ministerial positions and chairmanship in government linked companies in return for the loyalty of those he promoted. The MACC cleared Muhyiddin on corruption and abuse of power despite this and further exonerated him when evidence of leaked audio recording allegedly featuring Muhyiddin’s voice enticing UMNO defectors onto his camp.[161]
It became clear during Azam Baki’s share trading exposé that there is a complete breakdown in the rule of law and independence when it came to the MACC. The government had refused to take any action against Azam despite there being a possible violation of Section 23 of the Service Circular Number 3/2002 – Ownership and Declaration of Assets by Public Officials and Section 10 of the Public Officers Regulations Act (Conduct and Discipline) 1993 which requires civil servants to declare any purchase of shares to their head of department.

Azam had also confessed that his share account was used by his brother for trading activities, another likely offence under Section 25(4) of the Securities Industry (Central Depositories) Act 1991.[162] Despite the hue and cry over an anti-corruption chief himself dwelling in millions of corporate shares, he sued the whistleblower who exposed this controversy and failed to attend the Parliamentary Select Committee on Agencies under the Prime Minister’s office to answer the allegations against him. It seems to be a case of currying and returning favours when the government did not take action despite the unbecoming behaviour of the chief of an anti-corruption commission, entrusted to address corruption and integrity issues in the country.

The National Anti-Corruption Plan 2019-2023 (NACP) promises to address the independence of the Commission, however a close look at the wordings would suggest that this reform initiative isn’t concretely spelt out. Initiative 5.3.3 states “To empower the MACC in terms of the appointment of Chief Commissioner”. Compared to other initiative that that is more direct in terms of the outcome, ie, 4.1.5: the power of the Attorney General should be separated from the power of Public Prosecutor or 5.3.4: to transform and convert the Enforcement Agency Integrity Commission (EAIC) into Independent Police Complaints and Misconduct Commission (IPCMC) to address integrity issues and curb misconducts among members of the Royal Malaysia Police.

The rather general sentence in the NACP does not help in tracking for a fixed outcome. To Empower the MACC in terms of the appointment of Chief Commissioner could be interpreted widely. What is the desired outcome here? The NACP progress report 2019 had stated that the MACC Transformation Committee had deliberated on the amendment to the Federal Constitution to insert a new provision on the appointment of the MACC Chief Commissioner.

The NACP progress report 2020 and 2021 further stated that the proposal paper to enable MACC to operate under the federal constitution similar as to the election commission (EC) has been prepared and will be discussed by the top management of MACC after receiving feedback from the Attorney General.
While the proposal for the MACC to be raised to a constitutional body similar to the EC is welcome, the process of appointment of the chief commissioner and reporting mechanisms must be clearly defined. The MACC Chief must not be appointed on the advice of the Prime Minister and the agency must be made answerable to Parliament.

The appointment and removal process must go through a two thirds majority voting process in parliament. It appears that the government is clearly not ready for this change. Regrettably, the tracking produces minimal statements or close to none made by the government in regards to this initiative.

It is also opined that it could be a mistake to place this reform initiative under the MACC as the MACC themselves seems to be not ready to be answerable and accountable to parliament. The agency is haunted by so much controversy including extortion and corruption cases involving abuse of power by their own officers.[163]

In September 2021 the nation was shocked by the news that cash amounting to RM25 Million seized from former director-general of the Malaysian External Intelligence Organisation (MEIO) Hasanah Abdul Hamid had gone missing under MACC custody. Hasanah was in 2018 charged with criminal breach of trust involving US$12.1 million and was subsequently granted a discharge not amounting to acquittal by the High Court.[164] The investigation into the missing money eventually led to the conviction of a senior superintendent of the MACC. [165]

The problems with the MACC discussed here is not limited to the appointment process of the Chief Commissioner but points to a larger structural problem. The NACP has also rightly laid out various other reforms including independence to their finance, establishing impactful oversight committee and the establishment of service commission and manpower. This must be implemented holistically, however the government is not committed to this as evident from the delay.

PRIORIY AREA: Political Governance

STRATEGY 1 - Strengthening Political Integrity and Accountability

STRATEGIC OBJECTIVE:

• 1.2: Ensuring Better Transparency and Accountability in Government’s Administration

• 1.2.5: To introduce new legislation on governing Political Funding and to include an offence on lobbying

LEAD AGENCY: Prime Minister’s Department

DEADLINE: Within 2 years (Jan 2019-Dec 2020)

PRIORIY AREA: Corporate Governance

STRATEGY 6 - Inculcating Good Governance in Corporate Entity

STRATEGIC OBJECTIVE:

• 6.2: Greater Corporate Entities Resilience against the Threat of Corruption

• 6.2.7: To introduce a legal provision that prohibits Statutory Bodies, State-Owned Enterprises (SOEs), and Government Established Company Limited By Guarantee (CLBG) from making contributions to politicians or political parties

LEAD AGENCY:

i) Ministry of Finance (MOF)

ii) Ministry of Economic Affairs (MEA)

iii) Prime Minister’s Department (PMD)

iv) Securities Commission (SC)

v) Companies Commission of Malaysia (CCM)

vi) Relevant Federal and State Agency

TIMELINE: Within 5 years (Jan 2019-Dec 2023)
**PAKATAN HARAPAN (MAHATHIR MOHAMAD)**

17 SEPTEMBER 2019

The National Centre for Governance, Integrity, and Anti-Corruption (GIACC) director-general Abu Kassim Mohamed said that a law to regulate political financing is expected to be tabled at next month's Parliament session.[166]

19 SEPTEMBER 2019 (PH)

After the 10th Special Cabinet Committee on Anti-Corruption (JKKMAR) meeting, Prime Minister Tun Dr Mahathir Mohamad said the Political Funding Bill to be tabled in Parliament soon will effectively monitor and scrutinise funding, including donations contributed to political parties. [167]

29 OCTOBER 2019 (PH)

Law Minister Datuk Liew Vui Keong said the government is expected to table the Political Funding Bill in Parliament next year. He said the Prime Minister's Department was still waiting for feedback and suggestions from the ministries involved before submitting the matter to the Parliamentary Select Committee.[168]

**PERIKATAN NASIONAL (MUHYIDDIN YASSIN)**

16 JULY 2020

Prime Minister Tan Sri Muhyiddin Yassin said that the PSC is yet to send in the political funding policy report as the panel has been reconstituted after PN took over the government in march. [169]

**NACP PROGRESS REPORT 2019 2020 (PN)**

The NACP progress report for 2019 states that the draft bill is completed and has been submitted to the Special Select Committee for Consideration of Bills in Parliament to review and scrutinise the bill prior to the approval in Parliament. The report also stated that the Ministry of Finance has been discussing with the GIACC to combine initiative 6.2.7 with initiative 1.2.5.[170]
A new initiative and timeline was inserted into the midterm review report:
Item 1.2.3: To undertake a study on enacting new legislation on political funding contributions, this new initiative is a combination of the initial initiative 1.2.5 and 6.2.7 in NACP 2019-2023. The two distinct initiatives appears to have been combined into one. The new timeline is now January 2021-December 2022 with the Prime Minister’s Department being the lead agency.[171]

MACC Commissioner Azam Baki said that the GIACC has completed the draft of the law on political funding in which he is also involved in.[172]

Law Minister Datuk Seri Wan Junaidi Tuanku Jaafar told the Dewan Rakyat that the proposed Political Funding Bill is ready but engagement with stakeholders is still needed.[173]

The report states that discussions and research is on-going. Meetings have also been held with the MACC and other stakeholders and the findings will be presented to the Cabinet soon.[174]

The All-Party Parliamentary Group (APPG) on Political Financing comprising lawmakers from both the government and opposition, along with NGOs have been formed to renew the push for a political financing law. The APPG on Political Financing, in their statement, called on Law Minister Wan Junaidi Tuanku Jaafar to give an update on the Political Financing Bill and to give them a copy of the draft in its current form. This is so they can review the bill and make recommendations for improvements.[175]

At their second meeting, the APPGM on political financing raised questions about the status of the Political Financing Bill that was supposed to have been tabled two years ago. "So far, there have been no updates regarding this bill, and neither civil society nor the MPs and senators have access to it," the group said in a statement.[176]

[82]https://www.freemalaysiatoday.com/category/nation/2022/05/12/whats-the-status-of-political-financing-bill-asks-parliamentary-group/
<table>
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<th>Date</th>
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<tr>
<td>19 MAY 2022</td>
<td>Prime Minister Ismail Sabri Yaakob said the Special Cabinet Committee on Anti-Corruption (JKKMAR) has agreed in principle to a political funding bill and that the proposal will be discussed with the Cabinet before further engagement with political parties.[177]</td>
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<td>21 MAY 2022</td>
<td>Law Minister Datuk Seri Dr Wan Junaidi Tuanku Jaafar said the proposed law to regulate political funding is not likely to be enacted before the 15th General Election, if it is called this year. This was because engagement sessions with stakeholders on the proposed laws haven’t been held yet. “We are talking about at least another eight to nine months before we can consider this Bill,” he said.[178]</td>
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<td>21 JULY 2022</td>
<td>Deputy chairman Fahmi Fadzil of the APPG on Political Financing said that said the group, which comprises MPs and civil societies, had drafted a political funding bill for the Attorney-General’s Chambers (AGC) to review.[179]</td>
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<td>31 JULY 2022</td>
<td>Prime Minister Datuk Seri Ismail Sabri Yaakob said that the political funding bill is being worked on, however whether it could be ready before the 15th General Election remains to be seen.[180]</td>
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<tr>
<td>13 AUGUST 2022</td>
<td>Law Minister Wan Junaidi Tuanku Jaafar that the drafting of the political funding bill will be expedited in order for it to be tabled in the Dewan Rakyat in October. This law should be implemented immediately to show transparency and accountability in political governance he said. He further added that a memorandum on the bill was expected to be presented to the Cabinet in September for approval prior to the next Parliament sitting in October.[181]</td>
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<tr>
<td>11 SEPTEMBER 2022</td>
<td>Law minister Wan Junaidi Tuanku Jaafar said the political funding bill is expected to be tabled in the next Dewan Rakyat sitting, which begins on Oct 3. “Cabinet had agreed in principle to the drafting of the bill and this bill will take into account the views of the stakeholders, including political parties and civil society that were gathered through several engagement sessions,” he said.[182]</td>
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Regulating political funding is the No. 1 priority of the National Anti-Corruption Plan 2019-2023 (NACP). The draft bill was already ready way back in 2019 and was supposed to be tabled in that year. However, the Pakatan Harapan Government (PH) had failed to keep to their promise to table the bill that year and this failure has further resulted in uncertainty of the bill being tabled. Despite the renewed push, this initiative is one of those reform areas where there has been a complete failure of successive governments in the last 4 years especially, to implement the plan within the stipulated time frame, which was by December 2020.

Malaysia is in urgent need to regulate political funding as this area is regarded as the “Mother of all Corruption”. The problems that arise due to an absence of a legislative framework in regulating political funding affect every segment of society and are a major crippling problem in our country.

Politicians and Political parties are not accountable and transparent for the donations they receive and this raises many problems and critical questions.

Firstly, are certain laws and policies being implemented to protect the interest of certain businesses that are donating to political parties that are in power at the state or federal level? Secondly, are contracts being offered to selective business owners that donate back to political parties in power at the state and federal level? These important questions cannot be answered unless there is transparency in political finance. Government Linked Companies (GLCs) are also being abused to channel funds for activities of ruling political parties, often under the disguise of corporate social responsibility and targeted development projects.

Under the current legal framework, there are no limits on the amount of political donations permitted. There is also no requirement for political parties to disclose the identities of their donors. This prevents any sort of public oversight or scrutiny on how political donations affect our political system and prevents the public from scrutinising for conflict of interest and power abuse issues.

The recent corruption case of former Home Minister Datuk Seri Ahmad Zahid Hamidi, where he was charged for receiving millions in bribes from Ultra Kirana Sdn Bhd (UKSB) to extend the contract of the company in managing the One-Stop Centre (OSC) in China and the Foreign Visa System (VLN) system, has exposed various political figures receiving huge sums of “political donations” from UKSB when one of the prosecution witnesses revealed the existence of a ledger of donations made in the past to them.[183] The politicians alleged to have received these donations includes former Prime Minister Mahathir Mohammad and Muhyiddin Yassin, Health Minister Khairy Jamaluddin, Minister of Housing and Local Government Reezal Merican and former Sabah Chief Minister Shafie Apdal.

Despite the MACC knowing of this much earlier, no corruption charges were initiated against the individuals named in the testimony. They all have also denied receiving any money from UKSB.

Another case of interest is the case of former Penang Chief Minister, Lim Guan Eng. He is being charged for using his position as Penang chief minister to receive RM3.3 million in bribes to help Consortium Zenith BUCG Sdn Bhd to obtain the controversial Penang undersea tunnel project and for soliciting bribes amounting to 10 per cent of the profits of the company from Director Zarul Ahmad as gratification for getting the project. Zarul who is also the prosecution witness alleged that he had paid bribes to Guan Eng on several occasions for this matter.[184]

While funding is important for political parties and politicians to finance their activities, without proper regulations and oversight, they not only open the door to the possibility of massive corruption between powerful politicians and companies seeking influence as in the many corruption cases we are witnessing, but they also destroy public trust in the political system. The sheer number of politicians facing court cases involving political donations and corruption demonstrate that this is not an isolated practice.

The 1MDB example remains the elephant in the room and has brought so much shame over how public funds were being swindled in massive amounts and channelled into political party activities.

C4 Center had also recently released a report titled Foundations and Donations: Political Financing, Corruption, and the Pursuit of Power exposing how foundations are being abused by politicians as a conduit to raise money for political parties.[185] Without transparency in political funding, these problems are only going to get more serious in the coming years. We can longer afford to delay regulating political finance.

When the Perikatan Nasional (PN) government came into power In 2020, they had the opportunity to table the bill as the draft bill was already ready at that time, however they failed to do this and instead the NACP Mid-Term review had added a new initiative which was to undertake a study on enacting a new legislation to enact a political funding law and the initial initiative 1.2.5 and 6.2.7 combined into one. The timeline was also extended.

They had over a year to bring forward this bill in line with the NACP priority list No.1, however repeated excuses such as further engagement and research is needed, were being given to delay the tabling of the bill despite this already being conducted earlier.


In the latest announcement made by Law Minister Wan Junaidi, he stated that the
government will be tabling the political financing bill in the coming October 2022
parliament session. Many remain hopeful despite the sceptical mood over this
promise. Civil society groups in the country are also yet to see any draft of the
proposed bill or be consulted for that matter. As BERSIH chair Thomas Fan rightly
pointed out, there is a high probability the bill if tabled, will be referred to a
parliamentary select committee before it is tabled again.[186] This will render the
tabling of the bill useless and a gimmick as there are already discussions and plans
to dissolve parliament during or right after the current parliament session.

Any successive government after the elections would be able to withdraw the bill as
in the case of the Independent Police Complaints of Misconduct Commission bill
that was withdrawn by the PN government after coming into power.

The current Ismail Sabri government appears to be inching forward to deliver on this
promise, but only time and political will can ensure success.

PRIORITY AREA: Public Procurement

STRATEGY 3 - Increasing the Efficiency and Transparency in Public Procurement

STRATEGIC OBJECTIVE

- 3.1: Strengthening Public Procurement Framework
  - 3.1.1: To introduce a comprehensive procurement policy on disclosure of conflict of interest during procurement process

LEAD AGENCY: Ministry of Finance

TIMELINE: Within 1 year (Jan 2019-Dec 2019)

- 3.1.5: To introduce legislation on public procurement in regulating the procurement activities, improving efficiency resource utilisation, safeguarding the public and national interest as well as protecting the rights of contracting parties

LEAD AGENCY: Ministry of Finance

TIMELINE: Within 5 years (Jan 2019-Dec 2023)

- 3.1.6: To create accountability and transparency in defining the exercise of power of the Minister as stipulated in legal provisions especially in procurement and financial system

LEAD AGENCY: Ministry of Finance, Ministry of Economic Affairs

TIMELINE: Within 5 years (Jan 2019-Dec 2023)

STRATEGIC OBJECTIVE

- 3.2: Greater Procurement Transparency, Enabling Better Identification and Mitigation of Corruption Risks, Market Distortion and Anti-Competitive Behaviour
  - 3.2.9: To enhance the technology-based procurement system (e-perolehan) in order to reduce human intervention between parties

LEAD AGENCY: Ministry of Finance

TIMELINE: Within 5 years (Jan 2019-Dec 2023)
Finance Minister Lim Guan Eng, during the budget 2019 speech, announced that the government would be introducing the Government Procurement Act in 2019. He said the Act would be accompanied by open tender practices and punitive action against any abuse of power in relation to contract issuance.[187]

### 2 NOVEMBER 2018

Finance Minister Lim Guan Eng said that Putrajaya is expected to table a new bill to curb wastages in public procurement next July. Lim said that the government is still in the midst of engaging stakeholders for feedback on the bill.[188]

### 15 JULY 2019 (PH)

Finance Minister Lim Guan Eng said that Putrajaya is expected to table a new bill to curb wastages in public procurement next July. Lim said that the government is still in the midst of engaging stakeholders for feedback on the bill.[188]

### 29 AUGUST 2019

Finance Minister Zafrul Aziz said that there is nothing wrong with conducting direct negotiations, despite earlier accusing the previous PH government just days ago of giving out billions of ringgit worth of contracts without open tenders. Stressing that the issue should not be politicised, Datuk Seri Tengku Zafrul said there are policies which enable justification for direct negotiations under Section 6 (1) of the Financial Procedure Act 1957 (Revised 1972).[189]

### NACP PROGRESS REPORT 2019 [190]

(2020) Initiative 3.1.1 (PN)

Treasury Circular/PK 2.1/Paragraph 10 (vii)(a)(9) stipulated that any member of the Procurement Board who has an interest in a tender should declare his/her interest and withdraw from the tender discussion/decision and the same shall be accordingly documented.

The Ministry of Finance (MOF) in collaboration with the Malaysian Anti-Corruption Commission (MACC) is preparing a Circular and Guidelines for the implementation of the Integrity Pact in Government Procurement which will also directly look at conflict of interest.

The proposed initiative was outlined in the Administrative Rules and Procedures of Treasury Instructions and existing Treasury Circulars. The MOF is also working on Public Procurement Bill that will regulate public procurement as a whole, detail the powers of stakeholders, and establish a monitoring mechanism to ensure good governance.

INITIATIVE 3.1.6 (PN)

MOF is carrying out improvement to the e-perolehan system and at the same time ensuring that the system is not affected during the improvement process. A total of 898 planned items were developed for improvement and would be implemented through eight (8) releases. In addition, there are improvements that will also involve integration with other systems such as MyGPIS. To date, three (3) releases have been completed.

INITIATIVE 3.2.9 (PN)

MOF is currently drafting a legislation related to public procurement to regulate procurement activities, improve efficient use of resources, safeguard national interests and protect rights of contracting parties. Engagement sessions were also held together with stakeholders in drafting the Public Procurement Bill before the tabling of the bill at Parliament and is expected to come into force early in the year 2021.

NACP MIDTERM REVIEW REPORT [191]
MAY 2021 (PN)

3.1.1: Timeline extended to January 2021- December 2022, and MACC added as a Lead Agency
3.1.5: Timeline adjusted to January 2021- December 2023
3.1.6: Timeline adjusted to January 2021- December 2023
3.2.9: Timeline adjusted to January 2021- December 2023

BARISAN NASIONAL + PERIKATAN NASIONAL (ISMAIL SABRI YAAKOB)
NACP PROGRESS REPORT (2020 - 2021)
MARCH 2020 [192]
INITIATIVE 3.1.1

MOF is in the process of improving the circular and guidelines on the implementation of the existing Integrity Pact and the amendments are expected to be uploaded on the treasury portal before January 2021.

<table>
<thead>
<tr>
<th>INITIATIVE 3.1.5 (BN+PN)</th>
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<tr>
<td>MOF has prepared a memorandum paper in regards to the direction of a public procurement law for the consideration of the top management of MOF.</td>
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<th>INITIATIVE 3.1.6</th>
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<tr>
<td>MOF is in the process of updating the “Arahan Pejabat” that will state out the powers of the finance minister in regards to government procurement for approval of the top management of MOF.</td>
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<th>INITIATIVE 3.2.9</th>
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<tr>
<td>MOF is carrying out improvements to the “e-perolehan” system currently and completion will be by phases. Release 1 to 4 is expected latest by March 2022 and release 5 to 6 is expected to be completed in the year 2022. This also depends on the “Activity Technology Refresh” that will be carried out from November 2021 till March 2022. A meeting to set new timelines will be conducted in January 2022.</td>
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The National Anti-Corruption Plan 2019-2023 (NACP) has list out many initiatives in reforming the procurement process in Malaysia.

Strategy 3: “Increasing the Efficiency and Transparency in Public Procurement” has 16 different initiatives for that matter. However, the initiative being tracked in this paper is limited to four. These four (3.1.1, 3.1.5, 3.1.6, 3.2.9) are key initiatives that would create an overall impact on the entire government procurement system if implemented concurrently.

Issues such as the procurement and management of the road traffic automatic enforcement system (AES)[193] and the littoral combat ship scandal (LCS)[194] continues to plague Malaysia and cause billion of ringgit in losses. Corruption in the defence procurement also possess a huge threat to our national security. In June 2019, the Defence Ministry lodged a report with the MACC due to the non-delivery of six helicopters that were ordered in 2015 worth RM300 million. It was alleged that the purchase of the helicopters was not done according to set procedures, with the government’s interest not properly protected.[195] The helicopters were finally delivered in January 2022 after several years of delay.[196]

The 2002 procurement of two Scorpene-class submarines is another case in point of Malaysia’s procurement process being mired with corruption and controversy. Former Prime Minister Najib Razak deliberately contracted his close associate Razak Baginda to lead the procurement negotiations.[197] Razak had admitted in 2016 that he received RM137 million as consultation fee for the purchase of the two Scorpene submarines from France.[198] French court proceedings had also revealed that illegal commissions and kickbacks were channelled through the Armed Forces Pension Fund (LTAT), a statutory body managed by the Ministry of Defence. It must also be noted that the same modus operandi and players are connected to the current LCS scandal that has caused billions of ringgit in losses to the Malaysian public.[199]
In the year 2020 alone, the National Audit Department revealed that non-compliance of federal ministries and departments with financial management has led to issues involving irregular payments, loss of public funds and wastage amounting to RM620.07 million. In the Auditors general report of 2018, it was revealed that there were seven cases of improper payment amounting to RM38.73 million in total, five cases of leakages amounting to RM1.764 billion in total, and six cases of wastage amounting to RM6.74 million in total. This is a reoccurring problem as has been highlighted by the AG report consistently over the last decade.

The covid pandemic and emergency declared by the Muhyiddin government in 2020 further exacerbated the problem by a lack of accountability and transparency in many government-related emergency procurement services such as the purchase of vaccines, Mysejahtera mobile app and other medical-related products and services.

As revealed by the Malaysian Anti-Corruption Commission (MACC), there were elements of corruption involved in the procurement of medicines and medical equipment during the covid pandemic. The quality and quantity of personal protection equipment purchased during the pandemic are also said to be affected with corruption. A total of 25 investigation papers were opened by the MACC on mismanagement of Covid-19 relating to procurement. The MACC also announced in 2020 that it was investigating several contracts that have been allegedly awarded after direct negotiation by the Ministry of Health (MOH) to procure equipment used in tackling the pandemic. The investigation involves the process of appointing contractors for every purchase made under the emergency procurement procedures. Dr. Adham baba was the health minister during that period.

In May 2020, C4 Center was served with a demand letter to publicly apologise and pay RM 30 million in damages to Dr. Adham after calling him to come clean on the Ministry’s alleged procurement scandal. C4 Center had asked Adham on whether he asserts control or influence over the affairs related to the Ministry he is in charge of, in particular, the selection of contractors? And did he abuse his position by making decisions in ways that will provide personal benefit and favouritism for his business associates? He has not carried on with his legal action after C4 Center replied that these questions were asked on the merit of public interest and the Center is ready to face him court.

[204] https://www.thedegemarkets.com/article/macc-opens-25-investigation-papers-mismanagement-covid19
[207] https://codeblue.galencentre.org/2020/05/19/we-highlighted-public-interest-issues-c4-responds-to-minister-adhams-lawsuit-threat/
Despite the urgency and huge need to deal with this crisis, Malaysia is yet to see a procurement law come into place. It has been three years since the NACP was launched, yet one of the main causes of government leakages which is weak procurement controls, is yet to be plugged. This raises serious questions on the commitment of the three governments in the last 4 years to address government procurement issues in the country.

Former Pakatan Harapan Government (PH) Finance Minister had in 2018 during the tabling of the budget promised to table a procurement bill in 2019. However, this promise was never kept and instead, the tabling of the bill was extended to 2020 and did not materialise. When the Muhyiddin and Ismail Sabri government came into power respectively, there was a consistent silence on this topic. C4 Center has not come across any media announcement made by the two governments in regards to any update on a procurement law. In fact, finance minister Zafrul Aziz had made a comment in 2020 that there was nothing wrong in conducting direct negotiations in awarding procurement contracts, signalling the government’s stand on the matter.[208]

ENVIRONMENTAL GOVERNANCE

STATUS:

NATIONAL ANTI-CORRUPTION PLAN 2019-2023 - NOT PART OF ANY INITIATIVE

PROMISES MADE BY PN AND BN+PN GOVERNMENT

1. To form Environmental Crime Unit
2. Amendments to the Water Services Industrial Act 2006
3. Amendments to the Environmental Quality Act 1974
4. To enact climate change legislation
The PN government has scrapped the previous Pakatan Harapan administration’s plans to introduce a transboundary haze act which would punish Malaysian companies operating abroad that contribute to the haze. Environment and Water Minister Tuan Ibrahim Tuan Man said Putrajaya did not want a "cosmetic" solution that could not tackle the haze problem. He also said that evidence against the companies would be hard to procure.[209]

Minister for Environment and Water Datuk Seri Tuan Ibrahim Tuan Man said that amendments to the Environmental Quality Act 1974 (Act 127) and the Water Services Industrial Act 2006 (Act 655) will be expedited in order to be tabled at the next Parliament sitting.[210]

Minister Datuk Seri Tuan Ibrahim Tuan Man said that the Environment and Water Ministry (KASA) will form an Environmental Crime Unit in the near future to help address pollution issues. He said that the move would involve the cooperation of the Royal Malaysia Police (PDRM) and the Malaysian Armed Forces (MAF) in coordinating operations with KASA enforcement agencies. He said the formation of the unit is in progress following a meeting with Senior Defence Minister Datuk Seri Ismail Sabri Yaakob, who has agreed in principle to the matter.[211]

Prime Minister Tan Sri Muhyiddin Yassin said that, the government is reviewing the compounds and penalties under the Environmental Quality Act 1974 to curb the rampant pollution activities by irresponsible quarters in Malaysia.[212]

Environment and Water Ministry Secretary-General Datuk Seri Zaini Ujang said a Cabinet meeting on 23 December of the previous year had agreed for the ministry to develop a specific climate change legislation. He added that the ministry is currently in the early stage of developing the climate change legal framework and it is hoped that this Act will come into force in three to four years and it will support the implementation of the Malaysian climate change commitments under the United Nations Framework Convention on Climate Change (UNFCCC).[213]

Minister in the Prime Minister’s Department for Economy, Datuk Seri Mustapa Mohamed said that the government will launch the National Energy Policy soon as a guide for the development of Malaysia’s energy sector.[214]
Minister for Environment, Tuan Ibrahim Tuan Man said that a domestic emissions trading scheme (DETS) will be developed by the Environment and Water Ministry (Kasa) to serve as a catalyst for the country’s carbon trading sector. The development would be carried out jointly with the Finance Ministry, Bursa Malaysia and other stakeholders. According to Tuan Ibrahim, cabinet has in principle agreed to Kasa’s proposal to develop DETS, as well as on the Voluntary Carbon Market (VCM) guide.

Prime Minister Datuk Seri Ismail Sabri Yaakob has expressed that Malaysia intended to reduce the greenhouse gas (GHG) emission intensity by 45 per cent across the economy (based on the Gross Domestic Product) by 2030 and this will be a commitment made at the United Nations Framework Convention on Climate Change (UNFCCC COP-26), scheduled to be held in Glasgow, Scotland, from Oct 31 until Nov 12. "I would like to stress that the climate change agenda and green technology are priorities for the country under the current government" he said. Among the other commitments that will be made are.
1. To achieve net-zero GHG emissions as early as 2050 subjected to the Long-Term Low Emissions Development Strategy (LT-LEDS) that will be finalised by end of 2022
2. Domestic Emissions Trading Scheme (DETS) by the Environment and Water Ministry, with cooperation of Finance Ministry and Bursa Malaysia Bhd.
3. Increasing new energy generation, with 100 per cent procurement of non-internal combustion engine (ICE) for government vehicles by 2030, retaining at least 50 per cent national forest coverage, encourage zero waste and recycling and development of low-carbon cities through the Low-carbon Cities Master Plan and adoption of circular economy concept.

Prime Minister Datuk Seri Ismail Sabri Yaakob said that the government has agreed to compensate States that maintain their forest reserves as water catchment areas and protect them against illegal logging activities. The relevant ministry will be studying the formula to determine the quantum for the compensation payment.

Prime Minister Ismail Sabri Yaakob said that the 79th National Land Council meeting attended by federal ministers, chief ministers and Menteri Besar has agreed for the government to impose a 15-year moratorium on approvals for new forest plantations in permanent forest reserves in the peninsula. The meeting also agreed that amendments to Sections 11 and 12 of the National Forestry Act 1984 be tabled during the first Parliament meeting of 2022. It was also decided that all state governments must enact legislation to punish illegal exploration of permanent forest reserves by June 1 next year.
Deputy Minister Datuk Mansor Othman for Ministry of Environment and Water (KASA) said that amendments to the Environmental Quality Act 1974 is expected to be tabled at the next Parliament sitting in an effort to empower environmental enforcement. Mansor said a draft of the amendments is now at the Attorney-General’s Chambers before it is tabled at the coming Parliament sitting so that strict action could be taken against those who fail to follow environmental regulations.[219]

Prime Minister Ismail Sabri Yaakob said the government plans to enact climate change legislation soon to achieve the target of becoming a carbon-neutral nation by 2050. He said the proposed climate change law would be discussed by the cabinet in the upcoming meeting and that the Environment and Water Ministry was preparing the draft bill.[220]

According to the Department of Environment (DOE), a total of 4,111 environmental pollution complaints were received in the first six months of 2022, of which more than 80 per cent of complaints were regarding air pollution or open burning.[221]

KASA secretary-general Datuk Seri Dr Zaini Ujang stated that amendment to the Environmental Quality Act 1974 (Act 127) to increase the fine on environmental criminals to RM10 million is currently in the final stage. According to him, KASA is waiting for their turn to table it in the Parliament.[222]

Amendments to the National Forestry Act has been passed in the Dewan Rakyat to better protect forest in this country. The amendments among others, would make it hard to excise permanent forest reserves (PFR). The state must first conduct a public inquiry before degazetting PFR. States are also required to replace excised PFR with a new land of similar size or larger.[223]

The law on climate change law which will streamline the country’s mitigation efforts is expected to be tabled in Dewan Rakyat early next year. Environment and Water Minister Datuk Seri Tuan Ibrahim Tuan Man said the ministry was in the midst of finalising the draft bill of the law, which is expected to complete by the end of the year. Other efforts, he said, included the drafting of the national adaptation plan, establishment of the Malaysian Climate Change Action Council (MyCAC), increasing forest coverage, which Malaysia now stands at 55 per cent, reducing solid waste and adopting a circular economy.[224]
C4 CENTER’S OBSERVATION

The National Anti-Corruption Plan 2019-2022 (NACP) has not presented any initiatives related to improving environmental governance. However, C4 Center has been tracking developments in regards to environmental governance as it is becoming evident that corruption, cronism, conflict of interest and poor governance are becoming driving factors surrounding many environmental problems that we are facing including floods, forest and hillside clearing, displacement of communities and land reclamation projects.

Over the last two decades, Malaysia has witnessed a huge increase in developmental projects and numerous problems surrounding our environment. Mega projects such as the Melaka gateway, Iskandar Project and the ambitious Penang transport master plan displaces communities, affects the livelihood of ordinary citizens and causes huge problems to the environment.

Environmental issues are closely linked to power, politics and corruption.

Rampant logging activities in states such as Kedah and Kelantan have caused huge distress to local communities including the orang asli and has resulted in massive floods and disruptions to food and water security. From the year 2014 to 2018, it is estimated that more than 600,000 people have been evacuated, 34 deaths and RM 153.4million in losses due to floods in Kelantan, Terengganu, Pahang and Johor.210 The recent July 2022 floods in Kedah resulted in 3 death and RM 28million in losses and caused disruptions to water supply in the state of Penang that lasted for days.[225]

Such problems stem from poor governance and a lacking attitude toward the environment. The PAS led government in Kelantan and Kedah had also defended logging activities as a source of income disregarding the huge effects it has on the forests.

On the other hand, the state of Penang is not spared by greedy and money hungry developers that continue to exploit every inch of available land for development projects that only benefits the rich. From excessive hillside clearing to land reclamation, the Penang state government is seen to be siding with developers and justifies its action in the name of progress and development.

The proposed Penang Transport Master Plan involves building a tunnel across the sea, reclaiming 3 artificial islands and drilling through the hills of Penang to build a highway. No doubt that a solution is needed to solve Penang traffic woes but where do we draw the line here between the need for development and the protection of the environment and natural resources. The PTMP project itself is mired with corruption scandal and power abuse and this is a reoccurring trend across many development projects across the country.

The Ismail Sabri government has made various announcement in reforming environmental protection laws in the country. Ismail Sabri had even stressed a number of times that the climate change agenda and green technology are priorities for the country under the current government. From the outlook, it looks like the government is giving close attention to the issue. However, at a closer look, many promises made thus far are yet to be implemented.

A promise was made in September 2020 by Environment and Water Minister Tuan Ibrahim Tuan Man to make amendments to the Environmental Quality Act 1974 and table it for approval in parliament in that year. However, we are yet to see any such amendments to date. The Minister had also made an announcement that the government would be forming an enviromental crime unit and will involve a tripartite cooperation between the Environment and Water Ministry, Defence Ministry and Home Ministry and fall under police jurisdiction. However, it is not clear if this unit has been formed and what are the duties and job scope of this unit. In April 2021 the government had also announce that it was looking into a specific legislation to address climate change. This too is yet to see the light of the day.

On a positive note, In July 2022, Parliament passed the amendments made to the National Forestry Act. The amendments among others, would make it hard to excise permanent forest reserves (PFR). The state must first conduct a public inquiry before degazetting PFR. States are also required to replace excised PFR with a new land of similar size or larger However, it must be noted that for this amendment to be effective, states will have to first amend their local laws to be in line with this new law as land matters are under the control of state authorities by the powers vested under the federal constitution. Hence, any laws to regulate such matters will require state governments to make amendments to state laws for them to take effect.

The new law will also allow states to be compensated by the National Forest Development Fund for any expenses used to manage and carry out sustainable development of such forest reserves. This concept of ecological fiscal transfers (EFT) was introduced by the then Pakatan Harapan government in the 2020 budget as a means of rewarding states financially for gazetting more forest reserves and has been continued by the current administration.

While such laws are a step in the right direction, the larger issue of how power, politics and corruption surround enviromental problems is not being addressed. This is the root cause of all enviromental problems that we are facing. It must be addressed holistically and in tandem with reforms to current legislations in place.
A recurring trend detected by our tracking is on the repetition of research and consultation process in many of the reform areas where the research has already been concluded under the previous government. The Perikatan Nasional (PN) government duplicated this process and when BN+PN government came into power, they once again duplicated the process. This is a huge waste of resources when much of the time and resource could be spent to implement the promises for reform.

There seems to be a never-ending story for the research and consultation process, and an obvious strategy to buy time and delay the agenda.

The total number of reform areas initiated during PH term (from the 13 areas being tracked in this paper)

1. Whistleblower Protection Act 2010 (Reform)
2. Freedom of Information Act
3. Independent Police Complaints and Misconduct Commission
4. Asset Declaration Law
5. Separation of the Attorney General’s office from the Public Prosecutor’s Office
6. Establishment of Parliamentary Select Committees
7. Parliamentary Service Act
8. Ombudsman Act
9. Reform the Malaysian Anti-Corruption Commission
10. Political Finance Law
11. Public Procurement Act

The total number of reform areas in which the research and consultation work was completed during the PH term. (From the 13 areas being tracked in this paper)

1. Freedom of Information Act
2. Independent Police Complaints and Misconduct Commission
3. Separation of the Attorney General’s office from the Public Prosecutor’s office
4. Parliamentary Service Act
5. Ombudsman Act
6. Reform the Malaysian Anti-Corruption Commission
7. Political Finance Law
The total number of bills on the waiting line to be presented to parliament during PH term or was tabled or the reform completed (from the 13 areas being tracked in this paper):

1. NACP Initiative 5.3.4: IPC (Bill Tabled)
2. NACP Initiative 1.4.12 Parliamentary Special Select Committee on Elections and Major Public Appointments- (Formed)
3. NACP Initiative 1.4.8: Parliamentary Special Select Committee on Budget- (Formed)
4. Parliamentary Service Act – Was to be tabled in March 2020 session (Never had the Opportunity)
5. Ombudsman bill- Was to be tabled in the October 2019 session (Promise not Kept)
6. Political Finance Law- Was to be tabled in the October 2019 session (Promise not Kept)

The total number of law or amendments passed during PH time (from the 13 areas being tracked in this paper):

ZERO

The total number of reform areas in which the studies and research were conducted again during PN term (from the 13 areas being tracked in this paper):

1. Freedom of Information Act
2. Separation of the Attorney General’s office from the Public Prosecutor’s office
3. Parliamentary Service Act
4. Ombudsman bill
5. Reforms to the Malaysian Anti-Corruption Commission
6. Political Finance Law

The total number of bill or reform plan initiated during PN Time (from the 13 areas being tracked in this paper)

1. Enviromental Quality Act (reform)
2. Climate Change legislation

The total number of law or amendments passed during PN term (from the 13 areas being tracked in this paper):

ZERO
On 23 February 2020, the democratic votes of Malaysians were horrifyingly robbed by the “Sheraton move”. Members of parliament from UMNO, PAS, BERSATU and Barisan Nasional were meeting at the Sheraton hotel and plotting to bring down the democratically elected PH government. The days thereafter was a period of intense political instability and a breakdown of voter’s confidence in politicians and democracy. The Sheraton move was a result of months of brewing conflicts and dissatisfaction within the PH coalition. Parti Pribumi Bersatu Malaysia (Bersatu) members, the majority of whom are former UMNO members were simply not ready for reforms and the new way of conducting government business.

Prior to the Sheraton move, Bersatu grassroot members were openly demanding for contracts and positions from the PH government.[226] The then Vice-President of Bersatu Tan Sri Abdul Rashid Ab Rahman termed pushbacks against grassroot members demands to be given government resources as stupid. “Looking at the situation now, we cannot defend our position as the governing party because the division chiefs are being left out. It is lucky that the prime minister gave me a job with a big salary so that I can support my division” he said during the Bersatu AGM in 2018.[227]

Although the then Prime Minister was from Bersatu, his party was a minority in the coalition. Bersatu would also lose its strength even more when the Prime Minister position is handed over to Datuk Seri Anwar Ibrahim as plan. Resources had to be shared with other component parties, patronage and cronyism needed to end.

Bersatu was not ready for this and for many of the reforms listed in the NACP. On the other hand, internal feud and conflicts within Parti Keadilan Rakyat (PKR) was at a catastrophic level and Mahathir had cleverly used this to his advantage to delay the transition plan by placing opponents to Anwar Ibrahim in key government positions including Datuk Seri Azmin Ali who was appointed Minister of Economic Affairs.

It was finally Muhyiddin Yassin who backstabbed coalition partners by withdrawing his party from Pakatan Harapan and returning to work with UMNO by forming the Perikatan Nasional (PN) government on the pretext of “Malay Unity”. What ensued thereafter was a total collapse of democratic governance and chaos to the Malaysian political landscape and crumbling reform agenda, with it.

Muhyiddin was offering positions in the cabinet and government-linked companies in return for loyalty to him. 70 members of parliament were appointed to Muhyiddin's cabinet, making it the most bloated cabinet in Malaysian history.[228] Almost every member of parliament in his camp were appointed into cabinet and those that did not make it were given positions in GLC's.

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[228]https://www.channelnewsasia.com/asia/malaysia-cabinet-muhyiddin-ministers-770621
In April 2020, PN Law Minister and PAS secretary-general Takiyuddin Hassan announced that all MPs who do not hold positions in government will be made heads of GLCs.[229] Shocking as it may sound, previous governments were also railroaded GLCs to their benefit and used them as cash cows for political financing.

The Muhyiddin administration took this to another level by openly declaring patronage politics and hitting the death nail to NACP strategies 1.3.3, 1.3.5 and 6.1.1, all of which relate to reforms to political appointments in GLCs.

COVID 19 to worsen Malaysia’s multiple crises

The Covid 19 pandemic that struck the country in early 2020 caused a disastrous outcome to the economy and the life of Malaysians. Lockdowns was declared numerous times, crippling businesses and livelihoods. The fight against corruption and the need for reforms became even more important during this period as the government was spending on emergency medical procurement and announcing various stimulus packages amounting to billions of ringgit without proper parliamentary scrutiny.[230]

The emergency medical procurement would later be mired with allegations of corruption.[231] Muhyiddin Yassin was also actively regressing on many reforms initiated during PH term, among others the withdrawal of the Independent Police Complaints and Misconduct Commission bill and the bill to limit the tenure of the Prime Minister to two terms tabled earlier by PH.[232]

It became clear that Muhyiddin’s mismanagement of the pandemic and country was causing huge distress to Malaysians and his position as the Prime Minister was becoming increasingly unstable. UMNO MPs who were facing court trials for various corruption scandals were falling out with the PN administration and manoeuvring to replace Muhyiddin with an UMNO Prime Minister in the hope that their cases could be withdrawn. [233]

Muhyiddin then declared an emergency in early 2021 under the pretext of dealing with the pandemic and parliament was suspended to allow him to hold on to power and avoid a vote of no confidence. Much of this time was spent on politicking instead of managing the country’s affairs and dealing with the peoples troubles and worsening economy. Muhyiddin continued to disregard any form of accountability in his actions and refused to allow parliamentary debates concerning the emergency and covid pandemic to take place. [234] There were also allegations that bribes were being offered to buy over opposition MPs into Muhyiddin’s government.[235] Dark clouds for Malaysia given a complete breakdown in governance and accountability.

[229] https://www.malaysiakini.com/columns/529076
[230] https://www.malaysiakini.com/columns/529076
In August 2021, Muhyiddin was forced to tender his resignation as Prime Minister after it became evidently clear that he no longer commands the majority support of his coalition partners and the opposition rejected his offer for reforms in return for support to his premiership at the very last minute. [236] [237] His entire bloated cabinet was dissolved with his resignation.

Ismail Sabri bin Yaakob from UMNO took over the premiership and he entered into a memorandum of understating (MOU) with the PH coalition to ensure political stability in the country. The historic MOU on Transformation and Political Stability was signed on the 13 of September 2021 by the government and opposition.[238] One of the key agreements in the MOU was for elections not to be held until at least August 2022 and the opposition bloc would either support or abstain during the vote to pass the National Budget as well as other Bills or motions construed as confidence votes on the condition that the drafting of these bills and the budget be jointly negotiated between the government and PH.

Automatic voter registration (UNDI-18), passing of Anti-Party Hopping Law, equal representation of parliamentarians in select committees, limiting the PM’s term to 10 years, Independence of the Judiciary, equal funding for MPs from ruling and PH bloc and strengthening of the COVID-19 response and aid plan and the Malaysia Agreement 1963 was among other key areas in the MOU.

The existence of the MOU has enabled for several critical reforms to take place; the opposition and Ismail Sabri’s government must be credited for remaining true to the terms as agreed upon in the MOU. It remains a big question why the PH government did not insist on other critical reforms to be included especially on institutional independence aside from the judiciary.

[236] https://www.straitstimes.com/asia/se-asia/top-bersatu-leaders-seen-arriving-for-meeting-amid-malaysias-political-crisis
The total number of reform areas in which the studies and research were conducted again during BN+PN current term (from the 13 areas being tracked in this paper)

1. Freedom of Information Act
2. Asset Declaration Law
3. Parliamentary Service Act
4. Ombudsman Bill
5. Reforms to the Malaysian Anti-Corruption Commission
6. Political Finance Bill

The total number of bills or reform plans initiated during BN+PN current term (from the 13 areas being tracked in this paper)

1. Anti-Hopping Bill
2. Amendments to the National Forestry Act 1984

The total number of laws or amendments passed during BN+PN current term (from the 13 areas being tracked in this paper)

1. Anti-Hopping Bill (Passed)

The total number of bills or initiatives cancelled under PN and BN+PN term (from the 13 areas being tracked in this paper)

1. NACP Initiative 5.3.4: Independent Police Complaints and Misconduct Commission – (Bill withdrawn and Initiative changed)
2. NACP Initiative 1.4.8: The Parliamentary Special Select Committee on budget has been discontinued
3. NACP Initiative 1.4.12: The Parliamentary Special Select Committee on Election and Major Public Appointments has been discontinued

The total number of bills or initiatives, the timelines extended under PN and BN+PN term (from the 13 areas being tracked in this paper)

1. NACP Initiative 1.2.6: To transform the Public Complaints Bureau (PCB) into Malaysian Ombudsman – (deadline for implementation extended to December 2022 after failing to meet initial deadline)
2. NACP Initiative 1.2.5: To introduce new legislation on governing Political Funding and to include an offence on lobbying- (Deadline for implementation extended to December 2022 after failing to meet initial deadline)
Despite projecting a reformist image, Ismail Sabri is also holding back on many reforms in the NACP and is delaying its implementation. The tracking of the 13 areas in this paper reveals that despite the research and consultation process already completed in many of the reform areas, the BN+PN government is dragging its feet in carrying out implementation or in bringing forward certain bills to Parliament.

On the 22 May 2022, Prime Minister Dato Seri Ismail Sabri announced the MyGovernance initiative, a new plan to institutionalise good governance principles and practices in government agencies. MyGovernance would aim to improve and strengthen the capabilities of public service delivery as well as addressing the weaknesses of governance in government agencies and statutory bodies. A new committee was also to be formed to develop this plan.

Why was there a need to setup an entirely new committee and governance plan to achieve exactly the same goals as the NACP? The NACP has been in place for three years and the deadline for its implementation is December 2023 — Ismail now bafflingly announces a new plan despite the NACP itself not yet come to fruition. It must be noted that since the announcement was made, no progress has been updated in regards to the MyGovernance initiative nor is the work of the new committee published. It remains unconvincing that the MyGovernance programme will reap the results as announced and it remains a concern that a repeat of more needless research and consultations would occur in the many areas listed in the NACP, further delaying the reforms.

The total number of bills or reform areas where research and consultation has been completed, but the current BN+PN government have not or refused to present the bill in Parliament or refuse to carry out the reform (from the 13 areas being tracked in this paper)

1. Whistleblower Protection Act 2010 (amendment)
2. Freedom of Information Act
3. Asset Declaration Law
4. Separation of the Attorney General’s office from the Public Prosecutor’s Office
5. Parliamentary Service Act
6. Ombudsman Bill
7. Reforms to the Malaysian Anti-Corruption Commission
8. Political Finance Law
9. Procurement Act
The upcoming Parliament session beginning 3rd of October 2022 is predicted to be the last session before elections are called before end of the year. UMNO has been pressuring Ismail Sabri to dissolve Parliament as Najib has been jailed and those facing corruption charges from UMNO are still unable to get their court cases dropped even as one of their own members is the sitting Prime Minister.

C4 Center is publishing the findings of this report at this important time to hold the current government accountable for their lacklustre performance in implementing the NACP.

One crucial bill that the government announced it would be tabling in the upcoming session is the Political Funding Act.[239] Whether this would really come through is yet to be seen but if tabled and passed, it would be a major transformation step for the country.

In 2021, Malaysia scored 48 points in the Corruption Perception Index released by Transparency International. In 2020 and 2019, Malaysia's score was at 51 and 53 respectively. The downward trend is a sign that the country is sliding backwards in the fight against corruption and that the NACP is turning out to become a failed plan.

The various political machinations since 2020 and lack of will to implement the reform agenda could very well serve as a catalyst for the Rakyat to seriously consider their choice of election candidate and the parties that deserve to be in government and protect their interests.

The Center to Combat Corruption and Cronyism (C4 Center) is a policy advocacy, non-profit centre, dedicated to fighting corruption, cronyism and its related problems at all levels of government.

We seek to open governments and change the culture of governance by placing accountability, transparency and integrity at the heart of public policy and administration.

C4 Center works with public institutions, governments, political parties, and civil society organisations to build our vision of a corruption-free and open society.

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