

Litmus Tracker

A summary report on Pakatan Harapan's
Institutional and Political Reforms

Report No I



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The Center to Combat Corruption and Cronyism

pH Litmus Tracker

*A Summary Report on Pakatan
Harapan's Institutional and
Political Reforms*

pH Litmus Tracker: A Summary Report on Pakatan Harapan's Institutional and Political Reforms [May 2018 – May 2019]

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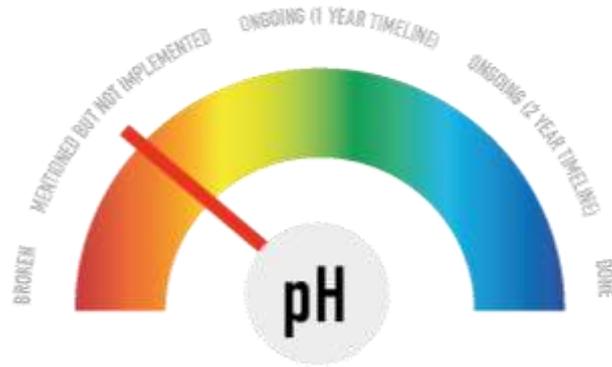
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Summary Report: Pakatan Harapan's Institutional and Political Reforms

Introduction

Come May 9th, 2019, it would be one year since the Pakatan Harapan coalition won the 14th general elections and formed a government. The historic election win witnessed the fall of the Barisan Nasional government – a government that had ruled the country for 61 years with impunity since independence in 1957. Decades of Barisan Nasional rule had resulted in immense corruption and abuse of power.

The Pakatan Harapan coalition was unequivocal in its commitment to upholding the good governance agenda for Malaysia which is key to stamping out the country's structural corruption and abuse of power. This commitment was inked on its election manifesto in particular Promise 14. Promise 14 states that it would, among others, strengthen anti-corruption efforts.

Having won the elections on the ticket of good governance, the Pakatan Harapan government proceeded to crystallize this particular agenda in two notable national policies – the Mid-Term Review of the 11th Malaysia Plan (Mid-Term Review) and the National Anti-Corruption Plan (NACP).

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

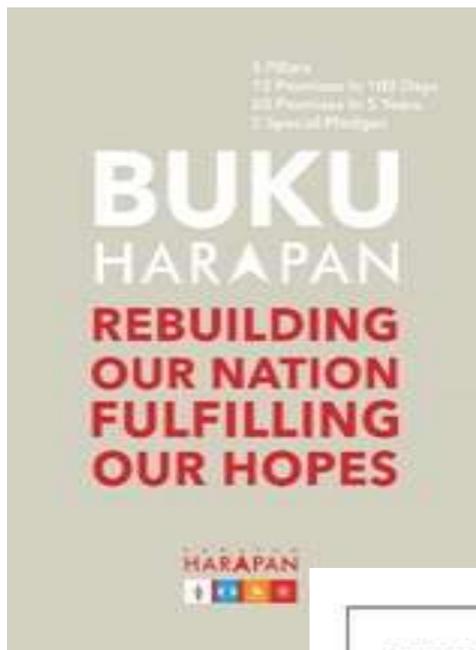
The first of its kind, the NACP was launched in January this year and formulated in line with the spirit of the United Nations Convention against Corruption (UNCAC) to which Malaysia

is a State party. This policy aims at achieving Malaysia's vision of being a corrupt-free nation by the year 2023.

In moving its reform agenda forward, the new government proceeded to announce a number of decisions that sought to address issues once buried by the previous Barisan Nasional administration, around structural corruption and abuse of power. Some of the decisions are:

- 1) The setting of up the Royal Commission of Inquiry to look into the allegations of misconduct by judges and interference in court judgments;
- 2) The setting up of the Royal Commission of Inquiry to investigate the existence of human trafficking camps and mass graves in Wang Kelian;
- 3) The reopening of the Teoh Beng Hock case;
- 4) The reopening of the Scorpene corruption scandal, and the trial of Altantuya Shaaribu.

While we acknowledge that the decisions made in relation to these cases are critical to ensure justice is served, we are however rather disappointed with the pace of the proposed reforms. It has almost been a year since the Pakatan Harapan coalition won the 14th general elections but delays, U-turns and inaction in realizing these reforms appear commonplace. The government had failed to formulate and provide a clear and concrete roadmap for the implementation of the proposed reforms which is necessary to ensure that it is moving in the right direction.



Scope

In reference to the Pakatan Harapan government's commitment to good governance, the C4 Center through the **pH Litmus Tracker** seeks to assess the progress made by the government in this particular area. This summary report takes a closer look at the 16 promises made in the election manifesto which correspond with the 6 strategies embodied in the NACP – promises and strategies related to institutional and political reforms. The 16 promises and 6 strategies are as follows:

| PH Manifesto Promises on Institutional and Political Reform | | | |
|--|--|---|---|
| PROMISE 12 Limit the Prime Minister's term of office and restructuring the PM's Dept | PROMISE 16 Restore the dignity of Parliament | PROMISE 21 Empowering the public service | PROMISE 29 Enhance transparency and integrity of the budget and budgeting process |
| PROMISE 13 Resolve IMDB, Felda, MARA and Tabung Haji mega scandals | PROMISE 17 Ensure transparency and robustness of our election system | PROMISE 22 Make the governance of all our GLC world class at par with international standards | PROMISE 39 Balancing economic growth with environmental protection |
| PROMISE 14 Reform the MACC and strengthen anti-corruption efforts | PROMISE 18 Create a political financing mechanism that has integrity | PROMISE 23 Ensure government procurement produces the best value for taxpayer's money | PROMISE 57 Malaysia must be known for its integrity, not corruption |
| PROMISE 15 Separating the office of Attorney General from Public Prosecutor | PROMISE 19 Restore public trust in the judicial and legal institutions | PROMISE 25 Strengthen the role and powers of the local authorities | PROMISE 58 Defend and protect the country's borders from external invasion, trafficking and smuggling |

National Anti-Corruption Plan 2019 - 2023



POLITICAL GOVERNANCE
Strategy 1 - Strengthening Political Integrity and Accountability

- 1.1 Reforming of Electoral Legislation and Electoral System
- 1.2 Ensuring Better Transparency and Accountability in Government's Administration
- 1.3 Managing Politician's Interference in Public Service and Local Authorities Administration
- 1.4 Enhancing Parliamentary Authority and Governance Administration

PUBLIC PROCUREMENT
Strategy 3 - Increasing the Efficiency and Transparency in Public Procurement

- 3.1 Strengthening Public Procurement Framework
- 3.2 Greater Procurement Transparency, Enabling Better Identification and Mitigation of Corruption Risks, Market Distortion and Anti-Competitive Behavior

LAW ENFORCEMENT
Strategy 5 - Institutionalizing Credibility of Law Enforcement Agencies

- 5.1 To enhance Efficiency and Adherence to Professionalism in Law Enforcement Agency
- 5.2 High-Priority Technology Needs for Law Enforcement
- 5.3 Strengthening Law Enforcement Agencies
- 5.4 Improving Law Enforcement Agencies Legislation

PUBLIC SECTOR ADMINISTRATION
Strategy 2 - Strengthening the Effectiveness of Public Services towards Good Governance

- 2.1 Redesigning of Public Services towards Good Governance
- 2.2 Promoting Merit and Integrity in the Process of Recruitment, Selection and Appointment to Positions
- 2.3 Strengthening Local Authorities Accountability
- 2.4 Enhancing Effectiveness of Education & Continuing Professional Development of Public Officers through Human Governance-based Programmes

LEGAL & JUDICIAL
Strategy 4 - Enhancing Credibility of Legal and Judicial System

- 4.1 Improving Institutional Efficacy of the Legal and Judicial System

CORPORATE GOVERNANCE
Strategy 6 - Inculcating Good Governance in Corporate Entity

- 6.1 Greater transparency over Who Owns and Controls Corporate Entities
- 6.2 Greater Corporate Entities Resilience against the Threat of Corruption

13

Resolve 1MDB, MARA, FELDA and TABUNG HAJI Mega Scandals

1MDB

Former Prime Minister Najib Razak has been charged for his alleged involvement in the 1MDB corruption scandal. In reference to the alleged corruption of RM42 million involving SRC International, a subsidiary of 1MDB, the former Prime Minister is currently facing 7 charges under section 23(1) of the Malaysian Anti-Corruption Commission Act 2009 for abuse of power, section 409 of the Penal Code for criminal breach of trust, and section 4(1)(b) of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001. Given the seriousness of the 1MDB corruption scandal, the government's efforts to bring the perpetrators to justice is much welcomed, despite the long wait for the multiple criminal trials to take their course. Cleaning up the house is going to be a long haul exercise.

MARA

No further action has been taken since the new government came into power to investigate malpractices surrounding MARA even though it was reported in January this year that a controversial purchase of the UniLodge building in Melbourne by Mara Incorporated Sdn Bhd was based on bloated valuations by the Malaysian branch of Raine and Horne. The government's inaction as regards the immense corruption in MARA despite the existence of compelling evidence is extremely concerning.

FELDA

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

On 10 April 2019, the government presented the White Paper on FELDA in Parliament where it highlighted malpractices committed by the previous government. It also confirmed, among others, that political parties received financing from FELDA up to 2.7 billion to win the elections. The White Paper proposed a number of solutions aimed at reforming this institution. The solutions are:

- 1) Restructuring;
- 2) Disposing of non-profitable assets;
- 3) Strengthening of corporate governance of Felda; and
- 4) Guaranteeing the provision of welfare aid to the Felda settlers.

While the government's determination to address the multilayered FELDA corruption scandal is paramount, we urge that further action be taken to ensure that the root of the problem is completely removed. To strengthen the initiatives spelt out in the White Paper, it is imperative that:

- 1) Swift criminal action also be taken against the board of directors for failing to carry out their duties in preventing such abuses;
- 2) FELDA and its subsidiary companies be monitored by a Parliamentary select committee tasked with evaluating their financial and non-financial performance. The select committee should be given the power to conduct an inquiry, compel attendance to its hearing, and demand production and inspection of documents. The inquiry should be made public with settlers given a chance to participate in them.
- 3) FELDA settlers be given greater participation in the FELDA decision-making process. Their representation on the FELDA Board and in the agency's companies should be increased to enable them to co-manage the businesses.
- 4) FELDA and other GLCs no longer serve as vehicles for political financing. This must be reflected in the new legislation on political financing.
- 5) The government speed up the establishment of the office of the Ombudsman to supervise the conduct of government administration which is key to enhancing and strengthening corporate governance and accountability. The Ombudsman office must be an independent institution and must act as an independent officer with the responsibility to investigate the actions of government institutions and with an independent complaints commission for GLCs and statutory bodies.
- 6) A Public Sector Malfeasance Act be enacted to prevent those holding public office from misusing their power and inflicting loss and damages on government institutions.

[Reference: C4 Report: The FELDA Crisis:

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

TABUNG HAJI

An internal probe into Tabung Haji's past transactions was carried out in July 2018. On 17 January 2019, former Tabung Haji Chairman Abdul Azeez Abdul Rahim was charged:

- 1) Under section 16(a)(A) of the Malaysian Anti-Corruption Commission Act 2009 for receiving RM1.2 million, RM2 million and RM2 million in three transactions as a reward for himself in assisting a company to obtain government projects;
- 2) Under section 4(1)(b) of the Anti-Money Laundering Act, Anti-Terrorism Financing Act and Proceeds of Unlawful Activities Act 2001 for receiving proceeds of unlawful activities amounting to RM139.4 million from four companies.

A special briefing was held in Parliament early April where it was revealed that Tabung Haji suffered further losses of RM10 billion. It is important to note that part of the losses were linked to FELDA Global Ventures (FGV) shares being bought at inflated prices.

It was reported on 19 March 2019 that Tabung Haji managed to restore its balance sheet as a result of transferring its underperforming assets to special-purpose vehicle (SPV) Urusharta Jamaah Sdn Bhd. The transfer was meant to ensure the continuing operations of the assets, maximising the asset recovery value, and redeeming all monetary instruments issued by SPV and subscribed by Tabung Haji. The transfer saw growth in Tabung Haji's assets – RM76.5 billion against liabilities of RM75.5 billion as of December 2018, compared to assets and liabilities of RM70.3 billion and RM74.4 billion respectively in 2017.

Despite the severity of the Tabung Haji corruption scandal, Minister in the Prime Minister's Department Dr Mujahid Yusof Rawa said there is no necessity for a Royal Commission of Inquiry to be set up or for the Public Accounts Committee (PAC) to initiate an investigation. The government's decision to not publicly probe into the corruption in Tabung Haji that cost billions of taxpayers' money is without a doubt a step backwards.

14

Reform the Malaysian Anti-Corruption Commission (MACC) and Strengthen Anti-Corruption Efforts

MACC Reform

In reference to the reform of the MACC, given that constitutional amendments which require a two-thirds vote – which the government does not currently have – are needed to allow the status of the MACC to be alleviated to an independent commission akin to the Election Commission, the government, in the interim, has announced temporary measures to ensure some degree of independence is accorded to the MACC. The measures are:

- 1) The MACC reports directly to Parliament;
- 2) The appointment of the Chief Commissioner will be done through a Parliamentary select committee; and
- 3) A regulatory body to be set up under the MACC to monitor governance of institutions that deal with investments.

We duly note the government's constraints in ensuring that the MACC enjoys the status of a constitutional body which is key to ensuring its independence. While the government's effort to put in place these interim measures is a step in the right direction, we would like to emphasize that these temporary measures must be legislated to ensure its effective application and implementation. To strengthen these measures, amendments which do not require a two-third vote can be done to a number of provisions of the Malaysian Anti-Corruption Commission Act 2009 to ensure that they are more robust and effective. The proposed amendments are:

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

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

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

It was reported on 20 April 2019 that an asset declaration law will be enacted before the end of this year. The MACC Deputy Chief Commissioner Shamsun Baharin Mohd Jamil confirmed that the MACC is in the process of preparing the law which will later be drafted and then submitted to the Cabinet. While we applaud the move, we would like to emphasize that a law on asset declaration would be more effective and transparent if it mandates that declaration is made public. This can be done by making all relevant forms concerning asset declaration accessible to members of the public and machine-readable. It is important to note that the MACC itself in a meeting with the C4 Center on 25 June 2018 where a proposed asset declaration framework was submitted affirmed that it could facilitate the process of making asset declaration public by uploading the relevant information on its website.

We however are extremely dismayed over the fact that so little information on asset declaration was provided on the MACC website which was originally scheduled to be uploaded on October 1st, then postponed to October 15th and then to November 1st last year. This is far from satisfactory. We urge that the government show greater transparency in providing information related to asset declaration. This is important in ensuring that Malaysia does not fall behind in international transparency standards.

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

Promise 14 of the election manifesto also states that the Whistleblower Protection Act 2010, the Official Secrets Act 1972 (OSA), and the Witness Protection Act 2009 would be revised. The government in March 2019 however justified the continued use of the OSA after classifying the report by the Council of Eminent Persons (CEP) as official secret. The backtracking on the move to revise the draconian OSA which severely infringes on the right to freedom of expression and information is seriously concerning. The OSA's wide and unchecked powers to declare any document as secret shields the government from public scrutiny and accountability, thus making the realization of the good governance agenda an impossibility.

As regards the pledge to revise the Whistleblower Protection Act 2010 and the Witness Protection Act 2009 which is important in ensuring that whistleblowers are accorded with effective protection for exposing corruption and abuse of power, we note with concern that no concrete steps have been taken by the government towards revising these two laws. We are dismayed over the government's decision to omit its commitment to strengthening the whistleblower protection from the NACP.

We reiterate our call for these two laws to be immediately amended:

- 1) Section 6 of the Whistleblower Protection Act 2010 be amended to ensure that disclosure can be made through other means and not just to enforcement agencies.
- 2) Section 2 of the Witness Protection Act 2009 be amended to include "whistleblower" in the definition of "witness".

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

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

Enact a Freedom of Information Act

In its efforts to stamp out corruption, the Pakatan Harapan coalition also included in Promise 14 of its election manifesto that it would enact a Freedom of Information Act. Minister Liew Vui Keong announced in August 2018 that the government would take up to a year to study the Freedom of Information law. He also stated that consultations would be held with stakeholders on the matter. We note that there has been no progress made by the government to crystalize this particular commitment, including consultations with stakeholders, which should be the first step that ought to be taken towards enacting a Freedom of Information law.

We would like to point out that there is no reason for the federal government to conduct a further study given that Selangor and Penang have implemented the Freedom of Information enactments since 2011 and 2012 respectively. What the government ought to immediately do now is consult and work with civil society organizations that are currently working on a Freedom of Information Bill.

16

Restore the Dignity of Parliament

Promise 16 emphasizes the importance of ensuring that Parliament functions with independence in order to allow it to effectively check executive powers. In August 2018, the government announced the appointment of the first Parliamentary select committee and their six-member team. Historically, the legal framework for parliamentary select committees exists under the Parliament's Standing Orders. However, important bills are rarely sent to a parliamentary committee for deeper examination and scrutiny. In practice, the Executive and the Attorney General's Chambers of the previous government were primarily responsible for the drafting of the law, while Parliament appeared compromised by the numbers game, and the Upper House merely rubberstamped bills to become law.

This particular reform is indeed encouraging and key to ensuring Parliament's dignity. To further strengthen the good governance agenda, we recommend that anti-corruption and financial integrity matters get fast tracked as an important issue under the new select committee. The new select committee needs to actively work to track the progress, independence and capabilities of the MACC and other financial institutions. This is essential because the work of this select committee will without a doubt enhance the role of the Public Accounts Committee (PAC). While this is a bi-partisan committee, we further urge the inclusion of key stakeholders and experts into the committee.

It is noteworthy that as part of parliamentary reform, six new standing committees which consist of members of Parliament from both sides of the house were formed in December 2018 to act as mechanisms for checks and balances. The committees are tasked with engaging with ministers and developing policies for the country. The six standing committees are:

- 1) Consideration of Bills Committee;
- 2) Budget Committee;
- 3) Rights and Gender Equality Committee;
- 4) Major Public Appointments Committee;
- 5) Defence and Home Affairs Committee; and
- 6) Federal State Relations Committee.

The parliamentary caucus on reforms and governance headed by Anwar Ibrahim was also set up to strengthen efforts to reform Parliament, and address governance issues. This caucus is planning to revive the Parliamentary Services Act which was repealed in 1992. We note that progress in this particular area and urge for the fast tracking of the select committees.

18

Create a Political Financing Mechanism That has Integrity

In January 2019, the National Governance, Integrity and Anti-Corruption Centre (GIACC) director-general Tan Sri Abu Kassim Mohamed stated that the GIACC was in talks with political parties to prepare the Political Funding Bill before it would be presented to the Cabinet and later tabled in Parliament. On 9 April 2019, the GIACC stated that the Election Commission was also looking, among others, into issues surrounding political financing. It further stated that a report on the matter would be submitted to the Cabinet.

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

We would like to also urge that a clear roadmap be provided to inform the public of the steps that the government intends to take to ensure that the law on political financing is eventually enacted. Under Article 13(1)(b) of the UNCAC, the government has an obligation to ensure that the public is given effective access to information related to its anti-corruption measures.

22

Make the governance of Our GLCs World Class at Par with International Standards

In October 2018, Economic Affairs Minister Azmin Ali pledged that politicians will no longer have a place on the boards of government-linked companies (GLC) and only professionals will be entrusted to run them. The GIACC, in April 2019 stated that the government through the Jawatankuasa Khas Kabinet Mengenai Anti-Rasuah (JKKMAR) has directed the Ministry of Finance to prepare guidelines for the appointment of senior management, chairman and board of directors in GLCs and their subsidiary companies. The GIACC also affirmed that no political appointees should head boards of GLCs. We however note that there is no mention of mechanisms to address issues surrounding political appointments in GLCs, and have seen a ‘business as usual approach’ without real efforts to reform this area of governance.

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

23

Ensure Government Procurement Produces the Best Value for Taxpayer's Money

According to the GIACC, procurement has been identified as one area that is most prone to corruption and it is currently being reviewed by the Ministry of Finance. In reference to reforms in the area of procurement, the government has taken the following steps:

- 1) In November 2018, the Minister of Finance announced that a Procurement Act would be tabled in 2019.
- 2) In November 2018, the Ministry of Works announced that a digitalised procurement system to ensure greater transparency would be put in place and expected to be completed in the year 2020. The Ministry also planned to set up an in-house committee comprising the MACC to address issues surrounding corruption before tenders are awarded.
- 3) In April 2019, the Ministry of Finance stated that the government had implemented an open tender system and zero-based budgeting throughout the public sector in its effort to stamp out corruption.

While the above mentioned steps are vital in addressing corruption and abuse of power emanating from procurement practices, we would like to emphasize that effective implementation of reforms can only be achieved by putting in place a law to deal with procurement. The law on procurement must address/embody the following:

- 1) Conflict of interest and the culture of patronage politics.
- 2) Clear punitive measures to be taken against wrongdoers across the supply chain.

It bears reiterating that this law cannot operate alone, hence the creation of the Public Ombudsman Office, must come hand in hand. Additionally, Parliament must further equip the PAC to conduct thorough investigations on the serious malfeasance reported in the Auditor General's report, and ensure punitive action is clearly meted out, through the Chief Secretary.

The government's commitment to enacting a Procurement Act is timely and commendable. Details as to when and how this commitment is going to be materialized remains sketchy. It bears reminding that consultations with civil society organizations are important and should be immediately initiated to kick-start the process of legislating this important law. This in line with the government's obligation under Article 13(1)(a) of the UNCAC which mandates that the government promote active participation of society in decision-making processes. Consultations with civil society organizations are key to ensuring that the law truly captures all pertinent points that need to be included to ensure its effective application and implementation.

We would like to also urge that a clear roadmap be provided to inform the public of the steps that the government intends to take to ensure that the law on procurement is eventually enacted. Under Article 13(1)(b) of the UNCAC, the government has an obligation to ensure that the public is given effective access to information related to its anti-corruption measures.

We would like to also urge that a clear roadmap be provided to inform the public of the steps that the government intends to take to ensure that the law on procurement is eventually enacted. Under Article 13(1)(b) of the UNCAC, the government has an obligation to ensure that the public is given effective access to information related to its anti-corruption measures.

25

Strengthen the Role and Powers of the Local Authorities

In April 2018, Minister of Housing and Local Government Zuraida Kamaruddin stated that the government is still working on the mechanisms for the implementation of local government elections. The Ministry will submit the local government election plan to the Cabinet by the year 2021.

We would like to reiterate that the implementation of local council elections is an important policy shift. While we acknowledge that it was removed from the Pakatan Harapan manifesto, the subsequent commitment made by the Minister of Housing and Local Government shows that it is without a doubt an integral part of the reform agenda in relation to local authorities and it must be seriously pursued.

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

29

Enhance the Transparency and Integrity of the Budget and Budgeting Process

In October 2018, Finance Minister Lim Guan Eng has announced that the government is committed to a shift from cash-based accounting standards to accrual accounting standards by 2021 to ensure greater transparency in public finance reporting. This move was reiterated by the Finance Minister in April 2019. In March 2019, Deputy Minister in the Prime Minister's Department Mohamed Hanipa Maidin stated that these steps have to be taken to ensure transparency in budgeting process:

- 1) A mid-year budget review should be conducted;
- 2) Criteria for off-budget allocation should be scrutinised;
- 3) Public money spent must be promptly recorded and carefully monitored in accordance with established financial procedures.

We note that reforms in this area of governance are a necessity, especially so in local and state governments. To strengthen the existing efforts to enhance transparency and integrity of the budget and budgeting process, we recommend that the government also include participatory budgeting. Only with the participation of society in the budgeting process can we, the rakyat, truly enhance accountability in the country's governance.

39

Balancing Economic Growth with Environmental Protection

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

1) Land grab involving Taman Rimba Kiara

On 22 April 2019, Federal Territories Minister Khalid Samad said he would submit to the Cabinet a 50% reduction of the proposed Taman Rimba Kiara high-rise project. The minister said the government needed to resolve this issue as a legal contract had been signed and a development order had also been issued under the previous government's administration. However, the Member of Parliament for Segambut and the residents affected stated that they would not accept the scaled-down version of the project. The Cabinet will be meeting next month to address this issue. It is noteworthy that this case is currently being investigated by the MACC. On 22 January 2019, we urged the MACC to speed up the investigation against former Federal Territories Minister Tengku Adnan over the land grab. It appears that Tengku Adnan could have abused his position by making decisions in ways that would benefit his associates and family members.

2) Papar Dam

On 26 March 2019, it was reported that the Sabah State Environment Protection Department had given the green light to the proposed construction of Papar Dam although the necessary environmental impact assessment (EIA) reports had yet to be completed. In addition, the Sabah Environmental Protection Association called for a strategic environmental assessment on managing water for the whole state to also be conducted.

3) Sungai Kim Kim Pollution (Pasir Gudang)

On 25 March, two directors of P Tech Resources Sdn Bhd were charged with failing to notify the authorities about the generation of scheduled wastes within 30 days of generation of the scheduled waste as stipulated under regulation 3(1), of the Environmental Quality Regulations (Scheduled Wastes) 2005. They were also charged with failing to conduct periodical air quality monitoring activity and to maintain records for manufacturing processes and for the maintenance and monitoring of air pollution control system performance as stipulated under the Environmental Quality Regulations (Clean Air) 2014.

4) Dubious land deal involving the Bukit Nanas Forest Reserve

On 4 April 2019, the C4 Center exposed a suspicious land deal that had led to the encroachment of the Bukit Nanas Forest Reserve. Federal Territories Minister Khalid Samad however has yet to respond to this matter.

5) 64 dubious deals involving Kuala Lumpur land

It was reported that on 11 April 2019, the PAC would summon the Attorney General and MACC Commissioner to give statements. The MACC had previously probed the sale of 64 dubious land deals by the DBKL, of which 48 cases were cleared by the MACC. No date is given as to when the hearing before the PAC would take place. No information has been given as to the status of the remaining 16 cases.

We note that except for the 48 dubious deals involving Kuala Lumpur land and the pollution of Sungai Kim Kim in Johor, the government has failed to review the cases mentioned above. In the case of Bukit Nanas Forest Reserve, we are extremely concerned that the forest reserve has been mysteriously reduced by 0.98ha and now the Federal Territories Minister intends to buy back 0.27ha from the private owner for RM100 million. The lack of clarity and opaque explanations from the Minister have left the current status of the land deal suspicious. The Minister has yet to respond to the C4 Center's question on how it was possible for a public reserve to be transferred to a private owner without any public consultation and the involvement of relevant authorities such as the Forest Department and National Heritage Department.

In reference to the LYNAS waste, it was reported that in December last year the Energy, Science, Technology, Environment and Climate Change Minister had ordered LYNAS to ship its radioactive waste back to Australia before its operating permit could be renewed. The Entrepreneur Development Minister however contradicted the statement issued by the Energy, Science, Technology, Environment and Climate Change Minister in April 2019 by saying that the government had not decided on the measures to manage the LYNAS waste. The uncertainty surrounding the government's commitment to addressing the management of the LYNAS radioactive waste is seriously concerning.

The ongoing undersea tunnel project and the construction of the three paired highways which are part of the Penang Transport Master Plan (PTMP) also raise serious environmental concerns. On 18 April 2019, the National Physical Planning Council gave approval to the Penang government to reclaim 3 islands for the implementation of the PTMP. There are compelling reasons to believe that the projects are mired with corruption – the projects were awarded through a request for proposal instead of a transparent open tender and Consortium Zenith Sdn. Bhd, the company tasked with carrying out the projects admitted to having paid “consultation fee” resulting from unethical and corrupt business conduct. The Penang government's refusal to immediately impose a moratorium on the projects raises questions as to its commitment to adhering to CAT principles which it has pledged to uphold. We reiterate that large infrastructure construction projects should strictly adhere to transparency and accountability processes and mechanisms. The project must be immediately stopped when claims involving corruption or abuse of power surface.

It is extremely worrying that Malaysia's green lungs are being dragged into suspicious deals and projects and no measures to ensure accountability have been taken to immediately address

these cases. We reassert our call for greater scrutiny over sales of government land and infrastructure construction projects and demand the right to know and the right to greater information over the dealings involving government land.

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A closer look at the overall performance in relation to the Pakatan Harapan's political and institutional reforms shows a worrying trend in the implementation of the good governance agenda. Progress has been notably slow in areas of reform that do not require further study, time, or constitutional amendments.

The lack of transparency around the steps or measures that ought to be taken to put in place the promised reforms raises concerns about the government's commitment to changing the regressive culture of secrecy that is deeply embedded in our country's governance. The backsliding on crucial reforms, for example the urgent need to revise a number of laws that infringe on the right to information can be clearly seen in the continued use of the draconian OSA which has been invoked to refuse disclosure of the CEP report. The backsliding on numerous reforms points to the fact that some old practices inherited from the Barisan Nasional administration are still here to stay and this is undoubtedly a cause for concern.

Having won the 14th general elections on the ticket of good governance, it is imperative that the Pakatan Harapan government be concerned about demonstrating that they have the political will to make important structural changes that are desperately needed to transform the country into a truly democratic one. The promises in the election manifesto which have been subsequently translated into national policies such as the Mid-Term Review and the NACP must be unconditionally implemented. The commitments embodied in these policies should have not been treated as promises to just win the elections. Consultations with stakeholders are key and must be stepped up to speed up the process of implementing the promised reforms.

The C4 Center's **pH Litmus Tracker**, is a monitoring mechanism that will keep track of the Pakatan Harapan government's performance over the next year, and serve as a repository of articles and updates on the NACP and the progress or the lack of it on its governance, political and institutional reforms. It seeks to serve as a reminder for the government to go back to its initial commitments and do the right thing. Most importantly, this tracker is meant to be an interactive platform for public feedback and insights, to move towards the Malaysia we all strive and yearn for. It bears reiterating that public participation is key to keep the government in check. In light of this, we invite members of the public to actively use the tracker and provide feedback that is urgently needed to push the good governance agenda forward.

The **pH Litmus Tracker** cannot afford to go red, not in our New Malaysia.

Notes:



The Center to Combat Corruption and Cronyism