

## DEVELOPMENT EFFORTS AND PUBLIC SECTOR CORRUPTION IN MALAYSIA: ISSUES AND CHALLENGES

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**Abstract:** It is almost impossible to determine the true extent of public sector corruption in Malaysia. Given the public sector's dominance in performing the tasks of not only providing public policy inputs into the decision-making processes of development planning but also the implementation, monitoring and evaluation of projects and programmes deemed necessary to fulfil citizens' expectations and needs public sector corruption in this area is a cause for concern. The latest data from the Public Services Department (PSD), Malaysian Anti-Corruption Commission (MACC) and reports of the Auditor General (AG) provide ample evidence of corruption and corrupt practices that have taken place in development management. However unless the various means and strategies introduced can boost the integrity and ethical conduct of civil servants, address institutional constraints and eliminate the ways with which rules, regulations and good operating procedures and practices can be circumvented, issues and challenges remain on how public sector corruption can be effectively addressed, so that development projects and programmes can bring about optimum benefits for the target community groups.

Keywords: Management, programmes, integrity, strategies.

### Introduction

Public sector corruption whether real or imagined has considerable impacts on perceptions as to the credibility, dependability, integrity, legitimacy and trustworthiness of government, its administrative machinery and the quality of governance of a country. Over the past ten years, Malaysia's corruption rank has been as low as 43 in 2007 and as high as 60 in 2011 out of 175 countries surveyed (Transparency International, 2008-2015). Although public sector corruption is constantly reported by the mass media, reports on the siphoning off of 60% (RM1.98 billion) of the RM3.3 billion of approved allocation by the Federal Government for water projects by top departmental officials in Sabah from 2010 until 2016 has left the public reeling as to the extent, scale and audacity with which public offices have been used for personal benefits at the expense of the intended beneficiaries (Muguntan Vanar, 2016). Indeed observations of casual conversations and social media exchanges provide numerous anecdotes of public sector corruption based on personal experiences or the experiences of relatives, friends or acquaintances.

Hence, what is the true extent of public sector corruption in Malaysia? The answer to this simple question is elusive as the number of reported cases, arrests made or offenders convicted simply means that there are unreported cases and offenders not arrested or convicted. One finds that the Corruption Perception Index (CPI) and the Global Corruption Barometer (GCB) that have been constructed by Transparency International are useful indicators; but again they do not reveal the true extent of public sector corruption. As such this article has a more modest objective – that is to briefly review public sector corruption in the context of the management of development projects and programmes that have tremendous impacts on the lives of target groups. First this article begins by exploring what constitutes public sector corruption. Then a discussion on the public sector's roles and functions in development planning, implementation, monitoring and evaluation is presented. An analysis of the latest data from the Public Services Department (PSD), Malaysian Anti-Corruption Commission (MACC) and reports of the Auditor General (AG) is then undertaken as the data acts as proxy

indicators of the extent of corruption and corrupt practices that have taken place in development management. The article ends by examining and reviewing the issues and challenges that have to be addressed so that development projects and programmes can bring about optimum benefits for the target community groups.

### **Public Sector Corruption and the Public Sector in Malaysia**

Public sector corruption refers to the exploitation or abuse of entrusted power that comes with a public office by a public official for his/her own benefits and gains (Grabosky & Lamour, 2000; Transparency International, 2015) and can be classified into: (i) grand corruption – whereby tremendous amounts of public funds and/or resources are stolen or misused by the political or administrative elite, (ii) petty corruption – whereby middle and low levels public officials abuse their positions in the provision or delivery of public goods and/or services and (iii) state capture/peddling of influence – whereby public officials and/or politicians collude with the private sector in the pursuit of mutual interests. In this instance, the legislative, executive and judiciary can be “captured” by the private sector for its own objectives (Shah & Schacter, 2004).

Indeed there are numerous forms of public sector corruption, namely: (i) bribery – whereby a public official receives or accepts monetary or non-monetary consideration to perform a course of action (or take no action) and by doing so commits a breach of trust, (ii) extortion – whereby a public official demands or solicits monetary or non-monetary consideration to perform a course of action or take no action and by doing so performs an illegal action that breaches public trust, (iii) embezzlement – whereby a public official illegally appropriates public resources or assets that are entrusted to his/her office for personal gain, (iv) fraud – whereby a public official submits false claims in order to obtain benefits that s/he is not entitled to, or to avoid making payments, e.g. duties or taxes, (v) nepotism – whereby a public official

selects a candidate for a public sector position based on familial or collegial considerations in spite of the candidate’s lack of qualification or merit, (vi) patronage – whereby a public official selects a candidate for a public sector position because of his/her political connections or affiliations and (vii) conflict of interest – whereby a public official is provided with the opportunity to gain personal benefit from the performance of an official act (Grabosky & Lamour, 2000; Transparency International, 2015).

Corruption is not a recent phenomenon in Malaysia. Although the exact time when corruption becomes a cause for concern cannot be exactly pinpointed, there is evidence that abuse of trust and position for personal gains has taken roots in the community long before the advent of British colonization of this country. This is illustrated by a very well-known Malay proverb that has been taught to generations of children. “*Harapkan pegar, pegar makan padi*” is a proverb that originates from a species of bird belonging to the pheasant family raised by Malay paddy farmers of olden times to guard paddy fields. Instead of guarding the grains from being poached by other birds and small animals, it was the *pegar* themselves who poached the grains for their own consumption. Indeed the proverb offers a very apt description of how peasants who toiled on the lands of the nobles (as well as complying with their orders and demands) in exchange for protection and livelihood had been exploited and their interests disregarded. According to Syed Hussein Alatas (1968) in traditional, feudalistic and agrarian Malay society, two contradictory value systems existed, whereby the subjugated section of the society was supposed to uphold the values of “co-operation, *gotong-royong*, *usaha* (labour) and conformity” while the rulers and their courts would uphold the values of “courage, power, initiative, individualism, adventure, absolute loyalty to the ruler and pillage” (p. 583), (my emphasis). Just as the rulers and their courts were responsible for the protection and livelihoods of the subjugated of the society of old, the responsibility for advancing the country

and enhancing the welfare of the people is now shouldered by the government and the public sector in modern Malaysia.

It is important to note that the public sector in Malaysia is diverse in nature. Article 132 (1) of the Constitution of Malaysia specifies the composition of the public sector as encompassing the education service, the police force, the armed forces, the judicial and legal service, the Federation's general public service, the public service of each state and the federal-state joint public services as mentioned by Article 133 or a total of 1.6 million public officials (Beatrice Nita Jay, 2017). If public officials receive or demand a bribe with corrupt intention, they are deemed to have committed a criminal offence. Public officials are subject to the provisions of the 2009 Malaysian Anti-Corruption Commission Act (MACCA), the primary statute that governs anti-bribery and offences of a similar nature. The 2009 MACCA has specific provisions on: (i) bribery (Sections 16 and 17), (ii) false claims (Sections 18), (iii) procuring the withdrawal of tender in a corrupt manner (Section 20), (iv) conflict of interest/abuse of power (Section 23), (v) bribing officials of foreign countries (Section 22) and (vi) failure to report bribery (Section 25). Public officials are also subject to provisions of other statutes and codes that prohibit bribery such as the Anti-Money Laundering and Anti-Terrorism Financing Act 2001, 1967 Customs Act, 1954 Election Offences Act, Financial Services Act 2013 and Islamic Financial Services Act 2013, the Penal Code, Societies Act 1966, Trade Unions Act 1959 and Youth Societies and Youth Development Act 2007.

### **Public Sector's Roles and Functions in Development Planning, Implementation, Monitoring and Evaluation**

From the days prior to Independence in 1957 until the present day, the public sector has been responsible for development planning, implementation, monitoring and evaluation of projects and programmes. This is exemplified by the 1950 Malaya Draft Development Plan

and the use of the Red Book, a stand-alone-on-site monitoring system used by the respective district officers during the implementation of the First Malaya Plan (1956-1960). Today development efforts' administrative machinery comprises the National Action Council (NAC), the National Action Working Committee (NAWC), the Ministerial Action Committee (MAC), the Economic Planning Unit (EPU), the Implementation and Coordination (ICU), the State Action Council (SAC), the District Working Committee (DWC), the State Development Offices (SDOs), the District Offices (DOs), the Treasury, the Accountant General and the Public Works Department (Economic Planning Unit, 2016). The monitoring and evaluation (M&E) system has also been periodically upgraded to facilitate a centralized and coordinated approach to development efforts both horizontally and vertically across the federal, state and district government levels as well as between intra and inter-governmental agencies.

Moreover in the continuous quest to enhance accountability, responsiveness, transparency and the attainment of development projects and programmes' goals and desired impacts, the current M&E system – the Project Monitoring System II (PMSII) which was launched in 2001, enables the tracking of projects and programmes undertaken across the different phases involved, e.g. from the submission of application to approval, followed by implementation and review at the mid-term stage and evaluation/conclusion at the final stage. The PMSII is information rich as it enables different types of data (e.g. maps, charts, graphics, photos, etc.) to be uploaded by the respective agencies and also shared between them, thus preventing conflicting and unstandardized data whilst enabling savings in terms of costs, efforts and time taken for data input and gathering (Yoon, 2009). PMSII can also perform forecasts, simulations and socioeconomic impact analyses, hence enabling better and faster decisions to be made while simultaneously facilitating strategic planning to be undertaken (Economic Planning Unit, 1996). Therefore the progress of the development projects and programmes implemented can be

scrutinized in a systematic and timely manner and deviations or problems identified can be addressed by the agencies responsible at the respective phases of occurrence.

It is important to note that specific circulars on the preparation and planning, evaluating and also measuring the performance of development projects and programmes have been introduced to ensure that the desired impacts on intended beneficiaries are achieved. In 2005, the Prime Minister's Department issued General Circular Letter No.3 with Guidelines on the Evaluation of Development Programs that must be observed by ministries, departments, agencies and entities at the federal, state and local government levels. The Guidelines provided clear explanations and examples on the concept of evaluation, its components, scope and processes that must be observed during the conduct of the evaluation exercises as well as the need for the preparation of outcome and impact reports by the entities involved. Thus, the evaluation process could be conducted in an integrated and systematic manner – which should enable the government to determine whether the development policies, projects and programmes implemented were achieving the targets stated or not and whether the money allocated had brought about optimum returns. The Economic Planning Unit's Circular No. 1, 2009 provided Guidelines on the Preparation and Planning of Development Programs and Projects so that all projects and programmes proposed by ministries, departments, entities and agencies were in line with the country's Development Plan Key Results Areas (MP-KRAs). The Logical Framework Approach (LFA) and Project Management Cycle were adopted to ensure that projects and programmes proposed and implemented produced measurable outcomes in accordance with the Key Performance Indicators (KPIs) set. Clear instructions and detailed explanations on the LFA and the PCM were provided as well as templates and examples that could be used by the respective agencies to prepare their projects and programmes' proposals for electronic submission into the PMSII system for EPU's consideration. The Prime Minister's Department

also issued General Circular Letter No.1, 2012 on Guidelines for Measuring the Performance of Development Programmes and Projects through Outcome Evaluation. Again ministries, departments, agencies and entities at the federal, state and local government levels were provided with specific instructions and clear explanations on the concept, principles and terminologies used for measuring performance, how to prepare outcome assessments, performance measurements and the hierarchy of outcome assessment. The use of KPIs or Performance Indicators (PIs) would enable projects and programmes' performance to be measured against set targets. Moreover the outcome assessments would provide information on whether the economic, environmental, political and social impacts on target groups were attained as planned or not.

The above discussion shows that development planning, implementation, monitoring and evaluation practices of projects and programmes in Malaysia have been fine-tuned and adapted in keeping with international standards and best practices. Indeed strict adherence to the various Guidelines provided should enable the progress of development projects and programmes to be effectively monitored, deviations and problems identified and corrective measures instituted at the point of occurrence in the project management cycle (Noreha Haji Hashim, 2016). As the implementing agencies know their respective places, roles, responsibilities and functions in the national M&E structure, these and the common information shared between them should enable corrupt agencies and corrupt practices to be identified.

#### **Data from the AG, PSD and MACC**

The Auditor General is required by Articles 106 and 107 of the Federal Constitution, 1957 Financial Procedure Act, 1957 Audit Act as well as the Auditor General's circulars 2003 and 2004 to conduct attestation, financial management and performance audits of ministries, departments, agencies and entities at the federal, state and

local government levels as well as Islamic religious councils, federal statutory bodies and subsidiary companies. In a nutshell these audits evaluate whether: (i) public funds given have been managed in compliance with applicable laws and regulations by the entities concerned, (ii) accounts have been maintained in accordance with accepted accounting principles so as to give a clear picture of the financial situation of the entities audited and (iii) activities, programmes and projects implemented have been carried out by the relevant entities economically and effectively without wastage to achieve the desired outcomes. Common and recurring concerns that have been expressed by successive AG reports over the years include: (i) activities, projects and programmes have not been implemented in compliance with government procedures and regulations, (ii) haphazard and poor planning, (iii) inadequate monitoring and scrutinizing of the quality and timing of work done, (iv) insufficient knowledge and expertise in project management, (v) incomplete and outdated information, (vi) slow decision-making processes, (vii) low importance given to the assessment of outcomes and impacts of activities, projects and programmes implemented and (viii) assets have not been adequately maintained because of inadequate funds (AG Reports, 2010 – 2015). The AG would usually issue reprimands that are corrective or punitive in nature. Corrective reprimands require the public entities concerned to institute measures that can enhance the quality and workings of their systems and procedures, while punitive reprimands are issued for abuses of power,

negligence, deviations or transgressions in the performance of official duties by public officials.

The MACC complements the functions of the AG as it is an entity that is entrusted to address and prevent various forms of corruption, e.g. bribery, extortion and abuses of power by investigating, arresting and prosecuting not only public officials but also those from the private sector, members of the general public, local councillors and politicians. The MACC can also conduct searches for evidence and confiscate assets if required. If convicted, offenders can be imprisoned for up to 20 years or they can be fined not less than five times the amount of the bribe received. MACC's arrest statistics data from 2011 until 2015 shows that out of a total 3533 people who have been arrested for corruption from 2011 until 2015, a total of 1408 (or 39.85%) are public officials. This is a cause for concern as public officials are expected to be trustworthy and dependable in the performance of their duties. In 2014, out of a total of 190 offenders listed, 75 are public officials and employees of statutory bodies while in 2015, out of a total of 158 offenders listed, 68 are public officials and employees of statutory bodies (MACC corruption statistics on offenders, 2014 & 2015). Until September 2016, 766 arrests have been made, with 388 arrested being public officials and statutory bodies' employees (MACC arrests statistics, 2016). As such more arrests are expected to be made as figures for October, November and December have yet to come in. Hence there is a high probability that 2016 will record the worst number of public officials being arrested for corruption if the

Table 1: MACC's arrest statistics, 2011 – 2015

Year	2011	2012	2013	2014	2015	Total
No./% of public officials arrested	323 / 35%	292 / 41%	170 / 33%	225 / 41%	398 / 47%	1408 / 40%
No./% of total arrests*	918 / 100%	713 / 100%	509 / 100%	552 / 100%	841 / 100%	3533 / 100%

\* comprising public officials, members of the private sector and the general public, local councillors and politicians  
Source: Adapted from MACC statistics on arrests (various years).

Table 2: Status of follow-up actions in response to the AG's Reports, 2012 -2014 (until July 12, 2016)

No.	Types of Actions Taken	Number of Officials	Percentage (%)
1	Warning	69	46.31%
2	Fine	7	4.70%
3	Suspension of salary progression	14	9.40%
4	Salary reduction	10	6.71%
5	Warning and fine	3	2.01%
6	Surcharge and fine	2	1.34%
7	Surcharge and warning	9	6.04%
8	Suspension of salary progression and warning	1	0.67%
9	Salary reduction and warning	2	1.34%
10	Salary reduction and fine	1	0.67%
11	Demotion and warning	1	0.67%
12	Dismissal and surcharge	1	0.67%
13	Surcharge	29	19.46%
	Punished	149	34.02%
	Freed	276	63.01%
	Still in proceedings	13	2.97%
	Total	438	100%

Source: Adapted from "Status Tindakan Susulan, Laporan Ketua Audit Negara Tahun 2012-2015 (Until 12 July 2016)".

annual trend of more than 30% observed since 2011 continues.

As the PSD is responsible for the formulation and execution of policies pertaining to the recruitment, appointment, promotion and discipline of public officials, the number of public officials arrested and those put on the MACC's offenders list are not only alarming, but is also detrimental to the PSD's image in particular and the public sector as a whole, in general. It is important to note that public officials are subject to the Public Officers (Conduct and Discipline) Regulations 1993 as well as the Public Officers (Conduct and Discipline) (Amendments) Regulations 2002 whereby noncompliance would result in disciplinary actions being taken against them (Public Services Commission, 2016). Hence, the provisions of the above Regulations have been utilized by the PSD has to address the AG's concerns as stated by the various reports from 2012 to 2014. As a result, the PSD has issued a status report on the actions that have been taken against the public officials

concerned. Types of actions taken fall into 13 categories as listed below.

Several other measures have also been instituted to address the AG's concerns and improve the image of the public sector. According to the Chief Secretary to the Government, Tan Sri Dato' Dr. Ali bin Hamsa, the government is very committed in its efforts to ensure that the public sector in Malaysia possesses a high level of integrity and performance. As such specific strategies have been implemented to achieve these ends namely: (i) the rotation of public officials holding "sensitive" positions whereby the first phase which started on April 18, 2016 saw 80 officials from the finance, development and procurement works being transferred to other ministries or divisions within their respective ministries. The rotation of public officials is conducted on a continuous basis and has been extended to include those managing funds and grants, licenses and permits as well as law enforcement and (ii) strengthening integrity and competency programmes especially for

officials whose responsibilities include financial, development and procurement tasks. Indeed throughout 2014 until June 2016, 173 officials have been awarded with Integrated Project Management Certificates while 228 officials have been awarded with Certified Government Procurement Certificates. Moreover 439 officials have undergone Certified Integrity Officer (CeIO) programme throughout 2010 until May 2016. The government has also begun implementing the public sector Exit Policy whereby 2,680 public officials (or 0.17% of the 1.6 million civil servants) who have been identified as achieving below 60% in their performance assessments in 2015 are now under close supervision. Should their performance levels remain below 60%, then the termination of their services will take effect in 2017 (Ida Lim, 2016).

### Issues and Challenges

Based on the discussion above, several issues have emerged to the forefront. First and foremost, it can be deduced that the detection of various types of corruption is a complex and difficult task given the size and diverse nature of the public sector. This is compounded by the multiplicity of roles and levels of government involved in implementing, monitoring and evaluating development projects and programmes. Indeed several types of corrupt activities could be happening simultaneously involving one or numerous development projects and programmes at the intra and inter organizational levels as well as the different governmental levels. As these corrupt activities are conducted by intricate webs of public and private sector actors in a secretive manner, the time taken and efforts required to detect and investigate them tend to be long and tedious. As such the challenge is to have a high level of cooperation by the entities investigated coupled with the creation of or improved workings of existing internal organizational mechanisms for corruption detection and prevention that are effective enough to facilitate and aid the MACC in its investigations. Hence, the time taken for investigation and evidence gathering

can be shortened and the efforts required can be reduced so that more corruption incidences can be detected and prevented.

Secondly, a comparison between MACC's arrests statistics and its offenders list reveal that those who have been arrested are not necessarily successfully prosecuted. Indeed, one observes that there is a wide discrepancy between the two types of data as quite a number of those arrested do not end up listed in the offenders list. Hence the challenge is to ensure that the time and efforts spend to get an arrest should lead to a successful prosecution, thus effectively addressing the gap observed between the number of arrests made and the number of those on the offenders list.

Thirdly, despite the comprehensive and systematic nature of the PSMII that is used for M&E of development projects and programmes, the various AG Reports have consistently identified problem of similar natures that have been persistently occurring throughout the years. As such despite the compliance of the current M&E system with international standards and best practices, the desired goals of attaining optimum beneficial impacts for the intended target groups of beneficiaries using the least amount of costs/resources have not been satisfactorily attained. This is because of attitudinal problems, noncompliance with and the circumvention of processes and procedures as well as rules and regulations ultimately render a good and comprehensive M&E system and ineffective. Hence the challenge is to effectively stop the public officials responsible for the implementation of development projects and programmes from undermining the M&E system.

Fourthly, whilst various efforts have been instituted by the PSD to address concerns of the AG as stated by his corrective and punitive reprimands, these measures do not seem to be adequate. Indeed, Table 2's data shows that 63% have been cleared of any disciplinary actions or punishments. Even the majority (43%) of those who have transgressed against the Public Officers (Conduct and Discipline) Regulations 1993 as well as the Public Officers (Conduct and

Discipline) (Amendments) Regulations 2002 in some form have escaped with just warnings. Thus it appears that the public officials concerned have been dealt with in a very lenient manner. This compromises the stature of the disciplinary Regulations in place as well as undermining the seriousness with which actions that can amount to criminal offences should be pursued. Hence the challenge is to ensure that the stature of the disciplinary Regulations is restored and heads of government entities pursue the required disciplinary actions despite the difficulties or challenges that are encountered at the organizational level.

### Conclusion

It is very important that the issue of public sector corruption, especially in the context of implementing, monitoring and evaluating development projects and programmes be addressed in an effective and efficient manner so that the welfare of the intended beneficiaries are not compromised and the trust in government eroded. Regulations pertaining to the discipline and conduct of public officials must be enforced true to their spirits. This is to address the perception of the continued existence of the double standards (or value systems) as discussed by Syed Hussein Al-Attas that allow/tolerate pilfering and pillaging by public officials, to persist. Indeed the issues and challenges identified need urgent and effective redress so as to eliminate the harmful “pegars” from poaching the “grains” intended for the people.

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