

## **FIGHTING THE MENACE OF THE SOCIETY: PURSUING THE CORRUPTS**

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### **ABSTRACT**

In 2021, Transparency International ranked Malaysia 62 out of 180 countries in the world, and the perceived level of corruption in the public sector was recorded at 63.30% as compared to 17.06% in the private sector. Historically, the effort to prevent corruption in Malaysia began in 1950 with the introduction of the Prevention of Corruption Ordinance (POCO) 1950 to replace the previous laws of the Federated Malay States (Enactment No. 23 of 1938), the State of Johore (Johore Enactment No. 14 of 1940) and the former Straits Settlements (Straits Settlements Ordinance No. 14 of 1937). Applying doctrinal research and adopting a historical and descriptive approach, the paper seeks to describe the history of the anti-corruption law and agencies created before and after independence focusing on the agencies' organisational and structural development. There is also a brief discussion on the late Tan Sri Harun Mahmud Hashim who helmed the anti-corruption agency. Since independence, the government had tirelessly carried out efforts to combat corruption with the formation of the Criminal Investigation Department (Special Crime) and the Anti-Corruption Section (ACS) and then consolidated into one body called the Anti-Corruption Agency (ACA) with the passing of the Anti-Corruption Agency Act 1982. In 2008, the government unanimously approved the establishment of the Malaysian Anti-Corruption Commission (MACC) by replacing the ACA Act 1997 with the Malaysia Anti-Corruption Commission Act 2009, which came into effect on 1 January 2009. The MACC became an independent, transparent, and professional body to effectively and efficiently manage the nation's anti-corruption initiatives.

**Keywords:** History, Legislation, Corruption, Anti-Corruption Agency, Malaysian Anti-Corruption Commission, Harun Mahmud Hashim.

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## **MEMERANGI ANCAMAN KEPADA MASYARAKAT: MENJEJAKI PERASUAH**

### **ABSTRAK**

Pada tahun 2021, Transparency International menyenaraikan Malaysia di tangga ke 62 dari 180 negara dalam persepsi rasuah global dengan rasuah di sektor awam sebanyak 63.30% berbanding dengan 17.06% di sektor swasta. Sejarah pembenterasan rasuah bermula sejak tahun 1950 apabila Ordinan Pencegahan Rasuah 1950 diluluskan untuk menggantikan Enakmen No. 23 Negeri-negeri Melayu Bersekutu 1938, Enakmen Johor No. 14 1940, dan Ordinan No. 14 Negeri-negeri Selat 1937. Menggunakan metodologi doktrinal serta pendekatan diskriptif dan sejarah, artikel ini menerangkan sejarah undang-undang anti-rasuah serta kewujudan serta perkembangan struktur dan organisasi agensi anti-rasuah sebelum dan selepas merdeka. Keterlibatan Tan Sri Harun Mahmud Hashim dalam agensi anti-rasuah tersebut akan juga disentuh. Sejak merdeka kerajaan telah berusaha bersungguh-sungguh memerangi rasuah melalui Jabatan Siasatan Jenayah (Jenayah Khas) dan Bahagian Anti-rasuah (ACS). Pada tahun 1982, di bawah Akta Agensi Pencegahan Rasuah 1982, jabatan-jabatan ini digabungkan menjadi Agensi Pencegahan Rasuah (ACA). Pada tahun 2008 kerajaan bersetuju menubuhkan sebuah suruhanjaya anti-rasuah dan lahirilah Suruhanjaya Pencegahan Rasuah Malaysia (SPRM) di bawah Akta Pencegahan Rasuah Malaysia 2009 berkuatkuasa pada 1 Januari 2009. SPRM menjadi sebuah badan bebas dan profesional untuk mentadbir dan menangani rasuah dengan cekap dan berkesan.

**Kata Kunci:** Sejarah, Perundangan, Rasuah, Agensi Anti-Rasuah, Suruhanjaya Pencegahan Rasuah Malaysia, Harun Mahmud Hashim.

## RESEARCH METHODOLOGY

The research adopted the doctrinal methodology as it involved the study of the development of anti-corruption law in Malaysia. Descriptive and historical approaches are chosen to trace the development of the law before and after the country's independence that include describing the governance structure of anti-corruption agencies within the law. The tracing of the changing legal framework over the years provides a clear picture of progress in the war against corruption. There is also a brief account of the contribution made by Tan Sri Harun Mahmud Hashim as the first director of an anti-corruption agency. The study of the legal framework involved reference to the statutes, cabinet papers and committee reports. Reference was also made to some excellent secondary materials in the form of books, journals, and newspaper reports. Heavy reliance is placed on a very comprehensive piece of document entitled "Sejarah Perjuangan SPRM: Satu Perjalanan" by Zulkarnain Abdul Rahman, Ahmad Kamal Ariffin Mohd Rus, and Noor Ain Mat Noor,<sup>1</sup> as the main reference. It is an excellent book that traced the history and development of the anti-corruption bodies in Malaysia and the book also provides an in-depth knowledge of the cause and effect of institutional and organisational changes that occur pre- and post-independence.

## CORRUPTION IN MALAYSIA

Malaysia is ranked by the global anti-corruption coalition, the Transparency International (TI) in the annual Corruption Perceptions Index (CPI). The 2021 CPI ranks Malaysia at number 62 out of 180 countries and territories of the world with respect to the perceived level of corruption in the public sectors. Malaysia's score has dipped to 48 points from 53 points in 2019 on a scale from 0 (perceived to be highly

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<sup>1</sup> Zulkarnain Abdul Rahman, Ahmad Kamal Ariffin Mohd Rus, Noor Ain Mat Noor, *Sejarah Perjuangan SPRM: Satu Perjalanan* (Kuala Lumpur: Penerbit Universiti Malaya, 2017). The English translation of the book was published in 2020, "MACC, the History, the Battle for a Corruption-free Malaysia" (Kuala Lumpur: University of Malaya Press, 2020).

corrupted) to 100 (perceived to be very clean).<sup>2</sup> In 2022, Malaysia's Corruption Perception Index was 47 points out of 100.<sup>3</sup> Despite the improvement, the public sector remains the riskiest sector when it comes to corrupt practices. It is confirmed by the National Anti-Corruption Plan (NACP) Report 2019-2023, based on the corruption trend in Malaysia in the period 2013 to 2018. The level of risk of corrupt practices recorded in the public sector was 63.30% as compared to 17.06% in the private sector. Poor governance in public procurement, law enforcement agencies and administration are the main culprits.<sup>4</sup>

The effort of combatting corruption in Malaysia had begun in 1950 with the introduction of the Prevention of Corruption Ordinance (POCO) 1950 to replace the previous laws of the Federated Malays States (Enactment No. 23 of 1938), the State of Johore (Johore Enactment No. 14 of 1940) and the former Straits Settlements (Straits Settlements Ordinance No. 14 of 1937). Anti-corruption struggle continued to heighten after independence in 1957.<sup>5</sup>

The article traces the history of the anti-corruption agencies and bodies especially after independence focusing on organisational and structural development throughout the period. There is also a brief

<sup>2</sup> "Corruption Perceptions Index 2021," Transparency International Malaysia, <<https://transparency.org.my/pages/what-we-do/indexes/transparency-international-malaysia-corruption-perceptions-index-2021>>, (accessed January 6, 2022).

<sup>3</sup> <<https://www.transparency.org/en/countries/malaysia>> (accessed April 15, 2023).

<sup>4</sup> Zuraini Ab Hamid, "Gaji Kecil Bukan Alasan Menghalalkan Rasuah," *Malaysia Gazette*, <[https://malaysiagazette.com/2020/12/13/gaji-kecil-bukan-alasan-menghalalkan-rasuah/?fbclid=IwAR1GrNE4OLmL\\_Q-rv01M\\_-EK-Sm9Ut2TAITul7wwbUXsdzN1Hk8bvfpPFRQ](https://malaysiagazette.com/2020/12/13/gaji-kecil-bukan-alasan-menghalalkan-rasuah/?fbclid=IwAR1GrNE4OLmL_Q-rv01M_-EK-Sm9Ut2TAITul7wwbUXsdzN1Hk8bvfpPFRQ)> (accessed April, 15 2023 2020). See also: Nur Farhana Zaini and Noor Raudhiah Abu Bakar, "Hubungan antara Penguatkuasaan Undang-undang Rasuah dan Keagamaan dengan Pendedahan Maklumat dalam Kalangan Anggota Beruniform," *Proceeding of the 6th International Conference on Management and Muamalah 2019*, Kolej Universiti Islam Antarabangsa Selangor (KUIS), 115-129.

<sup>5</sup> Nur Shafiq Kapeli and Nafsiah Mohamed, "Battling Corruption in Malaysia: What Can Be Learned?" *Journal of Financial Crime* 26 no. 2 (2019): 549-555.

discussion of the late Tan Sri Harun Mahmud Hashim's role at the anti-corruption agency. However, write up about him is somewhat peripheral due to a lack of materials but does provide some valuable insights on his role in the war against corruption in the country.

## PRE-INDEPENDENCE CORRUPTION LAW

Zulkarnain, Ahmad Kamal and Noor Ain observation about corruption during the early Malay society in the Malacca sultanate postulated a disturbing scenario:

“Gejala rasuah bahkan menjadi punca pertikaian dan pembunuhan dalam kalangan pembesar tertinggi kerajaan Melaka pada ketika itu”. Karya klasik Melayu yang menghikayatkan asal usul dan aktiviti Melayu Melaka yang wujud pada abad ke-15 Masihi turut merekodkan beberapa kisah “menyorong”, istilah yang digunakan ketika itu bagi merujuk kepada aktiviti rasuah yang berlaku dalam kalangan pembesar Kerajaan Melaka. Perbuatan rasuahlah yang akhirnya membawa kepada peristiwa pembunuhan Bendahara Seri Maharaja, Seri Nara Diraja, Tun Hassan Temenggung dan Tun Ali oleh Tun Sura Diraja dan Tun Indera Segara”.<sup>6</sup>

The colonial period saw legislation passed to deal with the menace. Among them were the Penal Code of 1871 applicable in the Straits Settlements (Singapore, Malacca, and Penang), the Corruption Prevention Ordinance 1937 and the Corruption Prevention Enactment 1938. Mr. Shearn in a meeting of the Colonial Executive Council held on 1 April 1950 said that “bribery and corruption flow to an appalling extent in government department”.<sup>7</sup> The Colonial Government decided to form a ten-member Shearn Commission to conduct a study on corruption and Shearn was made Chairman. The Commission identified areas of breach of rules and abuse of powers committed by government servants and also unproved allegations, insinuations and defamation of bribery and corruptions committed by public servants.

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<sup>6</sup> Abdul Rahman, Mohd Rus, Mat Noor, “Sejarah Perjuangan SPRM,” 7-8. See chapter 1 on the discussion of the colonial era.

<sup>7</sup> Badan Pencegah Rasuah Malaysia (BPRM), *Badan Pencegah Rasuah Malaysia 1967-1992: Sejarah Penubuhan dan Perkembangannya* (Kuala Lumpur: BPR, 1992), 5.

Nonetheless, the World War Two in 1942 halted the anti-corruption efforts.<sup>8</sup>

The year 1950 saw the revival of the initiatives. The Prevention of Corruption Ordinance 1950 was passed. At the Federal Legislative Assembly, the Acting Attorney General explained that the new law was essential considering inadequacies of existing legislation and to ensure successful prosecution of cases in courts and the need to deal with allegations of corruptions against public servants effectively.<sup>9</sup>

The year 1950 also witnessed the formation of the Taylor Commission chaired by Judge Taylor and its members included Hussein Onn, who later became the third Prime Minister of Malaysia.<sup>10</sup> Its term of reference was to study the extent that corruption had affected the integrity of public services and to propose measures to reduce it. The Commission submitted a report in 1955 and a notable summary of the report states:

“We believe that bribery and other forms of corruption are practised in all the vulnerable departments but there is no evidence can be estimated. There is no evidence from which either the actual or the comparative incidence can be estimated. There is no evidence of their existence, except in isolated instances, but there is no clear evidence of abundant opportunities and we infer that these opportunities must be taken”.<sup>11</sup>

Unfortunately, the Colonial Government ignored the report. Judge Taylor could not hide his disappointment and lamented that the Commission was a sheer waste of time.<sup>12</sup> One possible reason for a lukewarm response was that everyone was focussing on the country’s independence. The report resurfaced when a chapter of the Public Servants (Conduct and Discipline) Rules 1956 included

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<sup>8</sup> Ibid.

<sup>9</sup> Ibid, 6.

<sup>10</sup> Appendix A, Appointment of the Commission, Gazette Notification L.N. 558 in Supplement of 1<sup>st</sup> October, 1952, The Commission Enquiry Ordinance, 1950 (No. 27 of 1950), Federation of Malaya, A Commission to Enquire into Matters Affecting the Integrity of the Public Services.

<sup>11</sup> Federation of Malaya, *Report of a Commission to Enquire into Matters Affecting the Integrity of the Public Service 1955* (Kuala Lumpur, 1955), 9.

<sup>12</sup> Ibid.

recommendations made by the Taylor Commission's report.<sup>13</sup> Tunku Abdul Rahman, who later became the first Prime Minister mooted a special anti-corruption body.<sup>14</sup>

## POST- INDEPENDENCE (1958 – 1967)

The independent government had not laid off the issue of corruption. The first initiative was the appointment of Mr. Shah Nazir Alam, the Inspector General of the Special Police Force of Pakistan to study and evaluate corruption issues in Malaya and to provide recommendations to deal with the problems and to eradicate corruption.<sup>15</sup>

### Shah Nazir Alam Report

Shah Nazir Alam toured several districts and states and carried out observations in several government departments. His report included recommendations to improve and strengthen government administration and implement several measures to deal with corrupt practices. The report entitled "The Report on the Problem of Corruption in the Federation of Malaya"<sup>16</sup> proposed five main approaches to fight corruption that were adopted by the Cabinet paper, namely:

1. The undertaking of a sustained and comprehensive programme of moral education in schools and through information services.
2. Amendments to existing anti-corruption legislation, to make it obligatory for members of the public to report corruption and to facilitate investigation and prosecution;
3. Amendments to the General Orders to empower Head of Departments to take disciplinary actions against corrupt officers;

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<sup>13</sup> Ibid, 9.

<sup>14</sup> Ibid.

<sup>15</sup> Christine Chong Siew Pyng, "The Size and Costs of Bribe Given and Solicited: Analyses based on Convicted Offenders in Malaysia," (PhD thesis, Universiti Sains Malaysia, 2017) 17.

<sup>16</sup> Cabinet Paper No. 453/27/58. Quoted from Badan Pencegah Rasuah. *Badan Pencegah Rasuah Malaysia 1967-1992: Sejarah Penubuhan dan Perkembangannya*. Note 6 at 11.

4. The establishment of Federal, State, and District interdepartmental Committees to study corruption;
5. The establishment of the Federal Headquarters, Special Investigating Agency, with representatives at the State and District levels.

The Cabinet established an “action committee” to study and recommend the setting up of an anti-corruption agency. The committee proposed two significant proposals namely:

1. The establishment of the Criminal Investigation Department (Special Crime), to investigate corruption offences as determined by the Report.
2. The establishment of an anti-corruption body under the Prime Minister’s Office (PMO).

The outcome was the establishment of two institutions to combat corruption; the Criminal Investigation Department (CID) (Special Crime) (SC) to handle corruption cases and the Anti-Corruption Section (ACS) to administer all matters pertaining to corruption.<sup>17</sup>

### **Criminal Investigation Department (Special Crime)**

The CID (SC) was officially established on 15 June 1959 and placed under the Criminal Investigation Department in the police force. The CID (SC) was tasked with detecting, investigating, and conducting surveillance on suspected corruption activities, commerce, and gambling crimes.

It was headed by an Assistant Commissioner of Police (ACCID) or known as Officer in Charge of Special Crime (OCSC). The OCSC was assisted by three Superintendents (OC Special Crime - Region) who were in the northern, central, and southern areas, respectively. The three OC Special Crime received assistance from three Inspectors known as the Special Crime Investigator Officers (IO), stationed in the northern, southern, and central areas.<sup>18</sup> The IOs tasks were among others:

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<sup>17</sup> Kapeli and Mohamed, “Battling Corruption in Malaysia,” 549-555.

<sup>18</sup> Ibid. See also Abdul Rahman, Mohd Rus & Mohd Noor, note 1, 50.



1. Collect and evaluate bribery and corruption information and communicate the information to the OC (Special Crime) Federation of Malaya and OC (Special Crime) of the three regions.
2. Investigate corruption allegations, complaints, and petitions to verify their validity.
3. Investigate and compile investigation papers.
4. Manage complaint letters and ensure the correctness of the letters' file references.
5. Manage the registration of investigation papers.
6. Manage suspect index cards, organisations associated with suspects and involvement of suspects.
7. Engagement with heads of government departments and community leaders.
8. Establish rapport with the OCSC for Special Crime, OC Region and the Deputy Public Prosecutor.
9. Manage the registration of letters and ensure that letters received are easily extracted.
10. Ensure that adequate security measures are taken to protect the source of information obtained.<sup>19</sup>

### **The Anti-Corruption Unit**

The Anti-Corruption Unit (ACU) established on 1 November 1959 was initially placed at the PMO. It was transferred to the Home Ministry effective 17 December 1960. The ACU Director was selected from the Malayan Civil Service. The jurisdiction of the Director was detailed out in the Charter of the Anti-Corruption Section which includes:<sup>20</sup>

1. Maintain close cooperation with CID (SC) and ACU, the parties conducting the investigation.
2. Promote anti-corruption disposition among the public.
3. Informing the Prime Minister about corruption cases and how the cases are dealt with.

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<sup>19</sup> Zulkarnain Abdul Rahman, Ahmad Kamal Ariffin Mohd Rus, and Noor Ain Mat Noor, *MACC the History: The Battle for A Corruption- Free Malaysia* (Malaysia: University of Malaya Press, 2020), 55-56.

<sup>20</sup> Ibid, 61.

4. Provide the government with comprehensive recommendations on the functions, duties and responsibilities of ACU.
5. Examine procedures and measures to eradicate corruption in government ministries and departments.
6. Provide plan of actions to prevent corruption.
7. Serve as the channel to receive corruption related information.
8. Coordinate all anti-corruption measures through government machinery.

The unit was responsible to inculcate anti-corruption stance among the public. Anti-corruption plans included educating the community about the evils of corruption, and to garner public support and cooperation to combat corruption. Anti-corruption campaigns included moral education programmes at government departments. The unit also planned and coordinated measures and served as a channel to receive information related to corruption cases. Two main policies were outlined in the ACU, namely:

1. To eliminate and prevent corrupt practices in government departments at the Federal and state levels.
2. To continuously instill awareness of the evils and destructive consequences of corruption and the need to eradicate corruption all the way. Also, disseminating information to the public on policy and measures in combatting corruption through appropriate channels to gain public support and cooperation. To assist the ACS to carry out effective measures in the fight against corrupt practices and misuse of power.<sup>21</sup>

### **The Prevention of Corruption Act 1961**

The Prevention of Corruption Act 1961 (PCA) was passed within two years of the establishment of CID (SC). The Act was passed on 14 September 1961 and came into force on 16 November 1961. It repealed the Prevention of Corruption Ordinance 1950. The Singapore Prevention Ordinance 1960 was the model for the new law. The PCA 1961 enhanced the sentence from three years imprisonment to five to seven years. The Act had six sections and 31 sections covering various offences and punishments, evidence, police powers, regulations with

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<sup>21</sup> Abdul Rahman, Mohd Rus & Mat Noor, "MACC the History," 64-67.

respect to prosecuting officers and other matters. The Act was later amended in 1967 and revised in 1971.<sup>22</sup>

The new law and new penalties were clear indications of the government's seriousness in dealing with corruption. All persons charged with corruption were treated equally irrespective of status and background. Members of Parliament (MPs), members of the Legislative Councils and public organisations were not spared indicating the government's commitment to free the country was free from corruption and abuse of powers.<sup>23</sup>

### **Anti-corruption efforts (1957-1967)**

Upon its establishment, the ACU organised a conference in early November 1959, attended by senior government officials and police officers to launch a massive anti-corruption campaign across the country. The campaign trail included the distribution of pamphlets, anti-corruption announcements on the radio and the information department calling the public to participate in anti-corruption activities. A proposal was made for the participation of the Malayan Film Unit to produce an educational film on anti-corruption. The Conference's resolution and proposal were well received by all sectors of the government. A new body, the Special Criminal Branch was formed to work together with the ACS in mobilising all anti-corruption initiatives.<sup>24</sup>

Heads of department were to play an active role in reprimanding insolence officials who deliberately delayed administrative decisions with the hope of getting bribes from the public. Department heads were asked to regularly conduct surprise inspection inspections to monitor their staff. Public service offices must have clear instructions on notice boards to inform the public about charges for services. Complaint boxes were also provided to allow the general public to submit their complaints. Displayed notices cautioning and warning against bribery were placed at government departments

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<sup>22</sup> Ibid, 68.

<sup>23</sup> BPRM, "Badan Pencegah Rasuah Malaysia 1967- 1992," 14-15.

<sup>24</sup> Abdul Rahman, Mohd Rus & Mat Noor, MACC the History," 70-71.

and offices. The campaign also targeted religious groups and places of worships to spread messages on anti-corruption and abuse of power.<sup>25</sup>

### **The Merger of the CID (SC) and the ACU**

Since their establishment in 1959, both agencies, the CID (SC) and ACU had performed well in carrying out their functions. The objective of their establishment was similar; to eradicate corruption. The agencies were also responsible to channel information about corruption to the Prime Minister. However, two different bodies dealing with corruption are problematic. An urgency to restructure the machinery to ensure efficiency and effectiveness was inevitable. The initiative was taken to standardise all processes covering investigation, prosecution, and prevention. The ACU and CID(SC) were merged into one single agency, the Anti-Corruption Agency (ACA). The ACA started operating on October 1, 1967. It was placed under the Inspector-General of Police and the Ministry of Home Affairs.<sup>26</sup>

### **ANTI CORRUPTION AGENCY (1967 – 1982)**

The period between 1967-1982 saw significant changes in the administration of corruption in Malaysia. First and foremost was the formation of a single anti-corruption body, the Anti-Corruption Agency (ACA). The ACA was the catalyst for a more effective anti-corruption effort.

#### **Administrative Structure**

A Director-General headed the ACA. The Director-General was assisted by the Deputy Director-General and four ACA divisional heads; the investigation division, the prosecution division, the research division, and the prevention division.<sup>27</sup>

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<sup>25</sup> “Rasuah: Tindakan- Tindakan yang Lebih Tegas – Ketua- Ketua Jabatan Kerajaan Dapat Arahan- Aarahan Baru”, *Berita Harian*, Oktober 15, 1961, 5.

<sup>26</sup> Abdul Rahman, Mohd Rus & Mat Noor, *MACC the History*,” 90-94.

<sup>27</sup> BPR, “Badan Pencegah Rasuah Malaysia 1967-1992,” 31.

### **Tan Sri Harun Hashim**

Tan Sri Harun Mahmud Hashim was the first Director-General of the ACA. He was at the time, a Senior Legal Officer. He held the position from August 10, 1967 through to 25 March 1971. A Deputy Director-General was his assistant. The ACA was consisting of mainly officers on loan from other government departments such as the Legal Department, the Customs Department, the Police Department and the Public Service. The majority of officers were seconded from the Police Department.<sup>28</sup>

The ACA had four divisions: the Investigation Division, the Prosecution Division, the Research Division, and the Prevention Division. The Investigation Division was responsible for investigating major cases across several states.

### **ACA Under the Leadership of Tan Sri Harun Hashim**

When the ACA was under Harun Mahmud Hashim through to Abdul Aziz bin Ahmad, the body achieved various advances in the fight against corruption. Harun Hashim commitment and effort were tremendous. His admonitions against public servants' corrupt practices and misuse of power were loud. He launched a campaign known as "The Efficient Programme" on October 1, 1967, across government departments.<sup>29</sup>

The campaign targeted incompetent public servants and those who committed misconduct that tarnished the good name of the government. As part of the campaign, a preventive law was passed on October 1, 1967, that allowed the termination of service of public servants who had committed corruption. The campaign was to encourage public servants to work efficiently and avoid taking bribes. Officials who deliberately delayed in providing public services might be fired. The delaying tactic was a method used to obtain bribes from the public and when the bribe was paid, the services sought were quickly given. Officers who delayed the registration of land, or delayed

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<sup>28</sup> See also Abdul Rahman, Mohd Rus & Mat Noor, 90.

<sup>29</sup> "Tun: Apa Tugas Jabatan Rasuah: Pegawai Ta' Chekap Ta' Boleh Dibuang," *Berita Harian*, November 15, 1967, 1.

other registration services would be dismissed.<sup>30</sup> According to Harun Hashim, the head of department could also be subject to disciplinary action for failing to report delays in providing services at their departments. Throughout the campaign, the ACA officers held surprise inspections at government offices across the country.<sup>31</sup> In Kuala Lumpur, for example, several government offices such as the Office of the Registrar of Title and the Land Office were inspected.<sup>32</sup> Harun Hashim was very diligent in investigating complaints, and he assured that every complaint received would be acted upon immediately. In fact, he took the initiative by opening every letter of complaint. His unrelentless efforts on corruption were well received by the public. He received plenty of public praises and often, made the headlines in local newspapers.

The ACA establishment was a success. The body had gained public confidence in its strive to fight corruption. The ACA received more complaints, conducted more investigations and more offenders were arrested since its establishment in 1967. Apparently, the ACA was receiving complaint letters in large quantities. Complainants who included members of business and industry also came in person to ACA offices to hand over corruption related information.<sup>33</sup>

The services of informants or whistle-blowers were very important to the ACA. Informants were rewarded and incentives were given for their services. The amount of reward was depending on the scale of the case in question. The bigger the amount of bribe, the bigger the rate of incentive.<sup>34</sup> The approach seemed to be effective in dealing with certain cases of corruption. As a matter of procedure, informants were required to submit their accurate names and addresses to facilitate the investigation.

Among the preventive efforts undertaken by the ACA were programmes to disseminate information such as talks, dialogues,

<sup>30</sup> Abdul Rahman, Mohd Rus & Mat Noor, 96-97.

<sup>31</sup> "Pegawai- Pegawai yang Cuai Boleh di-Pecat Mulai Oktober," *Berita Harian*, September 30, 1967, 5.

<sup>32</sup> "Anggota-anggota Parlimen Tidak Boleh Menonton Percuma," *Berita Harian*, Oktober 12, 1967, 5.

<sup>33</sup> Abdul Rahman, Mohd Rus & Mat Noor, 97.

<sup>34</sup> "Hadiah Kepada Orang- Orang yang Beri Ma'lumat," *Berita Harian*, Oktober 17, 1967, 6.

seminars, workshops, distribution of pamphlets, posters, car stickers, school timetables, calendars, phone books and addresses, bookmarks, bulletins, and others.<sup>35</sup> It was also aimed at inculcating public hatred on corruption and consequently the public would support anti-corruption programmes. Through punitive action and education, the ACA sought to convey the message that corruption has far-reaching consequences. It drove a message that the ACA would try its level best to bring to book perpetrators irrespective of the amount involved that cost the government while implementing its duty under the law.<sup>36</sup>

### Duties of ACA

There were two facets of tasks performed by the ACA, namely;

1. The power to investigate offences under the Anti-Corruption Act 1961 (Laws of Malaysia, Act 57).

The 1961 Act was amended in 1967 and 1971. The Act was intended to deal with corrupt practices and provide anti-corruption measures for government departments and statutory bodies and investigate civil servants who violated the Public Officers (Conduct and Discipline) Regulations. The Act empowered the authority to investigate and detain anyone that include MPs, members of the State Assembly, civil servants, and the public. The Act was also authorised to investigate and inspect any bank account, stock account or purchase account, expenses account and other accounts or any fixed deposits at any bank of anyone suspected of corruption. The Act also empowered the ACA to order anyone to make a sworn statement about his property or income or that of his family.<sup>37</sup>

2. Measures to prevent corruption.

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<sup>35</sup> Badan Pencegah Rasuah Malaysia. *Badan Pencegah Rasuah Malaysia: Peranan dan Tanggungjawab*. (Kuala Lumpur: Cawangan Perhubungan dan Penerbitan BPR, 1994).

<sup>36</sup> Abdul Rahman, Mohd Rus & Mat Noor, "MACC the History," 104-112. See also: Noore Alam Siddiquee, "Approaches to Fighting Corruption and Managing Integrity in Malaysia: A Critical Perspective," *Journal of Administrative Science* 8, issue 1 (2011): 47-74.

<sup>37</sup> Malaysia 1972: Buku Rasmi Tahunan, 135. See also: Siddiquee, "Approaches to Fighting Corruption," 47-74.

The ACA provided advice on cases of corruption to the federal government, state governments and statutory bodies. In this context, the ACA is responsible for providing its views on appropriate anti-corruption measures to government departments. The ACA was also entrusted to investigate government employees who violated the Public Officers (Conduct and Discipline) Regulations General Order Chapter D. Typically, reports on breach of disciplines were forwarded to the Disciplinary Board for further action.<sup>38</sup>

The ACA's focus is corruption and misuse of power public servants. As corruption might extend other offences such as smuggling of goods and humans, the ACA would also be involved in those areas due to the possible involvements of government officials. It did not expand the ACA's jurisdiction beyond corrupt practice. The ACA was only assisting other agencies in law enforcement.<sup>39</sup>

### **Issues in ACA**

Despite the glowing testimony about the ACA, there were significant criticism against the body. The main concern was ACA's lack of staff. It was also a common complaint that the ACA was targeting the "small fry" and letting the "big fish" go free. Secondly, a question raised on the independence of ACA from interference by the government of the day.<sup>40</sup>

Harun Hashim was very vocal in voicing out his trepidation against corruption. He was often at the forefront revealing statistics of corruption cases to the press. It was reported that the Prime Minister had stipulated to Harun Hashim that he should obtain permission from the PMO before issuing any statement to the press. The PM's instruction covered information on the number of complaints received, the number of individuals detained and charged and the value of confiscation of goods. Harun Hashim declared that in the first year of

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<sup>38</sup> See also: Malaysia 1972: Buku Rasmi Tahunan, 135.

<sup>39</sup> Siddiquee, "Approaches to Fighting Corruption," 47-74.

<sup>40</sup> See Abdul Rahman, Mohd Rus & Mat Noor, 103-104. It was recently reported that out of about 3000 officers at the MACC, only about 900 officers are assigned to carry out investigation duties. "SPRM kurang Pegawai Penyiasat" *Utusan Malaysia*, 25/9/2022.



the ACA's operation, the body had received a total of 6,155 complaints from the public which was widely reported in the English and vernacular newspapers. The government's reservation was that such reporting attracted bad publicity and tarnished the government's image. The unwanted publicity prompted the Prime Minister to require that press statements could only be made with PMO's permission. Unfortunately, the Prime Minister's instruction resulted in growing of public's suspicion about the ACA.<sup>41</sup>

### **National Bureau of Investigation (NBI)<sup>42</sup>**

By 1973, there was a major change in the ACA's journey. The ACA was renamed the National Bureau of Investigation (NBI). The Cabinet decided that the ACA should carry out its services exclusively. Thus, it needed an expansion to meet an increased scope of duties. The NBI was formally established on 30 August 1973 under a new law, the National Bureau of Investigation Act 1973 (Act 123). The administration of NIB was transferred from the Ministry of Home Affairs to the Prime Minister's Department. In early 1976, the NBI was placed at the Ministry of Law and the Attorney General's Office but was relocated beginning April 1980 to the Prime Minister's Department. NBI's role and function remained the same despite the name change. The NBI continued the role played by the ACA with an additional role; to carry out an investigation into matters of national interest. The following were the roles undertaken by the NBI:

1. To raise public awareness of the ills of corruption and to seek their assistance and support on preventive efforts.
2. To cultivate a sense of responsibility and motivation for public servants to avoid corruption.
3. To manage highly capable, efficient, and effective investigation and intelligence systems to yield higher preventive and investigative performance.
4. To render better legal advice to ensure efficient and successful prosecution of corruption cases.<sup>43</sup>

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<sup>41</sup> Y. Mansoor Marican, "Combating Corruption: The Malaysian Experience," *Asian Survey* 19, no. 6 (1979): 604.

<sup>42</sup> Abdul Rahman, Mohd Rus & Mat Noor, 106-119.

<sup>43</sup> See also Abdul Rahman, Mohd Rus & Mat Noor, "MACC the History," 115-117.

The NBI was to investigate offences under the Prevention Act (Laws of Malaysia, 57); to prevent corruption and to investigate public servant's misconduct under the General Officers (Conduct and Discipline) Regulations General Order Chapter D, and to forward the report to the Disciplinary Board for further action. The following laws regulate NIB's power:

1. Prevention of Corruption Act 1961 (Revised 1971)
2. National Investigation Bureau Act 1973 (Act 123)
3. Criminal Procedure Code
4. Penal Code
5. Emergency (Essential Powers) Ordinance 1970 (No. 22)
6. Police Act of 1967
7. Customs Act 1967 (Revised 1980)<sup>44</sup>

There were some significant differences between NBI's and ACA functions. First, an Act of Parliament passed in July 1973 established the NBI. The ACA was established by executive action. The National Investigation Bureau Act 1973 (No. 123) which empowered the NBI had created an institution that was fully committed to fighting corruption and misused of power with permanent and authoritative manpower. The Yang di-Pertuan Agong appointed the NBI's Director General on the advice of the Prime Minister. NBI's officers were given incentive allowance for successful investigations and no similar arrangement was made during the ACA reign. Some alleged that ACA's officers were less motivated as compared to officers who served the NBI.<sup>45</sup>

The Director-General was also a Deputy Public Prosecutor under the Criminal Procedure Code. Within its organisational structure, NBI's officers conducting the investigation were classified into several categories, namely:

1. Investigating Officer was in the same rank with the Assistant Superintendent of Police under the Police Act 1967.
2. The Assistant Investigating Officer was in the same rank as the Police Inspector under the Police Act 1967.

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<sup>44</sup> Kementreian Penerangan Malaysia, *Malaysia 1981 Buku Tahunan Jilid Kelima Belas* (Kuala Lumpur: Jabatan Penerangan Malaysia, 1981), 124.

<sup>45</sup> Abdul Rahman, Mohd Rus & Mat Noor, "MACC the History," 117-118.

3. The Investigation Assistant had the same power as that a Police sergeant under the Police Act 1967.<sup>46</sup>

### **Transformation From NIB to ACA**

After the establishment of NIB, corruption was been given a broader meaning by the public. All acts of misconduct were considered corruption. Apparently, the NIB was also investigating the breach of trust, commercial crimes, illegally accumulating property, the act of dishonesty, officials' involvement in business, hoarding of essential items, and other acts. These acts were in principle, not corruption. The acts registered as complaints received by the NIB for the years 1978 to 1979 included offences such as breach of trust, commercial crimes, offences under the Penal Code, delays in public services, nepotism, illegal accumulation of property, participation in business activity, gambling, drugs, hoarding of necessities, housing cases and mismanagement. Out of the 11,532 complaints received by the NIB, only 3,721 were corruption cases.<sup>47</sup> Unfortunately, NIB had to act on complaints which were under the responsibility of other government agencies. The additional burden resulted in NIB not being able to focus on preventing and eradicating corruption effectively. Consequently, there were wastage in manpower, time and costs due to the duplication of enforcement activities by different agencies on matters that were not exclusively within their jurisdiction.<sup>48</sup> The NIB's focus on fighting corruption was seriously compromised.<sup>49</sup> If the situation continues, NIB's achievement and goal would be affected.<sup>50</sup>

On 19 March 1982, the Prime Minister, Dato' Seri Dr Mahathir Mohamad tabled a bill in the Dewan Rakyat to change the name of the National Investigation Bureau (NIB) to the Anti-Corruption Agency (ACA). The Prime Minister justified the name change on the ground that ACA was a more accurate depiction of the role played by a body that was specifically responsible for preventing and eradicating corruption. The Prime Minister after chairing the meeting to establish the new anti-corruption body said that the wide range of duties that the

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<sup>46</sup> Ibid, 120.

<sup>47</sup> Abdul Rahman, Mohd Rus & Mat Noor, 117-118.

<sup>48</sup> Kapeli and Mohamed, 549-555.

<sup>49</sup> Kapeli and Mohamed, "Battling Corruption in Malaysia," 549-555.

<sup>50</sup> Ibid.

agency has would affect its effectiveness to carry out its core duties, that is to say, prevention of corruption.<sup>51</sup>

Such change was followed by substantial improvements in the management that include enhancement in officers' investigating skills, methods of training, and equipping the staff with professional knowledge. The Director-General was given the authority to issue a Standing Order concerning the general supervision, training, and duties of officers as well as the discipline of officers and other matters necessary for good administration of the body.<sup>52</sup>

The new name took effect on 13 May 1982 after the Anti-Corruption Agency Act 1982 was passed and gazetted. It marked the beginning of a greater effort in eradicating corruption in Malaysia. The birth of the ACA triggered a far more efficient handling of corruption cases. Various corruption cases involving the public and civil servants were successfully detected and brought to justice. Even though the anti-corruption efforts were further intensified when the NIB was established in 1973, its conversion to the ACA in 1982 epitomised a more accurate reflection of the role played by the anti-corruption body.<sup>53</sup>

### **ANTI-CORRUPTION AGENCY (1982-2008)**

Efforts to fight corruption, misappropriation, and abuse of power in Malaysia entered a new phase in the 1980s. The rapid political, economic, and social development of the decade saw an urgent need to renew anti-corruption efforts. The NIB's rebranding to ACA was not just a name change but underscored significant transformation in the war against corruption.<sup>54</sup>

The ACA focused on the symptoms of corruption. The strategy was on the detailed space and scope of work to combat all forms of irregularities, abuse of power and breaches of integrity. In contrast, the

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<sup>51</sup> Badan Pencegah Rasuah Malaysia 1967-1992, p 79.

<sup>52</sup> Ibid.

<sup>53</sup> Abdul Rahman, Mohd Rus & Mat Noor, "MACC the History," 132-133.

<sup>54</sup> Mohamad Tarmize Abdul Manaf, *Nota Pencegahan Rasuah*, (Malaysia: SPRM, 2020), 10.

NIB was clouded with an expanded jurisdiction that went beyond corruption and abuse of power. The ACA's jurisdiction was more circumspect and focused. The ACA period between 1982 to 2008 was transitional and to materialise a clearer identity in the performance of its challenging tasks.<sup>55</sup>

### **Rejuvenation of Corruption Prevention Agency**

The ACA's establishment in 1982 rejuvenated the fight against corruption.<sup>56</sup> The Anti-Corruption Agency Act 1982 provided some significant power and jurisdiction to the ACA:

1. Under Section 3 (1), the Director-General of the ACA shall be appointed by the Yang di-Pertuan Agong on the advice of the Prime Minister and he shall hold office for the period specified in his instrument of appointment.
2. Section 5 (1) gives the DG the power of a Deputy Public Prosecutor under the Criminal Procedure Code.
3. Section 5 (2) states that an ACA officer shall be deemed to be a police officer and shall have all the powers and immunity of the officer under the Police Act 1967.
4. Section 5 (3) states that subject to section 6, an ACA officer shall have all the powers of a Customs Officer under the Customs Act 1967.

The ACA's goal was to perpetuate the fight against corruption and to resume the legacy of previous bodies to prevent and eliminate all forms of corruption and abuse of power. The ACA functions include:

1. Obtain, collect, and screen the information received.
2. Investigate cases of corruption, malpractice, and abuse of power.
3. Assist in the prosecution of persons found to have committed corruption offences under the prescribed law.
4. Design and implement anti-corruption campaigns through educational information programs and public relations.

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<sup>55</sup> Abdul Rahman, Mohd Rus & Mat Noor, "MACC the History," 132-133.

<sup>56</sup> Suruhanjaya Pencegah Rasuah Malaysia, *Sejarah 40 Tahun Badan Pencegah Rasuah*, (Putrajaya: Ibu Pejabat SPRM, 2009), 21-23.

5. Conduct research and evaluation on the management and administration of government departments and agencies and its related laws.
6. Prepare disciplinary reports and investigation reports for disciplinary cases.
7. Carry out integrity screening on government employees.
8. Formulate and implement preventive programmes in collaboration with government departments and agencies.<sup>57</sup>

The ACA operated within the existing legal framework along with the new statute that established the body. Existing laws that were not repealed continued within the ACA's jurisdiction. The existing laws included the following Acts; Anti-Corruption Act 1961 (Act 57) (revised 1971), Customs Act 1967 (made the law stipulated through Gazette PUA 356 dated 21 November 1973), Penal Code (FMS). Cap. 45) (made a law stipulated through Gazette PUA 356 dated 21 November 1973), Emergency (Essential Powers) Ordinance 1970, Police Act 1967, General Officers (Conduct and Discipline) Orders (Chapter 'D') 1980, Criminal Procedure Code, and Evidence Act 1950 (December 1971).

The ACA had the power to recommend disciplinary actions against public officials after investigating allegations of corruption. Information obtained by ACA's investigation on public servants was also used for the purpose of determining their integrity in the promotion exercise, the nomination of star awards and degrees, retirement of choice and appointment to important positions. The relevant regulations and circulars were the Public Officers (Conduct and Discipline) Regulations, 1993, Service Circular No. 12 of 1967 (Investigation Report of the Director of the Anti-Corruption Agency), Service Circular No. 17 of 1975 (National Investigation Bureau - Investigation Report), and Confidentiality General Circular No. 1 of 1985 (Integrity Monitoring by the Malaysian Anti-Corruption Agency).<sup>58</sup>

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<sup>57</sup> Badan Pencegah Rasuah Malaysia, *Laporan Tahunan 1992*, Putrajaya: BPRM, 1992, p.i.

<sup>58</sup> Abdul Rahman, Mohd Rus & Mat Noor, "MACC the History," 137-140.

### ACA Organisational Structure

The Director-General, a grade A official headed the ACA. There were a Deputy Director-General and seven divisions, namely, the administrative division, the prosecution division, the investigation division, the prevention division, the training division, the intelligence division, and the state's division.<sup>59</sup>

### Corruption Prevention Policy

Until 1993, the ACA implemented three key approaches in preventing corruption and abuse of power, viz, punitive, educational, and administrative. Punitive action was through law enforcement covering investigations, arrests, and prosecution of those involved. The educational approach was implemented through various information programmes to cultivate public hatred towards corruption and improve public support for the ACA. The administrative approach led to preventive operations through surprise inspections and joint operations across the country.<sup>60</sup> There was no specific anti-corruption policy at the time. It prompted the ACA to initiate the formulation of an anti-corruption policy that aimed at strengthening the ACA's role in the future.

The early 1990s saw an appointment of a committee to prepare a Cabinet report in response to a study by the Universiti Kebangsaan Malaysia entitled, "Study on the effects of corruption on socio-psychology of officers and the public who are involved in corruption".<sup>61</sup> The report was also based on "A study on the knowledge, attitudes and values of the public against corruption" conducted by the Socio-Economic Research Unit (SERU), Prime Minister's Department.<sup>62</sup> The committee had expanded its scope of work to include matters of comprehensive prevention efforts. The committee, "The ACA Anti-Corruption Policy Task Force" produced a report entitled "Anti-Corruption Policy" submitted and tabled to the Cabinet

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<sup>59</sup> Badan Pencegah Rasuah Malaysia, *Laporan Tahunan 1986*, Putrajaya: BPRM, 1992, p 12.

<sup>60</sup> Badan Pencegah Rasuah Malaysia, *Laporan Tahunan 1993*, (Putrajaya: BPRM, 1992), 1.

<sup>61</sup> Badan Pencegah Rasuah Malaysia, "Dasar Pencegah Rasuah", i.

<sup>62</sup> Abdul Rahman, Mohd Rus & Mat Noor, 134-135.

in 1993.<sup>63</sup> The Cabinet approved the report.<sup>64</sup> The Anti-Corruption Policy was later included in the ACA action plan.

The ACA's action plan included anti-corruption measures consisting of target group, strategies, and methodology. The action plan sought to increase public awareness of their responsibility in preventing and eliminating all forms of corruption and the consequences of corrupt practices. It outlined public programmes covering primary education through to the period before retirement. The programmes and activities had two goals; creating a poverty-free and anti-corruption environment; and engendering a new anti-corruption generation. The emphasised was on public's continuous commitment and solid support rather than on ACA's accomplishing its goal in eradicating corruption. Two approaches were employed. First, speakers from the Islamic Affairs Division (BAHEIS), Prime Minister's Office (PMO) would conduct briefings on the "Application of Islamic values in the administration". The objective was to provide an overview, experience and methods that BAHEIS applied to adapt to the strategies incorporated in the "Anti-Corruption Policy".<sup>65</sup> The second approach used was to exchange of opinions and views through brainstorming sessions with experts in their respective fields. The opinions and views of the three experts were used as input in the preparation of the "Anti-Corruption Policy" report.<sup>66</sup> The ACA had taken into consideration existing factors and future developments through to the year 2000 and the following decades. A dynamic and comprehensive Anti-Corruption Policy was intended. Therefore, the proposed policy shall include action plans with strategies, methods and target groups to achieve the desired goals, namely, prevention and elimination. The action plan had focused on five objectives:<sup>67</sup>

1. To instill a feeling of despise towards corruption. Muslims are prohibited from consuming pork and eating pork is regarded as despicable and disgusting. The ACA wanted to create an atmosphere where getting involved in corrupt practices is as loathing as eating pork for Muslims.

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<sup>63</sup> Badan Pencegah Rasuah Malaysia, "Dasar Pencegah Rasuah", 1.

<sup>64</sup> Ibid.

<sup>65</sup> Ibid, 135-136.

<sup>66</sup> Ibid.

<sup>67</sup> Badan Pencegah Rasuah Malaysia, "Dasar Pencegah Rasuah", p 32-33.



2. To garner support from all parties to fight corruption. Efforts to combat corruption require assistance from all including the public. The government, the policymakers, law enforcement, scholars, the judiciary, and the public must work hand in hand. Every member of society plays an important role in the whole process of prevention and the elimination of all forms of corruption.
3. Enculturation of an anti-corruption stance in the society or otherwise the country risked a socio-economic and political collapse. History has shown that leaders, civilisations, governments and nations have fallen when corruption plagued their management and administration. If corruption is rampant, law, justice and integrity will be compromised. ACA must work and strive to prevent corruption from destroying the nation.
4. To make perpetrators feel shameful of their actions. Corruptors should not be proud of their practices. They should feel ashamed and reprehensible for their actions. Strategies and measures to instill the feeling of indignity and humiliation for their actions should be in place.
5. To create a corruption-free environment. Accepting the reality that a corrupt-free environment is impossible; the government and the ACA will do their best to reduce corruption.
6. The ACA's action plan identified the main target groups namely, the civil servants, private employees, politicians, public, registered organisations, students, influential leaders and specific groups or individuals. The objectives of the action plan targeted for the group are as follows: <sup>68</sup>
  - i. To understand the concept of corruption and the role of ACA in preventing and eliminating corruption.
  - ii. To be aware of the threat of corruption to oneself, family, society, and the country.
  - iii. To appreciate and practice good values.
  - iv. To play their respective roles in the prevention of corruption.
  - v. To support and cooperate with the ACA.

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<sup>68</sup> Ibid, 36.

- vi. To appreciate and uphold ethical values while carrying their services.
- vii. To instil confidence in the community on the integrity and credibility of ACA's officers.
- viii. To carry out enforcement duties with integrity and honesty as set out by disciplinary rules and guidelines.<sup>69</sup>

### ***Introduction to the Anti-Corruption Act 1997***

In 1996 the ACA reviewed the existing anti-corruption laws. The Prevention of Corruption Act 1961 was last revised in 1971. The 1997 Act was one of the three main strategies in the paper entitled "Policy and Mission of the Anti-Corruption Agency (ACA) Towards Achieving Vision 2020 - Challenges and Strategies for Action".<sup>70</sup> Revision of the Act and formulating a new legislation was appropriate in the light of more challenging developments at the local and international levels. The United Nations (UN) emphasised the importance of periodic revisions of anti-corruption laws to address weaknesses and inconsistencies in values, and to impose enhanced penalties and to clarify the legal status of certain acts.<sup>71</sup>

The draft bill of the 1996 Act was first completed in 1989, and later the bill was updated accordingly. The main gaps in the existing law were vague provisions that hampered the prosecution to obtain successful convictions. Other factors that require an amendment to the Act included:<sup>72</sup>

1. The increasingly sophisticated and complicated white-collar crime. For example, corruptly obtained property held by another person resulting in difficulty to associate the perpetrator with the act of corruption.

<sup>69</sup> Abdul Rahman, Mohd Rus & Mat Noor, "MACC the History," 140-147.

<sup>70</sup> Ibid, 148-149.

<sup>71</sup>United Nations Convention against Corruption," United Nations Office on Drugs and Crime (UNODC), <[https://www.unodc.org/unodc/en/corruption/tools\\_and\\_publications/U\\_N-convention-against-corruption.html](https://www.unodc.org/unodc/en/corruption/tools_and_publications/U_N-convention-against-corruption.html)> (accessed January 6 2023).

<sup>72</sup> Draft bill, "Anti-Corruption Act 1996", 21-29.

2. The testimony of a criminal accomplice. Corruption is a unique crime because the perpetrator and the giver benefitted from the crime that they committed. Accordingly, the credibility of complainant's testimony as a person of interest or a person who committed the initial offence, might be challenged in court; thus, his/her evidence must be corroborated. In that light, the draft bill provided that evidence of the partner in crime is credible and admissible in court without collaboration.
3. The main problem in detecting corruption is the benefits that the parties obtained. Most offences are committed by those who have certain powers over their victims. For example, the power of police officers over drug addicts, customs officers against smugglers, Land and District Office officers, Local Authorities on landowners and applicants for licenses. Persons of authority like civil servants intimidated the victims and prevented them from complaining to the ACA for fear of harm and reprisal. The situation has forced victims to cooperate and comply with the wishes of rogue civil servants. Under the law, the victims are accomplices. If they become prosecution witnesses, the credibility of their evidence may be compromised. Supporting evidence is difficult to obtain because most offences are committed in absence of a third party who may become an independent witness.
4. The perception that corruption is a crime without victim renders it an act that is not harmful and dangerous to society. The consequence of a corrupt act is insignificant when it was committed. For instance, the effect of a collusion between a contractor and the architect of a local authority would not be apparent and immediate. The serious consequences of the corrupt practice would be seen if the building erected cracked or collapsed and exposed the prior corruption.

The submission of the 1996 draft bill was, first, to consolidate and collate the Prevention of Corruption Act 1961, the Anti-Corruption Agency Act 1982 and Ordinance No. 22 (Necessary Powers) Emergency 1970 under one statute. Secondly, to provide ACA officers with additional powers to carry out their duties effectively. For example, sections 25 and 26 provide for the powers and procedures to investigate complaints, to examine information, and to compel a person to appear before the officer for the purpose of investigation. Thirdly, the inclusion of new important and necessary provisions such as

section 61(1) that allows corrupt public servants to be dismissed from service. Fourth, the enhancement of penalties as the maximum fine imposed by the 1961 Act was RM10,000 and was revised by the 1971 Act. In terms of the value of ringgit then and the existing value, the increase in fine was significantly appropriate. Fifth, reviewing the existing maximum prison sentence of five years imprisonment under the 1961 Act. Based on the record of the prison sentence handed down by the court, more than 50 percent of the persons convicted were only sentenced to one day in jail. Accordingly, the ACA recommended that a mandatory prison sentence of at least three months.

On 25 September 1997, Parliament passed the Anti-Corruption Act 1997 (Act No. 575). The Act was enforced on 8 January 1998. It is a combination of three statutes, the Prevention of Corruption Act 1961, the Anti-Corruption Agency Act 1982 and Emergency Ordinance (Necessary Powers) Ordinance No. 22 1970. The new law, the Anti-Corruption Act, 1997 introduced new offences, additional powers to the Public Prosecutor and the ACA, change in the principles of corruption law, and change ~~and~~ in the law of evidence.<sup>73</sup>

### ***Integrity, Quality, and Productivity Committee (IQPC/JKIKP)***

The role of the ACA is increasingly evident in the strengthening of integrity in the government bureaucracy. The Cabinet in a meeting on 2 April 1997 agreed to establish an Integrity, Quality, and Productivity Committee (JKIKP) at all ministries, departments, and agencies of the Federal and State Governments. The aim was to ensure that government agencies take proactive action to formulate an internal mechanism to prevent corruption and malpractice among their members.<sup>74</sup> They should also be working on measures to improve efficiency, quality, and productivity and the inculcation of noble values. Not only tarnishing the entire government administration but corruption and malpractice also affect the quality and productivity of an agency. The JKIKP was replacing the Cabinet Special Committee on Government Integrity (JKKMKPK) and it was seen as a conduit to improve the integrity, quality, and productivity of government services and to assist in the socio-economic development of the country. It was the JKKMKPK's role to deal with corrupt practices caused by systemic

<sup>73</sup> Abdul Rahman, Mohd Rus & Mat Noor, "MACC the History," 159-164.

<sup>74</sup> Abdul Rahman, Mohd Rus & Mat Noor, 156-157.

and procedural loopholes and a low level of integrity among civil servants. The Committee was also to address irregularities and weaknesses in the government's financial and administrative management.<sup>75</sup>

### ***Enhancing ACA Organisational Structure***

ACA's evolution over the years indicates a successful transformation from a lame body that enforces corruption laws, to a body that has revolutionised the corruption war. By 1989 the ACA had increased its units. ACA's structural transformation was indeed a successful implementation of the strategies incorporated in its mission and vision blueprint.

ACA's management structure remained. Two deputies assisted the Director-General, the Deputy Director General (Operations) and the Deputy Director General (Prevention). There were nine divisions in the ACA organisational structure; two were responsible to the Deputy Director General (Operations), namely, the Investigation Division and the Intelligence Division; while the Communications & Education Division, Supervision Division, and Training Division were responsible to the Deputy Director General (Prevention). The other divisions were the Prosecution Division, Management Services Division, Policy Planning, and Coordination Division, and the States Division. Beefing up ACA's power and authority was timely. With a sound legal framework and solid management structure, the ACA was able to perform its duties effectively.

### ***Integrity Management Module***

The ACA's efforts to strengthen integrity were recognised when the JKKMKPK endorsed its module, "Integrity Management Module" as one of the courses for members of the public sector. The module combined legal, theoretical, and practical aspects of integrity principles. The module applied the objective contained in the Prime Minister's Directive No. 1 of 1998 on the Government's Integrity of the Administrative Management System.<sup>76</sup> The directive outlined the integrated plan covering both the eradication and prevention of

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<sup>75</sup> Ibid, 168-169.

<sup>76</sup> Abdul Rahman, Mohd Rus & Mat Noor, 163-164.

corruption and achieving efficiency, transparency, and accountability in government administration. Also included in the module was the enhancement of functions and responsibilities of ACA's officers, implementation of the National Integrity Plan, the establishment of the Malaysian Anti-Corruption Academy (MACA) and bolstering of ACA's organisational structure in 2008.<sup>77</sup>

### **NEW ERA (2008- Present)**

The year 2009 was very significant for the fight against corruption in Malaysia. The ACA was transformed into a commission, the Malaysian Anti-Corruption Commission (MACC). The change reiterated the government's firm commitment towards revitalising, equipping, and strengthening the country's anti-corruption entity.<sup>78</sup>

The transformation was to strengthen the MACC credibility and to prepare itself to deal with the complexity of the new environment especially the advent of technology and ever-changing political and social perception of corruption. The new body, the MACC, must be a more dynamic anti-corruption entity. The MACC differs significantly from the ACA in terms of the prosecution powers and the independent panels that oversee MACC's functions. Creating the MACC is a crucial effort to face challenges of the new millennium.<sup>79</sup>

### **The MACC**

The idea of a commission was driven by several factors. The Barisan Nasional (BN) manifesto for the 11th General Election in 2004 included judicial reforms and intensifying efforts to tackle corruption.<sup>80</sup> Thus, transforming the anti-corruption body was within the agenda. During the 12<sup>th</sup> General Election, BN's performance was below par.<sup>81</sup> Thus, pushing for the ACA transformation was a way of getting back

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<sup>77</sup> Abdul Rahman, Mohd Rus & Mat Noor, "MACC the History," 174-197.

<sup>78</sup> Mohamad Tarmize Abdul Manaf, *Nota Pencegahan Rasuah*, (n.p.: SPRM: 2020), p 10.

<sup>79</sup> Abdul Rahman, Mohd Rus & Mat Noor, "MACC the History," 199.

<sup>80</sup> *Ibid.*

<sup>81</sup> *Ibid.*, 187-188.

the electorates support.<sup>82</sup> BN won only 140 parliamentary seats compared to 198 seats in the 11th General Election. The opposition won 82 parliamentary seats as compared to 21 parliamentary seats in the previous general election. The opposition seized several states; Kedah, Penang, Perak and Selangor, and maintained its control in Kelantan.<sup>83</sup>

One reason for the poor election outing was the perception that the administration was overwhelmed by corruption and rampant abuse of power.<sup>84</sup> There was a consequential belief that the effectiveness, transparency and freedom of the ACA and the MACC after that, as the main anti-corruption machine in Malaysia is enhanced.<sup>85</sup> It was also significant because the change has forced the government to equip the Commission with a concrete structure to maintain transparency, freedom, and efficiency, and inevitably restore trust on the institution. In this regard, Prime Minister Tun Abdullah Ahmad Badawi felt that anti-corruption machinery in Malaysia needed vitalisation and the transformation implemented by his government was a renewed vigour to deal with corruption more severely.<sup>86</sup>

The government was adamant that society's positive perception on transparency and integrity of the country's administration should be restored. Therefore, anti-corruption agencies need to act as an independent body. In practice the MACC is free to conduct investigations but being part of the Prime Minister's Office (PMO), an inevitable negative perception arose of its independence and transparency. It appeared that the MACC report its operations to the PMO. In fact, the MACC was feeding the Minister with information when he answered questions in Parliament on corruption.<sup>87</sup> The MACC's independence in carrying out its task was often disputed by

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<sup>82</sup> Ibid.

<sup>83</sup> Khoo Boo Teik et al. *13<sup>th</sup> General Election in Malaysia: Issues, Outcomes, and Implications*, (Japan: Institute of Developing Economies (IDE-JETRO, 2013), 8.

<sup>84</sup> Ibid.

<sup>85</sup> Abdul Rahman, Mohd Rus & Mat Noor, 188-189.

<sup>86</sup> "Pak Lah Proud of Judiciary Reforms and MACC Work," *The Star*, February 24, 2009, accessed April 15, 2023, <https://www.thestar.com.my/news/nation/2009/02/24/pak-lah-proud-of-judiciary-reforms-and-macc,-work/>.

<sup>87</sup> Abdul Rahman, Mohd Rus & Mat Noor, 188-189.

some parties.<sup>88</sup> Nonetheless, the negative vibes continued. Thus, instilling the perception of MACC's independence was crucial. The reality is that MACC's investigation was thorough, meticulous, professional, and objective, and adhering to the principle of innocence until proven guilty should be made clear.<sup>89</sup> The erroneous belief of selective enforcement and small fry being targeted, and big fish being spared should be addressed. There was a need to strengthen the check and balance mechanism and reinforce the principles of transparency and accountability in discharging MACC duties under the law. Strengthening its governance, will eliminate negative perceptions against the MACC.

The MACC was looking for a structural model elsewhere that has gained public confidence with a strong and formidable system in the war against corruption. The Hong Kong model overseen by the Independent Commission Against Corruption (ICAC) was picked.<sup>90</sup> Emulating the ICAC structure, the MACC wanted to achieve positive results in its endeavour, improve public perceptions and support, and build a society that abhors corruption. The public should also be able to monitor its performance. The ICAC model contained committees to oversee its operation, namely, the Operation Review Committee, the Corruption Prevention Committee, and the Citizens Advisory Committee on Community Relations.<sup>91</sup> In line with the ICAC, the establishment of committees would permeate a perception that MACC is independent, transparent, effective, and efficient. In fact, committees at MACC invite wider public participation of the public in the war against corruption.<sup>92</sup>

The Cabinet meeting on April 16, 2008, agreed with the new structure of the MACC.<sup>93</sup> The details of the establishment of the

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<sup>88</sup> Ibid.

<sup>89</sup> Ibid.

<sup>90</sup> "Brief History," Hong Kong Independent Commission Against Corruption (ICAC), [https://www.icac.org.hk/en/about/history/index.html#:~:text=The%20Independent%20Commission%20Against%20Corruption%20\(ICAC\)%20was%20established%20in%20February,to%20bring%20Godber%20to%20justice,\(accessed April 15, 2023\)](https://www.icac.org.hk/en/about/history/index.html#:~:text=The%20Independent%20Commission%20Against%20Corruption%20(ICAC)%20was%20established%20in%20February,to%20bring%20Godber%20to%20justice,(accessed%20April%2015,%202023).) ).

<sup>91</sup> Ibid, 189.

<sup>92</sup> Ibid.

<sup>93</sup> Abdul Rahman, Mohd Rus & Mat Noor, "MACC the History," 199-203.



MACC were presented to a Sub-Committee consisting of the Prime Minister, Deputy Prime Minister and Ministers concerned.<sup>94</sup> On 14 July 2008, the Prime Minister, Dato' Seri Abdullah bin Haji Ahmad Badawi chaired a meeting endorsing the establishment of the MACC and approved its overseeing bodies,<sup>95</sup> namely, the Anti-Corruption Advisory Board (LPPR), the Parliamentary Committee on Anti-Corruption (JPMPR), the Operations Evaluation Committee (JPO) and the Consultative and Anti-Corruption Panel (PPPR). The remuneration for MACC officers was to be equivalent to officers of the Royal Malaysian Police (PDRM). It includes incentive allowances that could attract candidates to join the MACC. The MACC's investigative jurisdiction was to be expanded and a senior Deputy Public Prosecutor (DPP) would be placed at the MACC. In speeding up prosecution, the DPP need not refer to the AGC to decide and finalise the results of the investigation.<sup>96</sup>

Malaysia has fulfilled its commitment as a member of the United Nations Convention Against Corruption (UNCAC), which she had ratified on 24 September 2008. The UNCAC obliges Malaysia to implement various anti-corruption measures that focus on five key areas, namely, prevention, law enforcement, international cooperation, asset recovery, technical assistance, and information exchange. UNCAC's goal is to reduce across borders corruption, such as abuse of power, corruption in the private sector and money laundering. The UNCAC also aspires to strengthen international law enforcement and judicial cooperation between countries by providing effective legal mechanisms for the return of international assets.<sup>97</sup> As of July 11, 2017, UNCAC was endorsed by 140 countries out of 182 members of the UN.<sup>98</sup>

The structural changes made to the MACC was to provide a formidable and effective mechanism against corruption. By joining the

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<sup>94</sup> Ibid.

<sup>95</sup> Ibid.

<sup>96</sup> Ibid.

<sup>97</sup> Ibid, 190.

<sup>98</sup> "United Nations Convention against Corruption," United Nations Office on Drugs and Crime (UNODC), <<https://www.unodc.org/unodc/en/corruption/countryprofile/countryprofile.html?CountryProfileDetails=%2Funode%2Fcorruption%2Fcountry-profile%2Fprofiles%2Fmys.html>>, (accessed April 15, 2023 ).

UNCAC, the MACC brought in invaluable international cooperation. The government is committed to transform MACC to become one of the best players in anti-corruption.<sup>99</sup> Internationalising MACC was the right step to enhance its credibility and also address considerable outside pressure in light of the ever-changing pattern of corruption and abuse of power globally.<sup>100</sup>

### **Malaysian Anti-Corruption Commission Act (MACC ACT 2009)<sup>101</sup>**

Parliament passed the Malaysian Anti-Corruption Commission Act 2009 (MACC Act 2009) or Act 694 to form a commission to replace the ACA. The Act came into force on 1 January 2009, and it aims to promote the integrity and accountability of public and private sector administration by establishing an independent and responsible anti-corruption body.<sup>102</sup> The Act also aims to educate public authorities, public officials, and the public about corruption and its adverse effects on the public and private sectors and the community as a whole.<sup>103</sup>

### **MACC Organisational Structure**

The MACC was established to enhance anti-corruption initiatives and improve public perception of MACC's independence, transparency, and professionalism.<sup>104</sup> The MACC was officially launched on 24 February 2009 with five oversight legal and administrative mechanisms formed. The oversight mechanisms serve to check and balance and enabled the monitoring of MACC's efficiency, effectiveness, independence, transparency, accountability, and professionalism. It also ensures MACC's accountability and is in line with the stakeholders' aspirations. MACC's new structure and oversight procedures lend credence to its role as an independent,

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<sup>99</sup> Abdul Rahman, Mohd Rus & Mat Noor, 190.

<sup>100</sup> Abdul Rahman, Mohd Rus & Mat Noor, "MACC the History," 199-203.

<sup>101</sup> Abdul Rahman, Mohd Rus & Mat Noor, 191-194.

<sup>102</sup> Mohamad Tarmize Abdul Manaf, Nota Pencegahan Rasuah, (n.p.: SPRM: 2020), 12.

<sup>103</sup> Abdul Rahman, Mohd Rus & Mat Noor, "MACC the History," 204.

<sup>104</sup> Ibid, 195.

complex but structured institution to deal with corruption in the country.<sup>105</sup>

The MACC is headed by the Chief Commissioner and assisted by the Deputy Chief Commissioner (Operations), Deputy Chief Commissioner (Prevention) and Deputy Chief Commissioner (Management and Professionalism). MACC's motto is "Trust, Firm and Fair"<sup>106</sup>, the three values of MACC's guiding principles in carrying out its core functions, namely, to be responsible, objective, impartial and upholding the rule of law.<sup>107</sup> MACC's mission to become a competent and professional anti-corruption body, and its vision is to create a corruption-free society that places high moral and spiritual values above others. It aims to strengthen integrity among its officers and undertake a planned and continuous human resource development programme.<sup>108</sup>

The MACC Client's Charter promises prompt investigation on complaints, updating complaints within 28 working days, protection to whistle-blowers, quick feedbacks on integrity vetting, educating public and enlist public support against corruption.<sup>109</sup> The MACC Code of Ethics combines "moral values with uniformed deeds and actions" as

<sup>105</sup> Mohamad Tarmize Abdul Manaf, *Nota Pencegahan Rasuah*, (n.p.: SPRM: 2020), 21.

<sup>106</sup> "Organization Structures," Malaysian Anti- Corruption Agency (MACC), <<https://www.sprm.gov.my/index.php/en/corporate-info/mengenai-sprm/struktur-carta-organisasi>>, (accessed January, 19 2021). See also: "States Organization Structures," MACC, <<https://www.sprm.gov.my/index.php/en/corporate-info/mengenai-sprm/struktur-carta-organisasi/states-organization-structure>>, (accessed April 15, 2023 )

<sup>107</sup> "Motto," MACC, <<https://www.sprm.gov.my/index.php/en/korporat/profil-sprm/maklumat-organisasi-baru/moto>>, (accessed April 15, 2023 ).

<sup>108</sup> "Mission, Vision and Objective," MACC, <<https://www.sprm.gov.my/en/korporat/profil-sprm/maklumat-organisasi-baru/visi-misi-objektif>>, (accessed April 15, 2023 ).

<sup>109</sup> "Piagam Pelanggan," Suruhanjaya Pencegahan Rasuah Malaysia (SPRM), [https://www.sprm.gov.my/index.php?page\\_id=75&articleid=407&language=en](https://www.sprm.gov.my/index.php?page_id=75&articleid=407&language=en) (accessed January 4, 2022).

guidance to MACC officers to perform their duties and responsibilities. The objectives among others are:<sup>110</sup>

- Strengthen the level of integrity in the execution of their duties and responsibilities, and
- Clarify permissible and non-permissible actions in accordance to the enforced policies, guidelines and law;
- The MACC values are trustworthy, firm, fair, transparent and professional;
- Other positive values include discipline, cooperation, loyalty and commitment.

### **MACC Main Strategy**

The MACC must adopt the right strategy to ensure its growth and development. Statistical analysis to evaluate and chart its past, present and future action plans is pertinent. The MACC outlined several key strategies to achieve the targeted vision and mission. It implemented four strategies, namely, Strengthening, Promotion and Prevention, Enforcement and Rehabilitation.<sup>111</sup>

### ***Implementation of Power Balance Methods***<sup>112</sup>

Oversight committees serve to achieve effective check and balance between MACC's powers and duties<sup>113</sup> that have a positive impact on MACC's reputation and role. A positive perception facilitates gaining community confidence and support. It overcomes the negative perception of MACC's selective enforcement or selective prosecution.<sup>114</sup> The five committees have brought the MACC closer to

<sup>110</sup> MACC Code of Ethics  
[https://www.sprm.gov.my/index.php?page\\_id=75&articleid=402&language=en#:~:text=INTEGRITY%20is%20a%20core%20element%2C%20Independent%2C%20Transparent%20and%20Professional](https://www.sprm.gov.my/index.php?page_id=75&articleid=402&language=en#:~:text=INTEGRITY%20is%20a%20core%20element%2C%20Independent%2C%20Transparent%20and%20Professional) (accessed April 15, 2023 ).

<sup>111</sup> "Strategy," MACC, <<https://www.sprm.gov.my/en/korporat/profil-sprm/maklumat-organisasi-baru/strategi>>, (accessed April 15, 2023 ).

<sup>112</sup> Abdul Rahman, Mohd Rus & Mat Noor, 200.

<sup>113</sup> Mohamad Tarmize Abdul Manaf, Nota Pencegahan Rasuah, (n.p.: SPRM: 2020), 15-19.

<sup>114</sup> Ibid.

the public. The oversight committees are the Anti-Corruption Advisory Board (LPPR), the Special Committee on Corruption (JKMR), the Complaints Committee, its Operations Evaluation Panel (PPO) and the Anti-Corruption Consultative Panel (PPPR). Three committees are formed by the Act; the LPPR, JKMR and the Complaints Committee, while PPO and PPPR are administratively established.<sup>115</sup>

The MACC's independence is measured through three of its functions; freedom to appoint and dismiss its officers, freedom in financial affairs and freedom of operation.<sup>116</sup> Although the MACC is under the JPM, it carries out its operations independently and does not report to any party, except to the PPO.<sup>117</sup>

### ***Implementation of National Key Result Areas<sup>118</sup>***

When Dato' Seri Najib Tun Razak was the Prime Minister, the MACC's performance was part of the government's National Key Result Areas (NKRA).<sup>119</sup> Placing the MACC under the NKRA was to ensure a more effective and efficient anti-corruption measures. Key Performance Index (KPI) was pre-determined and to be monitored and evaluated. NKRA was a strategic agenda in line with the 10th Malaysia Plan.<sup>120</sup> It was implemented from September 2009, while ministry-level NKRAs known as KRAs begun from January 2010.<sup>121</sup> NKRA had six focus areas; reduced crime, fighting corruption, expanding access to quality and affordable education, improving the living standards of low-income households, empower rural and inland infrastructure, and improve urban public transport.<sup>122</sup>

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<sup>115</sup> Ibid.

<sup>116</sup> Ibid.

<sup>117</sup> Abdul Rahman, Mohd Rus & Mat Noor, "MACC the History," 213-217.

<sup>118</sup> Ibid, 204.

<sup>119</sup> Ibid.

<sup>120</sup> Ibid.

<sup>121</sup> "National Key Results Area (NKRA) Introduction," Ministry of Home Affairs, <<http://www.moha.gov.my/index.php/en/pengenalan>>, (accessed January 19, 2021).

<sup>122</sup> Rahman, Mohd Rus & Mat Noor, "MACC the History," 217-219. See also: Kapeli and Mohamed, "Battling Corruption in Malaysia," 549-555.

### ***Strengthening Public Sector Governance***

Transforming the MACC was part of the government's effort to strengthen the public governance system. The establishment of the Governance Integrity Committee (JKTU) in 2009 was to fortify integrity.<sup>123</sup> The objective was to improve the government's delivery system during the 1998-2008 period as part of the national mission strategy of the Ninth Malaysia Plan (9 MP).<sup>124</sup> The action plan was a long-term strategies and the facilitation of complex service delivery systems imbued with integrity, transparency, fast, efficient, effective and timely services.

A Special Task Force to Reduce Bureaucracy (PPMKB) was established at ministries and agencies to accomplish fast and efficient services.<sup>125</sup> The efforts include to review archaic laws and regulations, to review of clients' charters, to recommend improvements through customer feedback, and to review and determine information and communication technology systems that can improve service levels.<sup>126</sup>

### ***The Establishment of Integrity Units***

The MACC played a major role in the formation of the Integrity Units.<sup>127</sup> The plan includes placing MACC's Senior Officers as Chief Integrity Officer at Ministries and Departments highly

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<sup>123</sup> Jabatan Perdana Menteri Malaysia, Gerakan Pemantapan Keutuhan Sistem Pengurusan Pentadbiran Kerajaan Malaysia: Penubuhan Jawatankuasa Keutuhan Tadbir Urus (Putrajaya: JPMM, November 20, 2009), <<http://reg.upm.edu.my/reg/etc/JKTadbirUrus.pdf>>, (accessed April 15, 2023 ).

<sup>124</sup> Economic Planning Unit, Prime Minister Department, Ninth Malaysia Plan 2006-2010 (Putrajaya: EPE Prime Minister Department, 2006), <[://www.epu.gov.my/sites/default/files/2020-03/RMK9.pdf](http://www.epu.gov.my/sites/default/files/2020-03/RMK9.pdf)>, (accessed April 15, 2023 ).

<sup>125</sup> Abdul Rahman, Mohd Rus & Mat Noor, 219-220.

<sup>126</sup> Abdul Rahman, Mohd Rus & Mat Noor, "MACC the History," 219-220.

<sup>127</sup> Abu Kassim Mohamed and Anis Yusaf Yusoff, ed., Recentring Governance, Integrity and Anti- Corruption in Malaysia: New Institutions, New Policies and the Will to Change (Putrajaya: The National Centre for Governance, Integrity and Anti-Corruption (GIACC) Prime Minister's Department, 2020), 16.

exposed to corruption.<sup>128</sup> The MACC also developed the Certified Integrity Officer (CeIO) programme to train personnel to implement and monitor integrity enhancement programmes at both the public and the private sectors.<sup>129</sup> The CeIO training programme would focus on three types of integrity unit models based on the level of risk in ministries and government departments.<sup>130</sup>

### **MACC Transformation**

In 2010, the MACC transformed its operations and its human capital development. Emulating the Bank Negara Malaysia approach,<sup>131</sup> the MACC summed its aspirations as follows,<sup>132</sup>

“To make the MACC a professional Commission with a respected image at home, and internationally, for its enforcement of law, regulations, and administrative directives in an efficient, precise, and effective way. The MACC is also committed to educating the public and providing information on corruption and preventive measures taken in order to maintain community support in fighting corruption.”

The then Prime Minister, Dato’s Sri Najib Tun Razak launched the Government Transformation Program (GTP) in April 2009 aimed to transform the government and improve the quality of life for all Malaysians. The GTP had two main objectives, namely, to realise the vision of the Prime Minister in accordance with the concept of “1 Malaysia, People First, Performance Now”, and,

- Transforming the government into a more effective and accountable entity

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<sup>128</sup> Ibid.

<sup>129</sup> “Certified Integrity Officer (CeIO),” MACC, <<https://www.sprm.gov.my/index.php/en/maca/korporat/142-knowledge/771-certified-integrity-officer-ceio>>, (accessed April 15 2023 January 20, 2024).

<sup>130</sup> Abdul Rahman, Mohd Rus & Mat Noor, “MACC the History,” 228-229.

<sup>131</sup> Ibid, 216.

<sup>132</sup> MACC Annual Report 2010, 26 quoted from Abdul Rahman, Mohd Rus & Mat Noor, *ibid*, 216.

- Catapulting Malaysia into an advanced, united, safe and just society with high quality of life for all.<sup>133</sup>

Pursuant to the GTP, MACC formed the Transformation Executive Committee (JET) in July 2011.<sup>134</sup> The JET was responsible for improving service quality, supervision of management tools, monitoring, and implementation of structural transformation of the MACC, enhancing operations through human resource development, effective investigation, improvement of forensic accounting capabilities, and identifying weaknesses.<sup>135</sup> Two units operated the JET; the project management office on the operation and the human capital unit. The MACC's renewed mission and vision aspire to enhance public confidence and improve public perception of the body based on the principles of freedom, transparency, and professionalism.<sup>136</sup>

The National Anti-Corruption Plan (2019-2023) (NACP) was launched by the then Prime Minister, Tun Mahathir Mohamad. As part of the aspiration of the new government to eradicate corruption, NACP features "six Priority Areas that are vulnerable to corruption",<sup>137</sup> namely Political Governance, Public Sector Administration, Public Procurement, Corporate Governance, Law Enforcement, and Legal and Judicial. There are 6 strategies being outlined as follows: Strengthening Political Integrity and Accountability, Strengthening the Effectiveness of Public Service Delivery, Increasing the Efficiency and Transparency in Public Procurement, Enhancing the Credibility of Legal and Judicial System, Institutionalising Credibility of Law Enforcement Agencies, and Inculcating Good Governance in Corporate Entity.<sup>138</sup> All and all

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<sup>133</sup> Official Portal National Institute of Public Administration (INTAN), <<https://www.intanbk.intan.my/iportal/en/44-maps/600-government-transformation-programme-gtp>>, (accessed April 15, 2023).

<sup>134</sup> Penyata Rasmi Parlimen (Dewan Negara), "Parlimen Kedua Belas Penggal Kelima Mesyuarat Pertama", Khamis 3 Mei 2012, <<http://www.parlimen.gov.my/files/hindex/pdf/DN-03052012.pdf>>, p 87.

<sup>135</sup> Ibid.

<sup>136</sup> Ibid.

<sup>137</sup> [https://www.pmo.gov.my/wp-content/uploads/2019/07/National-Anti-Corruption-Plan-2019-2023\\_.pdf](https://www.pmo.gov.my/wp-content/uploads/2019/07/National-Anti-Corruption-Plan-2019-2023_.pdf) (accessed 15 April 2023).

<sup>138</sup> Ibid.



the strategies<sup>139</sup> lead to 17 Strategic Objectives which then produced 115 Initiatives to be implemented during the next five years.<sup>140</sup>

The Mid-Term Review of the NACP was released on May 19, 2021. The 82 initiatives were outlined emphasising continuous improvement of governance in line with existing Government policies.<sup>141</sup> Three goals statements were reported, as follows:<sup>142</sup>

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<sup>139</sup> Ibid.

<sup>140</sup> Ibid.

<sup>141</sup> < [https://giacc.jpm.gov.my/wp-content/uploads/2022/10/NACP-ENG\\_DIGITAL.pdf](https://giacc.jpm.gov.my/wp-content/uploads/2022/10/NACP-ENG_DIGITAL.pdf)> (Accessed on April 15, 2023)

<sup>142</sup> Ibid.

No	Goals Statement	Achievement in 2019	Achievement in 2020	Achievement in 2021
1	<p>Accountability and Credibility of the Judiciary:</p> <p>a. From 0.54 (2017-2018) to 0.63 by 2023 in the World Justice Project Rule of Law Index</p> <p>b. From 77% (2017) to 90% by 2023 in Corruption Conviction Rate in Malaysia</p>	<p>0.55</p> <p>78%</p>	<p>0.58</p> <p>93%</p>	<p>0.57</p> <p>91%</p>
2	<p>Efficiency and Responsiveness of Public Service Delivery:</p> <p>From rank 25 (2017) to top 10 for Government Efficiency in the World Competitiveness Yearbook by 2023</p>	<p>27</p>	<p>25</p>	<p>25</p> <p>*The rank is for 2020 – Year 2021's rank will only be published in June 2022</p>

3	Integrity in Business:  To remain in the Top 4 by 2023 in the Corporate Governance Watch-Asian Corporate Governance Association.	4 <sup>th</sup> .	5 <sup>th</sup> .	5 <sup>th</sup> .
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As part of the NACP, an initiative called the Organisational Anti-Corruption Plan (OACP) was launched to focus on institutional governance for the purpose of combatting corruption “at the organisational level to curb weaknesses and issues regarding governance, integrity, and anti-corruption within an organisation”.<sup>143</sup> Initiative 2.1.5 compels the public sector and initiative 6.2.1 obliges the Statutory Bodies, State-Owned Enterprises (SOEs), Company Limited by Guarantee (CLBG), and private sector regulated by regulatory bodies to develop OACP.<sup>144</sup> The MACC is to assist agencies, bodies, and organisation to establish and implement OACP through development workshops.<sup>145</sup>

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<sup>143</sup><[https://www.sprm.gov.my/index.php?page\\_id=75&articleid=476&language=en](https://www.sprm.gov.my/index.php?page_id=75&articleid=476&language=en)> (Accessed April 15, 2023).

<sup>144</sup> Ibid.

<sup>145</sup> Ibid.

## CONCLUSION

Since independence, the government has tirelessly carrying out efforts to combat corruption. The evidences are overwhelming with the formation of the SCB and the ACS to curb and eradicate corrupt practices at all levels. By 1967, the two bodies were consolidated into one body, the ACA. In 1973, the ACA changed its name to the National Investigation Bureau (NIB). Subsequently in 1982, to become a more specialised anti-corruption body, NBI adopted its former name, the ACA under ACA Act 1982. The ACA became the single and specialised anti-corruption institution. In 1997, Parliament passed the Anti-Corruption Act 1997 to enhance the ACA's role. In 2009, the MACC Act was passed and an independent anti-corruption commission, the Malaysian Anti-Corruption Commission (MACC) was established replacing the ACA Act 1997 that came into effect on 1 January 2009. The MACC became an independent, transparent and professional body to effectively and efficiently manage the nation's anti-corruption efforts.<sup>146</sup>

50 years on since the establishment of an anti-corruption body, the war against corruption in Malaysia continues to intensify irrespective of the nature, background and structure of the institution that wages war against corrupt practices and misuse of power in the country.

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<sup>146</sup> Malaysian Anti-Corruption Commission (MACC), Corporate Info: Organization, <<https://www.sprm.gov.my/en/corporate-info/mengenai-sprm/organisation-info/organisation>>, (accessed December 14, 2020).