

The Politics of Governance: Ethical Practices in Public Administration in Malaysia

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Governance is the primary driver of any change or transformation in the public administrative system with an adequate amount of autonomy and a greater degree of accountability to produce the desired results. This paper reviews the reforms that have taken place according to growing needs and pressures to address the inefficiencies and ineffectiveness of administration particularly issues of regulation, governance and ethical practices, and public procurement procedures. The argument here is the accountability of bureaucrats in the various capacities to routinely follow the ethics and values offered in the politics of governance characterized by domination of politicians and state institutions. In dealing with existing concerns, the demand is that the government be responsive and responsible in providing a rational socioeconomic and political framework of endowed ethical practices of public administration.

Key Words: governance, ethics, public administration, corruption, integrity, reforms

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I . Introduction

Corresponding to the traditional view of government as a command and control regime operating in a defined public interest in dealing with governance, it is apparent that regulatory problems are not solved but usually complicated by appealing to different logics of politics of decision-making. Ideally the framework for initiatives to improve the performance of public administration should be stretched to ethical and integrity practices in order to strive to achieve certain standards of accountability. One might say that integrity connotes continuity between profession and conduct. The current Malaysian government is reforming the public service and responding to demands for performance, and change management. With a growing public consciousness of such needs, recent developments made is expected to bring a renewed sense of conscience and scrutiny in contrast to complacency with the status quo.

This paper seeks to develop an understanding of the forefront issues that public administrators should strive to provide in ethical practices and governance, allowing the distinctive administrative and social traditions the country possessed. This paper reviews the changes that have influenced and shaped the role of public administration and how the government has responded to the needs for reforms dominated by arguments about how best to achieve desired outcomes. In the reform era, the notion of sustaining the reform agenda over time and focusing on having the capacity and flexibility to evolve reforms responsibly is worked upon within the limitations and relevant to the formulation of ethical governance and continuity of public administration reforms in Malaysia.

II . Reform and Governance

Many developing countries including Malaysia emerged from independence in the 1950s with the government playing the major role in the politics and economy. Particularly, bureaucracies were important. The practice of public administration became important and

as a result the administrations of developing countries were true bureaucracies. The traditional model of administration was a great reform and outstanding in its day, but the world has moved on. The theory of bureaucracy is no longer considered a particularly efficient or effective form of desirable features today. The advent of public management marks a shift from earlier reforms and reforming the administrative system along with times. Serving the development in reforms and governance, accountability has been a central issue worldwide to address the root causes of government inefficiency and ineffectiveness. The key objectives of reforms were certainly of one aim, which is to provide improved services to the public via the improvement of departments or agencies. There exist different types of problem, which in the case of Malaysia, in this paper, can be identified into the issues of regulation, governance and public procurement. The idea that governance is encouraged and given pertinent emphasis worldwide, Malaysia is no exception. In this respect, governance and accountability are the focus of mechanisms to account for the political decisions adopted by the politicians and bureaucrats.

For the Public Choice School of political analysis which uses rational choice models, the central issue of governance is to discourage public officials from using the state to distort private exchanges for their benefits. Whereas the New Institutional Economics sees better governance as setting up and sticking with procedures that reduce transaction costs and increase the gains to trade. Why do problems of governance exist? Is ethics the answer to these problems or are we merely being idealistic in having a rigorous cause of control of better public management? How could it be expected that public servants would stay out of politics as the traditional model naively assumes they should when the bureaucracy was the most powerful political force?

It is evident that state institutions especially in East and Southeast Asia have always dominated the market and seldom has the market been independent of state power. Recent developments have shifted the focus of the marketisation of public services towards governance. Concerns are expressed on structure and accountability of administration. On the surface, it appears that lack of well-established practices might encourage non-accountability and ethical problems (Hood, 1991). Contemporary evidence stipulates

many dysfunctions that the administration in the developing world is facing including Malaysia and markets can be ineffective without the rule of law. Accordingly, Schick (1998) puts it: "Politicians and officials must concentrate on the basic process of public management. They must control inputs before they are called upon to control outputs; they must be able to account for cash before they are asked to account for cost; they must abide by uniform rules before they are authorized to make their own rules; they must operate in integrated, centralized departments before being authorized to go it alone in autonomous agencies."

It is worth mentioning that testament to the success implementation of public administration is namely the state capacity (Hughes, 1998; Schick, 1998; Bale and Dale, 1998). This state capacity is characterized by institutional capacity, technical capacity (Wallis & Dollery, 2001), administrative capacity (Wallis & Dollery, 2001), and political capacity (Grindle, 1996). State capacity implies a condition where the state is able to take any reform measure decisively. Institutional capacity is marked by the ability of the countries to uphold the authority of governments to legislate and implement laws and to hold public officials accountable in terms of these laws. Technical capacity is evident when key decision-making bodies manned by qualified people are insulated from the pressures of unproductive clientelist groups. Administrative capacity is characterized by the state's ability to undertake basic administrative functions and provide basic human services. Wallis and Dollery (2001) observe that, in the absence of the state's efficient role in discharging the minimal functions such as provision of public goods and services, economic infrastructure, law and order, and judiciary, the state is unable to implement the grand programs of privatization, corporatisation and contracting out. Political capacity refers to the ability of the state to mediate conflict, respond to citizen demands, allow for representation of interests, and provide opportunities for effective political participation at different levels. It also serves to promote political stability and enhance the basic legitimacy of the state (Grindle, 1996).

The argument that is developed in this article is that the ability of public administrators to routinely follow the values of fairness, justice, honesty and impartiality in the advice they

offer to their political masters and integrity in their dealings with the public have been undermined. Of particular importance is that the public administration has to develop ways and means to prevent and detect the growing tide of malpractices in the society. The highest standards of integrity, the value systems and professional norms of responsible behavior which contribute to the achievement of administrative responsibility can no longer be guaranteed. It is contended here that alternative safeguards be encouraged or enforced based on external monitoring and legal sanctions for the public realm to act in good faith. By contrast, it is relatively impossible to rely primarily on external mechanisms and sanctions to guarantee propriety and to enforce the accountability of the state bureaucracy. But, however difficult it might be to implement, there is some sense that such approach has some potential to secure high ethical standards and work altruistically for the public good.

III. Background to the institutional structure

In the case of Malaysia, the post-independence period involved the extensive expansion of state functions. For instance, economic management programs and projects were launched, and new public organizations were created. Mobilization programs were also established and variously labeled nation-building programs. The main goal, of course is to involve the citizens into the mainstream of economic and social development. Public institutions and bureaucracy were the centre-piece of these new endeavours. Doctrines of guardianship via political parties and the executive dominated the management of public affairs largely to the exclusion of public participation.

The role of public administration in governance is a continuing tool of management and of interests to many rising expectations and demands. Too often, government is seen by citizens as inefficient, bureaucratic, unresponsive, change-resistant, etc. The challenge remains for political leaders to redefine the role of government and to build the capacity of institutions to play beneficial roles. It is up to the political leaders to design regulatory

Table 1 shows a summary of the characteristics of the developmental state in Malaysia within the institutional and industrial structures.

Characteristics	Developmental State of Malaysia
<i>Institutional structures</i>	
Political institutions	<ul style="list-style-type: none"> • Social democracy: domination of UMNO party • Weak bureaucracy • Ethnicity-biased political system • Constitutional monarchy • Member of APEC and ASEAN
Economic institutions	<ul style="list-style-type: none"> • Economic organization based on ethnicity • State involvement in Bumiputra firms • Strong patron-client relationships • Certain domestic markets nationalized: petroleum and automobile • Limited labour movements
Dominant economic ideology	<ul style="list-style-type: none"> • Ethnicity-biased developmentalism
Changes since the 1990s	<ul style="list-style-type: none"> • Large-scale state projects, e.g. Multimedia Super Corridor • More opening of the economy to FDI • Emergence as a major manufacturing centre in some industries, e.g. electronics • Badly hurt by the 1997-98 crisis due to large domestic debt
<i>Industrial structures and firm strategies</i>	
Direct investment	<ul style="list-style-type: none"> • Limited outward FDI by ethnic Chinese • Large inward FDI among LDCs: historical influence of UK and recent favour of Japan.
Intra-firm trade	<ul style="list-style-type: none"> • Large among foreign-controlled regional production networks
R & D	<ul style="list-style-type: none"> • Low, but recent growth
Corporate Governance	<ul style="list-style-type: none"> • State/bumiputra firms: important role of ethnicity and political connections • Chinese firms: control within family members and constrained by family ideology
Corporate financing	<ul style="list-style-type: none"> • State/bumiputra firms: reliance on government projects and funding • Chinese firms: reliance on family sources and capital markets • High price sensitivity
Industrial structure	<ul style="list-style-type: none"> • Domination of Chinese firms in SMEs • National firms in strategic sectors • Reliance on labour-intensive industries • Large presence of the agricultural sector in certain commodities, eg. palm oil and rubber • Saturated labour markets

Source: Adapted from Yeung (2006); Yeung did not use the term 'developmental state'.

institutions capable of providing a reasonable good accountability framework and ethical practices of public accountability. Such need to improve governance and public administration is widely recognized and essential. Indeed such acknowledgement is necessary to promote national competitiveness of economic growth. Effective governance implies transparent and accountable institutions in carrying out and strengthening the capacity of public administration.

IV. Good Governance and Corruption

Much often, in the name of promoting administrative effectiveness, there have been continuous public administration reforms but lack good governance practices as provided by the UNDP guideline. Much institutionalist literature argues that public sector institutions achieve their intended results, thus effective but not necessarily efficient. Public authorities are highly autonomous and most often associated with infrastructure development that have an enormous economic impact and thus have the potential to generate political effects and the desired outcomes or even contract patronage. Hence, there may be attempts to further the political interests that may conflict with professional decisions resulting from policy evaluation that is perceived to be in the best interests of the public. It is not surprising then that the public administration is endowed with controversies amidst rational choices of policies and decision making.

Common matters regarding administrative procedures are often in favor of the interests of those in power, thereby preserving their intent. Executives would prefer to appoint those agreeable with them and arguably the credibility of their governance may be questionable to a certain extent. The civil service might be highly professional in their work on one hand and on another, might be highly politicized and patronage influenced. Circumstances under which the bureaucrats would act due to overbearing government intervention raised the likelihood of governance issue to execute and implement policy decisions. It is now common to see that government is controlled by politicians who do

UNDP (1997) defines characteristics of good governance practices which include:

- *Participation* - All men and women should have a voice in decision-making, either directly or through legitimate intermediate institutions that represent their interests. Such broad participation is built on freedom of association and speech, as well as capacities to participate constructively.
- *Rule of law* - legal frameworks should be fair and enforced impartially, particularly the laws on human rights.
- *Transparency* - Transparency is built on the free flow of information. Processes, institutions and information are directly accessible to those concerned with them, and enough information is provided to understand and monitor them.
- *Responsiveness* - institutions and processes try to serve all stakeholders.
- *Consensus orientation* - good governance mediates differing interests to reach a broad consensus on what is in the best interests of the group and, where possible, on policies and procedures.
- *Equity* - all men and women have opportunities to improve or maintain their well-being.
- *Effectiveness and efficiency* - processes and institutions produce results that meet needs while making the best use of resources.
- *Accountability* - decision-makers in government, the private sector and civil society organizations are accountable to the public, as well as to institutional stakeholders. This accountability differs depending on the organization and whether the decision is internal or external to an organization.
- *Strategic vision* - leaders and the public have a broad and long-term perspective on good governance and human development, along with a sense of what is needed for such development. There is also an understanding of the historical, cultural and social complexities in which that perspective is grounded.

Source: United Nations Development Programme, "Governance for Sustainable Human Development," New York: UNDP, 1997.

not maximize the welfare of the masses but instead pursue their self-interests, again a common phenomenon in the developing countries as compared to developed ones. This suggests a damaging view of the economic performance and the manifestation of rent-seeking behavior of public officials. In fact, scholars agree that the degree of state intervention advocates the degree of corruption. Quantitative work by economists has shown that the "quality of government" is positively correlated with public sector size (La

Porta et al. 1999) and that particular kinds of regulatory burdens are associated with corruption (Djankov et al. 2002). The Scandinavian social democracies and to a lesser extent, the continental European welfare states, manage to combine extensive state intervention with low levels of corruption because they have effective and unobtrusive institutions for regulating business activity. Recent research into regulatory frameworks finds that ease of entry into product markets is greater in the high-spending welfare states Norway and Denmark than in supposedly free-market Britain (Djankov et al. 2002).

Building on the works of Rose-Ackerman (1999), Treisman (2000) and others, there is increasing advocacy of rent-seeking behavior of government officials in engaging and exploiting their monopoly over certain decisions and manipulating macroeconomic policy for political ends with its damaging consequences for economic performances. The IMF Guide *Promoting Good Governance and Combating Corruption* states that "corruption thrives in the presence of excessive government regulation and intervention in the economy" and goes on to suggest that corruption can emerge "when the government provides goods, services and resources at below-market prices" or "when officials take decisions that are potentially costly to private individuals or companies" (IMF 2002).

Hopkin, J. and Rodríguez-Pose, A. (2007) indicated the existence of a complex relationship between government intervention in the economy and corruption. Whereas corruption seems to be connected with greater government regulation, such as the regulation of business activities or of the labor market, the actual intervention of governments as economic actors is, in most cases, associated with lower corruption. It is generally in government regulation, rather than in government intervention in the economy per se, where the opportunities for greater corruption lie. This suggests that governments should remove the kinds of cumbersome regulations that create opportunities for public officials to offer "fast-track" treatment in return for cash. By showing that countries with strong democratic institutions can reconcile extensive political intervention in economic life with low levels of corruption, such insight is confirmed by their research.

Good governance and the role of institutions in development and fighting poverty have been featured in the United Nations Millennium Development Goals. This is reflected in

how efficient resources are employed and managed. Again, the central issue is that better governance needs to be implemented to avoid using the state resources to distort private exchanges for benefits. Goldsmith (2007) put forward some of the common governance failures and typical reforms associated with patronage hiring, corrupt campaign finance, fraud, and legislative enforcement. The challenge for political and administrative leaders is to redefine their roles in productive and progressive activities.

The following sections detailed the explanations of some of the project procurements, corporate governance, and corruption scandals drawn from observation of the varied experiences in the nation and subsequently the setting up of the national integrity plan to try to untangle some of the intricacies involved.

V. Public Procurements

The interests and legitimate expectations of the various communities and public on the public service are crucial. Public projects should be more closely evaluated to ensure that they are guided by rigorous cost-consciousness and financial prudence. It is very relevant to the health of the economy, which can be unduly stressed under the weight of excessive borrowings, in combination by both the public and private sectors. High-cost public expenditures need effective follow-through mechanisms for the desired savings or corrective actions to be realized. The Auditor-General's powers are limited by law to auditing public expenditures. The onus of addressing the weaknesses his office may identify lies with other authorities. The prosecution of persons who may be responsible for financially damaging actions is another kettle of fish yet again. In this situation, it becomes necessary to ensure that the public auditing process is taken to its logical conclusion. This provides good reason for an institution like the Public Accounts Committee to have a balanced composition, so that it can act in a non-partisan manner on public expenditure issues.

The open tender process is also a fundamental requirement for mitigating the possibility

of conflicts of interest and for promoting cost-efficiency in public procurement. These instruments of accountability are indispensable for promoting a high standard of ethical conduct as the nation progresses towards developed nation status. The call for zero tolerance for corrupt practices echoes the concerns of all caring citizens. The values and principles based on integrity and social justice are becoming harder to come by these days.

Calls for transparency in public procurements have become a constant feature of national affairs. There are enough provisions in the statute books to ensure that public procurement is conducted with integrity and accountability. These include the Financial Procedure Act 1957, Government Contract Act 1947, Treasury Instructions and Treasury Circular Letters. Open tendering is prescribed for purchases above RM200,000 and each procurement exercise has to be evaluated by committees set up by a tender board that registers the bids and evaluate the financial and technical aspects of the offers. As the rules go for such large purchases, they then report their findings to the Finance Ministry which makes the final selection. In addition, there are procedures that require procurement personnel to declare any conflict of interests, and to withdraw from the tendering process. Furthermore, dissatisfied bidders can complain to the procuring agency, which may cancel a tender that is marred by irregularities. Despite the abundance of safeguards, issues may still be raised due to the discretionary powers of the approving authority, non-disclosure of reasons for rejection of bids, or redefining of tendering conditions in mid-process. Institutions that have made effective gains against corruption include those that have adopted the practice of posting all bids on their website and stating the reasons for the failure or success of each bid. Such a practice would be highly effective in ensuring accountability. In turn, this would build confidence in the public procurement process and serve as a shining example of good governance for the entire public service.

Strikingly, little has been offered, in the way of explanations of how those government contracts are selected much to the acclaimed transparent tender system. In a sense, it arises somewhat by default as a result of the political and social processes by which state form evolve, notably for its functionality for the politicians' interests that represent it, and therefore is explained by this functionality.

There is widespread view that the privatization policy in Malaysia has favored the vested interests and many beneficiaries were chosen based on political and personal connections and incurring losses and liabilities on many occasions. Audit reports reveal high incidence of failures on part of the federal, state, and local governments to comply with relevant rules and regulations, loss and embezzlement of public funds, improper monitoring and supervision. In developing economies, privatization has been an incomplete and faltering process, so associated regulatory reforms are either new or poorly conceived, and most often regulatory reforms will proceed piecemeal, without proper sequencing or coordination. Since poor governance is generally a situation in many developing economies, political and economic systems demonstrate a propensity for regulation inside government.

For instance, in the Report on the Treasury's Response to the main issues raised by the Auditor-General's Report 2006, some departments justified their huge spending that run into millions of ringgit as part of efforts to expand operations or upgrade information technology systems that have become outdated. There were questionable spending decisions that involved huge discrepancies between what the ministry or government department had forked out for a purchase and the actual market rate such as the Youth and Sports Ministry and the Women, Family and Community Development Ministry. The report was not taken seriously at the moment because it was tabled in Parliament but not debated on. As a result, the ministries and departments would not feel obliged to make rectifications fast enough and the issues would repeatedly occur. Efficient expenditure management was important and necessary to safeguard the people's interest and if there were no proper practice of governance, integrity, transparency and accountability, such wastage would continue to occur (The Sun, 10 September, 2007).

The revamp of several public service departments and introduction of key performance index in reforming government-linked companies (GLCs) recently is an excellent opportunity to accelerate this process of good governance involving integrity and ethics as a fundamental issue in Malaysian nation-building. GLCs remain the primary provider of utility and infrastructure services including electricity, telecommunications, postal, airlines,

airports, public transportation, water and sewerage as well as banking and finance. Reforms recently proposed in the government-linked companies are consolidating in the hope that removing GLCs from ministerial control and setting up special governance and oversight management will kick off the process. Such reform will reinforce both achieving financial goals and improvement in the public service and strengthening regulatory institutions from post privatization restructuring. By reforming the boards of GLCs, governance issues will be addressed and policy makers can clarify and quantify costs of national development agenda on periodic basis not to mention opening up greater investment opportunities in the region.

The GLCs transformation are effected primarily through the establishment of internal transformation teams, instituting key performance indicators, improving performance management, increasing productivity through process and organization improvements, and divesting non-core unprofitable business and assets. GLCs transformation program encompass four phases spanning 10 years from the mid 2004 until 2015. Briefly, the four phases of transformation is illustrated in Table 2. The transformation of GLCs is expected to generate benefits to at least five stakeholders –customers, employees, suppliers, Bumiputra business community and other private companies operating within the same industries. More efficient and competitive GLCs are expected to increase the level of competition thus benefiting the entire economy. GLCs account for 7.2% of the total number of companies listed on Bursa Malaysia and 34.9% of market capitalization as at May 18, 2007. In terms of employment, GLCs employed 325, 722 personnel or about 3% of the national workforce in 2006.

The achievement of the National Integrity Plan which will be elaborated in a later section of the paper can be hastened through the immediate implementation of transparency as a core principle at all government levels. Privatization programs and Government procurement in Malaysia are conducted through non-transparent processes. Only notifications of tenders are made public. There is also avenue for arbitration. A greater cause of concern is the fact that concessions agreements are considered official secrets. Due to a non-transparent selection process, the concession agreements and

Government procurement lead to sub-optimal outcomes. This has also led to allegations of corruption. The Public Works Department is under siege for the multi-billion ringgit fiascos involving the MRR2, the Matrade Building and the Navy Recruit Training Centre.

Four phases of the GLC Transformation Programs			
Phase 1: Mobilization, Diagnosis And Planning	Phase 2: Generate Momentum	Phase 3: Tangible Results	Phase 4: Full National Benefits
Period: Mid 2004- 2005 (14 months)	Period: Mid 2005-2006 (12-17 months)	Period: 2007-2010 (3 years)	Period: 2010-2015 (3 years)
Measures: <ul style="list-style-type: none"> • KPI-PLCs • Performance contracts • Board composition reform • Revamp of Khazanah • GLC Leadership change 	Measures: <ul style="list-style-type: none"> • Issuance of Transformation Manual (July 29, 2005) • Laying out policy guidelines • Implementation of programs and initiatives laid out in the Transformation Manual 	Measures: <ul style="list-style-type: none"> • Continuation of the implementation of programs and initiatives laid out in the Transformation Manual and guidelines 	Measures: <ul style="list-style-type: none"> • Continuation of the implementation programs and initiatives laid out in the Transformation Manual and guidelines
Targeted outcome: <ul style="list-style-type: none"> • Diagnosis of GLCs conducted • Determination of Policy Principles • Initial 2004 initiatives launched 	Targeted outcome: <ul style="list-style-type: none"> • 2005/06 initiatives implemented • Full roll-out in place • Key policies endorsed and executed upon • Early fruits of sustainable improvements 	Targeted outcome: <ul style="list-style-type: none"> • Tangible and sustained benefits across all GLCs • Visible benefits to all stakeholders e.g. customers, vendors, employees, etc. • Large scale strategic and financial changes made • Material changes to boards 	Targeted outcome: <ul style="list-style-type: none"> • 2 - 3 GLCs will be true regional champions • Most GLCs performing at par with competitors

Source: Adaptation from Summary of Transformation Manual, The Putrajaya Committee on GLC High Performance (PCG), March 2006.

Interestingly, the latest call for greater scrutiny into highway privatization deals stems from an admission by former prime minister Tun Dr Mahathir Mohamad that concession agreements that his cabinet had approved in the past had been flawed. The fact of the matter is that the public is becoming increasingly aware of the importance of full disclosure

as the magnitude of the country's commitments in infrastructure projects keep surfacing. From the current situation, it is patent that the issue of transparency and accountability especially in public expenditure cannot be avoided indefinitely. As the costs of infrastructure projects continue to stretch our nation's finite resources, more stringent audits of project financing will become imperative. It would be good practice at least for the cabinet to habituate itself to disclosing revenue from its concessions as a first step towards full transparency and accountability.

Other examples include the jailing of former Amanah Ikhtiar Malaysia managing director Mukhtar Ramli for criminal breach of trust of RM3.8 million marks a dark episode in the annals of the institution that had gained the world's attention as the oldest replica of the well-known Grameen Bank model of micro-financing for alleviating hardcore poverty. Ironically, political patronage was to cloud its future, as it led to a drift in priorities away from the poorest levels of the society.

VI. Corporate Governance

Allegations of cronyism and preferential treatment revealed weak corporate governance practices during the 1997 Asian Financial Crisis which brought about the Malaysian Code of Corporate Governance in 2000. The governance of the banks was under criticism during the financial crisis in the areas of loan appraisal and loan monitoring. The ability of the government to implement the rules and regulations will depend on the quality of the regulatory environment, growing international pressures and intensification of the reform agenda.

Undeniably, corporate governance rules and practices result from a system of complementary institutions, laws, and enforcement practices. Much greater attention is required to ensure efficiencies and effectiveness in implementation. The corporate governance system of a country is a result of the linkage between political, economic, legal, cultural and historical elements, thus efficient functioning in promoting and strengthening

the corporate governance is localized.

The Malaysian capital market has a number of provisions for instance the Kuala Lumpur Stock Exchange (KLSE), now known as Bursa Malaysia, listing rules that provide for checks and balances to enhance transparency and accountability. Currently there is the Companies Commission of Malaysia Act 2001 which came into operation on 16 April 2002. The Act establishes the Companies Commission of Malaysia, provides for its function and powers and for matters connected therewith and is a merger of the Registry of Companies and Registry of Business. Corporate law in Malaysia is primarily based in the Companies Act 1965 (No. 125) which is based on the UK Companies Act 1948 and the Australian Uniform Companies Act 1961. Major subsidiary legislation includes the Companies Regulation 1966, Companies (Winding Up) Rules 1972. In regards to public listed companies, the following legislation and also regulatory directives apply –the Securities Industries Act 1983, the Securities Commission Act 1993, the Malaysian Code on Takeovers and Mergers, 1987, the Guidelines on the Regulation of Acquisition of Assets, Mergers and Takeovers, and the Bursa Malaysia Listing requirements and Practice Notes.

A recent issue of corporate governance is that of air cargo firm Transmile that revealed net losses of RM126 million for 2006 instead of a profit of RM156 million. It also booked losses of RM370 million for 2005 instead of a profit of RM86 million. In May 2007, the firm announced it was unable to finalise its 2006 financial accounts after its external auditor Deloitte & Touche said it was dissatisfied with the fairness and validity of some transactions. Overstated revenues were among false financial statements that the company had been filing.

It is imperative that market integrity is preserved during good and bad times so that all participants have equal access to information and can reasonably expect a certain standard of behaviour from companies listed on the stock market. It is very clear that at both Megan Media Holdings Bhd and Transmile Group Bhd in Malaysia, there have been serious transgressions with accounts being falsified and profits overstated by hundreds of millions of ringgit. And there are perhaps another half a dozen companies at least where similar things have happened and there is serious doubt whether their accounting records can be

relied upon by investors to give the correct information. The important factor is that when such corporate crimes are committed, especially when it involves listed companies, it is imperative to get the persons responsible under the law, otherwise there is no disincentive to corporate crime.

VII. Corruption Scandals

Every nation with no exception needs to establish a government of integrity by restraining bureaucratic corruption and to curb unethical bureaucratic behavior. Malaysian economic and political landscape has too many vested interests seeking involvement and control. For instance, the fallout of a deal between Jebel Ali Free Zone (Dubai) and Port Klang Free Zone was because of red tape, political meddling, inaccurate minutes and attempted tax evasions. The situation is perpetuated by the lack of enforcement from every single government body, from the town councils, to the ministries, to the law enforcement agencies. Examples include illegally clearing forests, forging official documents, destroying public property, illegally operating gaming machines, ignoring traffic regulations, stealing metal installations, pirating CDs and software, giving and taking bribes, misusing public office, illegally occupying government land, under-declaring income, dumping rubbish and toxic waste, poaching protected animals, and etc.

One most recent notable case in 2007 is that of an assemblyman, Zakaria Mat Deros who was acquitted of charges. Transparency International Malaysia and the public were concerned about the decision to withdraw the 37 charges against Zakaria and six other directors for offences under the Companies Act as it might question the standard of independence, integrity, and professionalism of the institutions concerned. The Companies Commission of Malaysia (CCM) withdrew all the charges against Zakaria and six other directors of Titi Steel Sdn Bhd and Harvest Court Industries Sdn Bhd in the Klang magistrate's court for, among others, not holding AGMs, not submitting financial statements and not submitting profit-and-loss accounts. No reasons were given to the

court but CCM officials and lawyers for Zakaria had said the charges dropped after "representations were made" to the CCM.

Another issue is related to the recent impropriety in the awarding of Approved Permits (AP) to import cars where politicians were among the recipients. Transparency was witnessed where the current administration released information pertaining to the full list of AP recipients and as a result the government would possibly enforce stricter regulations pertaining to the issuance of APs.

Money laundering among politicians was also appropriately dealt with, if convicted under the Anti-Money Laundering Act 2001, where one could be fined up to RM5 million or jailed up to five years, or both. Allegations of money politics appear especially during party elections. The fact that actions were taken despite lack of clear regulations by the Disciplinary Board of the political party which exercised much discretion resulted in 61 found guilty out of 99 cases with punishments ranging from warnings for 15 to suspensions for 46 for various periods up to two terms of office or six years and 32 have appealed.

Given the trend for more transparency, it was not suitable for one single person, i.e. the Attorney-General to decide if there is sufficient evidence to prosecute corrupt officials. As such, The Bar Council has proposed a commission to promote a transparent process and a better judicial conduct extended to the Judicial Appointment and Promotion Commission. With power, there is always a chance of misusing it, but a good and transparent complaints mechanism which takes into account the right of public administrators and the public will serve all well. The public administrators must be aware that they are serving the public and society and not the reverse.

VIII. National Integrity Plan

Very little time is actually given to the thought of what the ethical basis of public governance is or might be. In many cases, ethical codes are never enforced seriously or

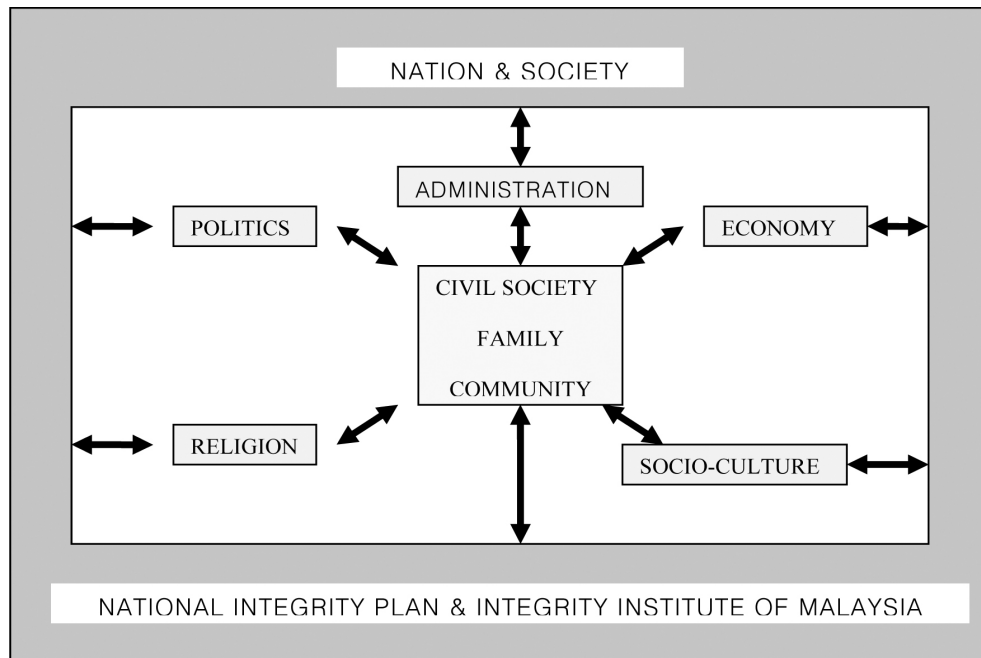
only selectively enforced. They are only as valid as the practices of the CEOs and other corporate executives who promulgate them. They are worth as much as a corporate vision statement to which not many adheres to. The fact that some cases are judged and enforced with any equity highlights the problem of a growing discrepancy in ethical treatment based on social and other factors of class status. This assessment goes hand-in-hand with the recent scandals that have raised public awareness of the need for a broader ethical approach to governance. Probably, the shift to post-modernism and amoral secularism that rely largely in external forces, are designed to coerce good behavior, as opposed to appealing to internal goodness despite the strong affiliation to religious practices in some cases.

Nevertheless, it is worth noting that there have been efforts to inject more professionalism and dynamism of ethics and integrity in the current governance. The launch of National Integrity Plan (NIP) in 2004 and the setting up of National Integrity Institute are the first steps in strengthening the principles of transparency, accountability and good governance. Integrity and ethics often tend to focus on principles of action, on the action itself and its consequences. How should a state and a society be structured in a country? How must public institutions be judged, and how must one argue for ethical and governance regulations in a country? In the political sphere, the task of creating an ethical framework in the state ought to be no different in the individual sphere with regard to practice of living and to be taken seriously by explicit basic integrity and moral ideas. The discourse for establishing social ethical norms is supported today by the existing government. Resources are allocated through the public policy process, and this participation must involve more than self-interest to be considered ethical. Some concern must exist for the public interest and the good of the society and the country. For regulations to work there must be some commitment to implement the law effectively and must even go beyond what the law requires to solve problems not covered by public policy. Ethics is thus an important component of the social-political context in which public policy is formulated. Ethical concerns and ideals interact in a very complex manner of the social-political environment and thus help to determine the public issues that are

given attention by a society and the eventual outcome of the debate about issues that reach the public administration agenda.

The efforts to enhance integrity have to be holistic and continuous in nature and guided by the principles and objectives of the NIP. The overall approach is the mobilization of all components and sectors of the Government and society to uphold the objectives and targets as well as to encourage cooperation and coordination among these components and sectors. The approach calls for the synergy of the top and bottom rung of administration. While the leadership should be exemplary and provide guidance, those at the bottom rung should give support, feedback as well as check-and-balance on the leadership. In this manner, the efforts to enhance integrity will produce a dynamism and momentum of its own. The components or institutions involved to enhance integrity are family, community, civil society, socio-culture, religion, economy, politics, and administration as shown in Figure 1.

Figure 1: Model for the Enhancement of Integrity



Source: National Integrity Plan (2004).

In each of the institutions depicted in Figure 1, objectives and strategies are put into action. For instance, strategies of the 'politics' include: 1) uphold the sovereignty and enhance the integrity and effectiveness of the Parliament; 2) enhance the integrity of the electoral system; 3) enhance the image of politics by developing a healthy, democratic and mature political culture integrity; 4) enhance the image and sense of responsibility of political parties and politicians; 5) continue with the social justice programs involving the Members of Parliament / State Assemblies and politicians on integrity as well as their roles and responsibilities; and 6) enhance transparency and close all avenues and opportunities for corruption, malpractices and abuse of power.

Key success factors of integrity in the plan include:

- Readiness of individuals to change
- Adequacy and efficacy of resources
- Effective legal framework and independent judiciary
- Cooperation between politics and administrative machinery
- Conducive cultural environment
- Effective communication
- Continuous education
- Sound policies and clear targets

IX. Reflections

The impacts of transformation and governance of public administration in Malaysia have been modest. Whilst some improvements are visible in terms of scaling down the public bureaucracy and increase of IT application in service provision, reforms are yet to bring about the desired changes. They have neither radically altered the structure of the public bureaucracy nor the values, beliefs and practices associated with it, although there are some who label these reforms as "paradigm shifts". Though reforms are seen positively,

the low ratings received in recent international and regional comparisons of Corruption Perceptions Index and Transparency International, indicate that reforms have failed to bolster efficiency, competence and accountability within the public sector. The government in Malaysia, remains centralized, much of the functions continue to be performed by vertically integrated bureaucracies with the traditional nature of the public sector characteristics. Accountability mechanisms need to be strengthened to address the anomalies in public administration and greater demands have been placed recently on the government for policy changes in administrative processes.

There are intrinsic constraints and limits to governance and inherently beset with dilemmas and paradoxes of intervening decisions and inter-organizational linkages. The fact that most reform efforts end short of achieving their desired results are common. If most reforms fall short of their mark, and if such carefully orchestrated transformation efforts cannot assure the success of administrative reform, then what can be said about the prospect of successful reform when the politics of governance are in a weaker position to commit budgets, manpower and time to engineer a reform? As most scholars would agree, considerable attention ought to be given to developing mechanisms to deal with intractable problems of governance. Most often, familiar situation of political-administrative environment have resulted in counter-intentional effects of the process of implementation in the direction of inefficiency and corruption and the perennial questions of public administration remain. The reason that governance reform may not give a prompt jolt to changes in need, it is usually the elite resisters' tendency to patronage lax administration and lucrative favors of political legitimacy and business stability.

After arguing that the government is prone to perceived shortcomings and poor management, Schick (1996) sets forth the principles that should guide reform of the public sector. A well-run government should:

- (i) have clear objectives that inform managers of what is expected and enables their performance to be monitored;
- (ii) be transparent in explicating these objectives and the means by which they are to be pursued;

- (iii) be structured so as to minimize the scope for capture of policy by service providers;
- (iv) give managers and others incentives to achieve government's goals rather than their own;
- (v) should ensure the efficient use of information;
- (vi) have incentives and information that enhance accountability of agents to principals;
and
- (vii) promote contestability of both policy advice and service delivery.

We must continue to work to ensure that the representative system allows the conduct of public administrators to be scrutinized by the people in a transparent and accountable manner. It is evident that the public today are demanding far greater accountability from public officials where reforms are reinforced and transformed through monitoring process and responsibility as indicators of good governance is essential component framework for improving the effectiveness of public administration and policy. By far, integrity and ethics are the fundamental values for which government institutions stand and face enormous challenges. Reforming public administration is a worthy but difficult cause yet reinforcement would lend credibility to the efforts. Efforts to improve the public delivery system and the efficiency of public servants and the service will be ongoing. Convincingly, the power of integrity is to create a positive reputation. In many aspects of the public delivery system, measures to help improve the efficiency and effectiveness are imminent especially when dealing with the public. It's certainly a step in the right direction to rethink how the public service is run ethically and how their management should be evaluated and rewarded. Effective governance implies democratic, transparent, and participative processes and the need of public administrators to embrace change management of effective, efficient, and accountable political and administrative practices.

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