

## Chapter 7

### *Fighting corruption*



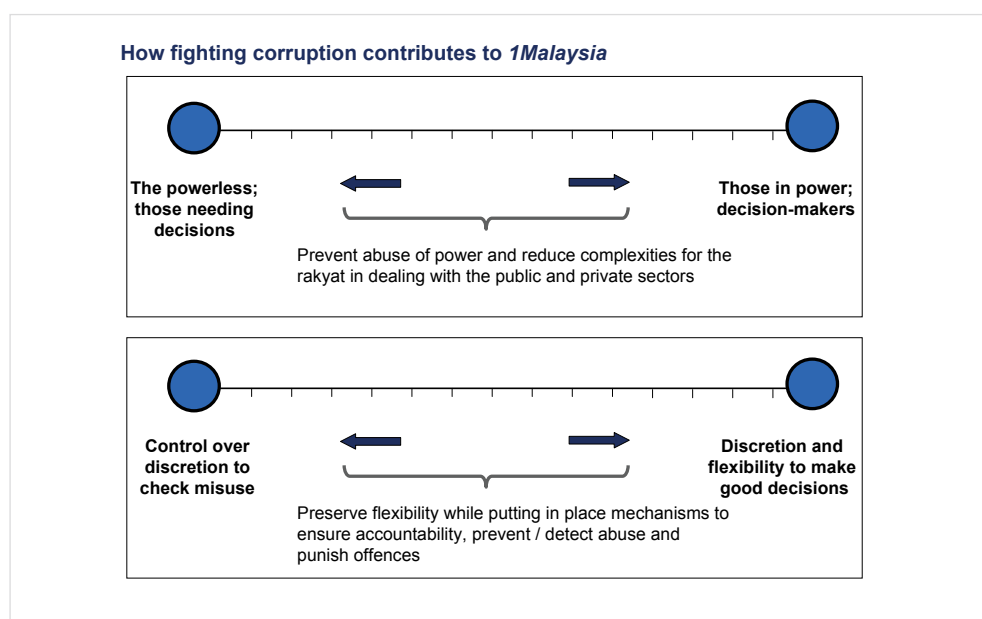
“Malaysia’s corruption ranking, according to Transparency International, has slipped this year to number 56. Although creating a corruption-free nation will not be easy, it is clear that we can be much more transparent, accountable and action-oriented as a government. I will be accountable for executing our plans and delivering our targets as described in this chapter and am seeking the support of all Malaysians to work together with me and my team in making this happen.”

(Dato’ Seri Mohamed Nazri bin Abdul Aziz, Minister in the Prime Minister’s Department)

## 7.1 Corruption imposes significant costs on Malaysia

Corruption is inconsistent with the moral, ethical and religious values of the majority of Malaysians. It introduces procedural and financial complexities in the daily lives of the rakyat, contributes to socio-economic imbalances and erodes Malaysia’s value system. Fighting corruption largely involves managing the polarity between those who are powerless and needy and those with power and discretion in decision-making positions (Figure 7.1).

Figure 7.1



Besides the social costs, corruption also robs our nation of its wealth and resources. PEMUDAH has estimated that corruption could cost Malaysia as much as RM 10 billion a year, or 1–2% of GDP, when business decisions (e.g., contracting, human resourcing) are made for the wrong reasons. Furthermore, erosion of confidence in our institutions by the public and the business community has contributed to our nation’s competitiveness ranking (GCI) slipping significantly, from the top 21 most competitive nations in the world three years ago, to our current standing of 24.

For these reasons, fighting corruption has always been one of our priorities. In recent times we have taken what we believed were significant steps, including establishing the Malaysian Integrity Institute in 2004 to facilitate the implementation of the National Integrity Plan and upgrading the Anti-Corruption Agency to the Malaysian Anti-Corruption Commission (MACC) in 2009. We also set up a high-powered task force headed by Chief Secretary to the Government (KSN), Tan Sri Mohd Sidek Hassan, to study the 2008 Auditor-General’s report and take action against those responsible for the financial irregularities it revealed.

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Despite our efforts, however, Malaysia's performance has deteriorated – our ranking in the global corruption benchmark Transparency International's Corruption Perception Index (TI-CPI) dropped from 23 in 1995 to 56 in 2009. Surveys indicate that the rakyat are extremely dissatisfied with our performance in fighting corruption. For example, 67% of Malaysians polled by the 2009 Global Corruption Barometer Survey believed that the Government's actions in the fight against corruption were ineffective.

Therefore, given the urgency of the issue and what we have learnt from past efforts, we are going to do things differently in our renewed fight against corruption:

- Have aspirations which are measurable, outcome-based and internationally benchmarked
- Focus improvement efforts on the three areas most prone to corruption – regulatory and enforcement agencies, government procurement and grand corruption (political corruption).
- Use transparent KPI measures and targets to define success.

These will now be covered in turn.

### The Case of Indonesia: Power of the People

Historically Indonesia has been overwhelmed by widespread corruption at all levels of government and civil society. In 2004, it ranked 133 on the TI-CPI, along with countries such as Angola, the Democratic Republic of Congo, Georgia and Turkmenistan. However, the new presidency in 2004 brought on a shift away from the acceptability of corruption within government, with the announcement of an ambitious anti-corruption action plan in December 2004.

The Aceh tsunami was a significant test of the Government's new anti-corruption stance. Historically the region was regarded as one of the most corrupt within Indonesia, compounded by a dominant military presence that made independent relief efforts difficult. Reconstruction of water and sanitation services in Aceh, estimated at USD 350 million, was at the mercy of limited political accountability, weak institutions and inadequate services, mismanaged utilities and a procurement process prone to corruption. The World Bank, in its 2005 report titled "Rebuilding a Better Aceh and Nias" noted that "keeping graft away from reconstruction funds will require a concerted, determined effort of vigilance and control, especially since the construction industry itself has been traditionally among the most prone to collusion, kickbacks and other leakages"<sup>22</sup>

Today, reconstruction and relief efforts in Aceh are regarded as an exemplary case of local, national, non-governmental and international efforts in dealing with a natural disaster.

Among the critical factors that contributed to the success of Aceh's reconstruction were community participation and oversight in reconstruction: from decision-making and village level planning, prioritising and monitoring to controlling finances – which ensured that there was oversight from those with an interest in ensuring that there were no leakages / abuses in the reconstruction efforts collusion.<sup>23</sup>

"There has been a shift in public perception since 2004, where people perceived that they have a role to play in fighting corruption. Civil society groups and the public are monitoring the procurement process much more now than before" – Rezki Sri Wibowo (DSG, TI Indonesia)

Strong public support for the Corruption Eradication Commission (KPK) is also a key success factor of Indonesia's anti-corruption efforts. Public outcry over wire-tapped conversations – allegedly between members of the police, the attorney general's office and a businessman that involved plans to frame the KPK – resulted in the resignations of the deputy attorney general and the head of the national investigations unit.

In one of the largest movements since Reformasi, Indonesians came out in force to support the KPK (dubbed CICA: Cinta Indonesia Cinta KPK) against the Attorney General's Office and the National Police when the latter detained the anti-graft body's top officials for bribery.

Active participation by civil society has improved the perception of corruption within the country. Transparency International's 2009 Global Corruption Barometer Survey found that 74% believed that the Government's actions were effective in the fight against corruption. In addition, Indonesia has moved up in the CPI rankings to 111 in 2009.

<sup>22</sup> World Bank, 2005, Rebuilding a Better Aceh and Nias

<sup>23</sup> "Anti-Corruption Efforts in the Post-Tsunami Reconstruction of Water and Sanitation Infrastructure and Services in Aceh, Indonesia" Janelle Plummer, Water and Sanitation Programme

## 7.2 Aspirations that are measurable, outcome-based and internationally benchmarked

To allow our performance in fighting corruption to be objectively measured by the rakyat, we have developed aspirations that are measurable (e.g., using independently commissioned public opinion surveys), clearly linked to outcomes and internationally benchmarked. This demonstrates our commitment to tackle corruption and our willingness to be judged on the outcomes we achieve, and not merely on our good intentions. Our aspirations, to be measured via relevant NKPIs discussed later, are as follows:

- Reduce corruption through enforcement and compliance
- Improve our Transparency International Corruption Perception Index ranking
- Improve the rakyat's perception of the integrity of the Government and civil service.

## 7.3 Efforts focussed on the three areas most prone to corruption

We will now focus predominantly on areas which are both most important to the rakyat and have the largest impact on our competitiveness as a nation. This focus is crucial as we need to direct our leadership capacity and resources to effectively fight corruption. However, these three areas are just a beginning and we will broaden our efforts over time as our capacity expands. The three areas that we will be focusing on in the near term are:

- Regulatory and enforcement agencies
- Government procurement
- Grand corruption (political corruption)

We acknowledge that despite directing all our energy and resources to the three focus areas, improvements may still not happen overnight. Results in these areas may take many months to become visible. However, we have identified nine key initiatives which we are confident address the main issues of corruption in Malaysia. We will continue to refine these initiatives based on results of on-the-ground implementation and these three do not represent the complete list of initiatives we will implement in our fight against corruption. These nine initiatives will now be discussed as they relate to the three focus areas.

### 7.3.1 Regaining confidence in regulatory and enforcement agencies

We aim to regain the public's confidence in the regulatory and enforcement agencies: PDRM, Jabatan Kastam Diraja Malaysia (JKDM), Jabatan Imigresen Malaysia (Imigresen) and Jabatan Pengangkutan Jalan (JPJ). The business community and the public ranked these four federal government agencies as having the lowest perceived integrity in the 2007 Malaysian Transparency Perception Survey. These were also the four agencies with the most number of cases charged by the MACC in 2005 and 2009. Our initiatives to regain the public trust include:

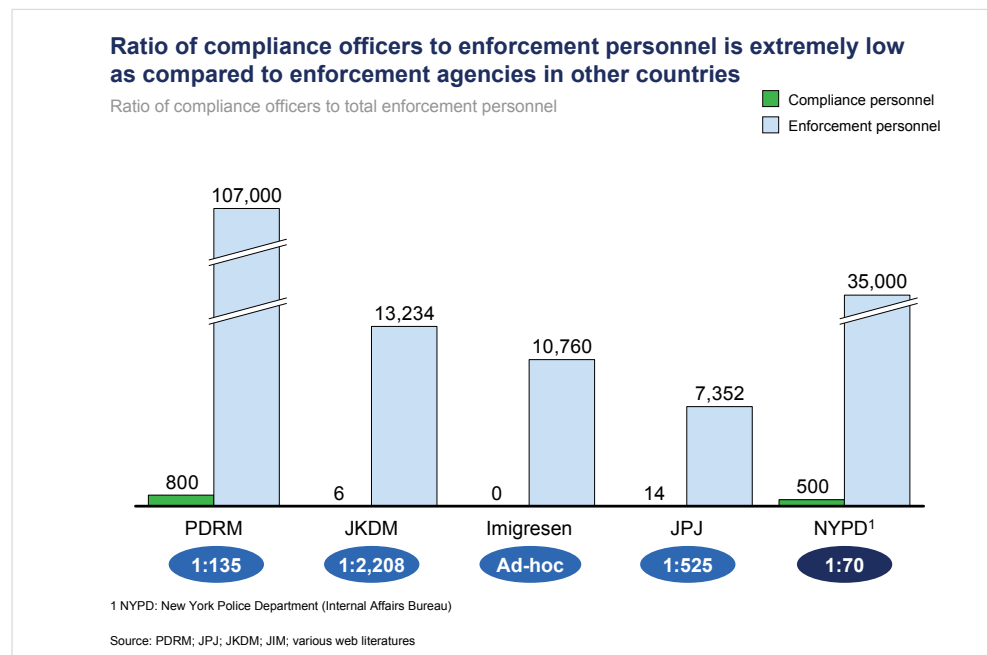
- **Initiative 1: Strengthening and empowering compliance units**

The effectiveness of Malaysia's enforcement agencies has come under scrutiny as crime levels and inaction over apparent offences (e.g., overloaded vehicles, influx of illegal immigrants) have continued to increase. Policies and procedures are already

in place to ensure that agencies meet best practices. However, there is a clear lack of stringent compliance monitoring and consequence management, which has contributed to widespread corrupt practices. Based on information provided by the PDRM, JKDM, Imigresen and JPJ, the compliance units of these enforcement agencies require many more resources to improve their overall effectiveness (Figure 7.2), especially in the following areas where compliance is crucial:

- PDRM: Criminal Investigations Department (CID), Commercial Crimes Investigations Department (CCID), Narcotics and the Internal Security and Public Order Department
- JKDM: Enforcement and Customs divisions
- Imigresen: Enforcement, Foreign Workers, Visa Pass and Permit and Passport and Security divisions
- JPJ: Enforcement division

Figure 7.2



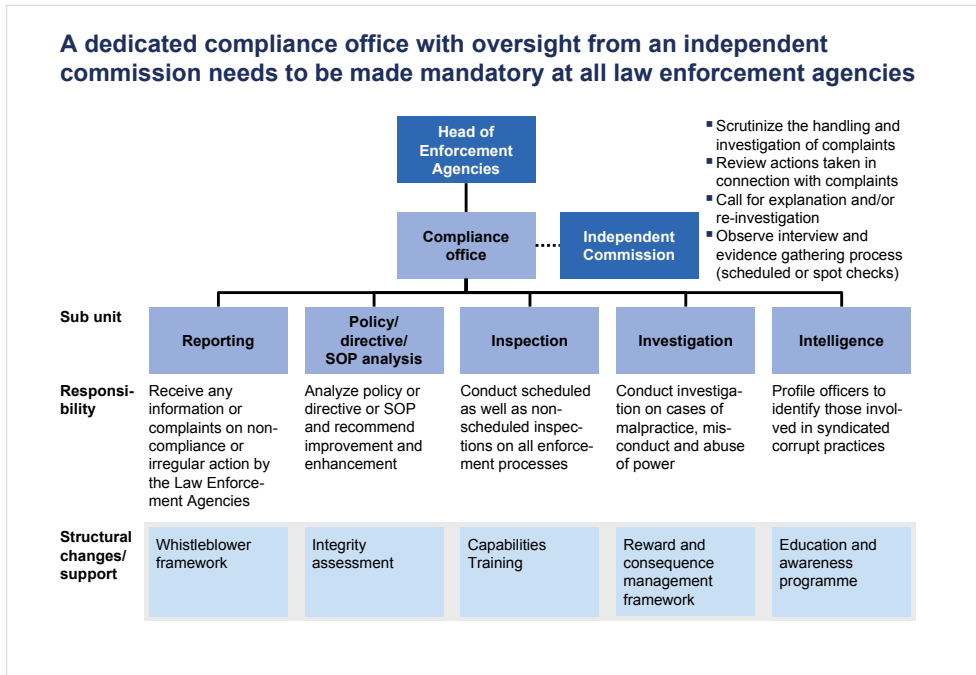
Therefore, to tighten compliance monitoring of enforcement agencies and their officers, we will staff compliance units appropriately, empower units to act under the direct oversight of the agency’s head and an independent commission, and establish a supporting framework.

We will allocate suitable resources for dedicated compliance units within each enforcement agency.

Each compliance unit shall be empowered to take action and report directly to the head of the enforcement agency, with an Independent Commission overseeing its management and conduct. The compliance unit’s role will include inspecting enforcement processes regularly (scheduled and unscheduled), investigating reported cases of malpractice, misconduct and abuse of power, gathering intelligence to act on syndicated corrupt practices involving enforcement personnel and recommending improvements to existing operating policies and procedures. Figure 7.3 illustrates the organisational setup of a compliance unit.

A supporting framework will be established to enhance effectiveness of the compliance unit. This will include a fully functional whistleblower framework, an assessment of the integrity of all compliance personnel, capabilities training, a reward and consequence management framework and also an education and awareness programme.

Figure 7.3

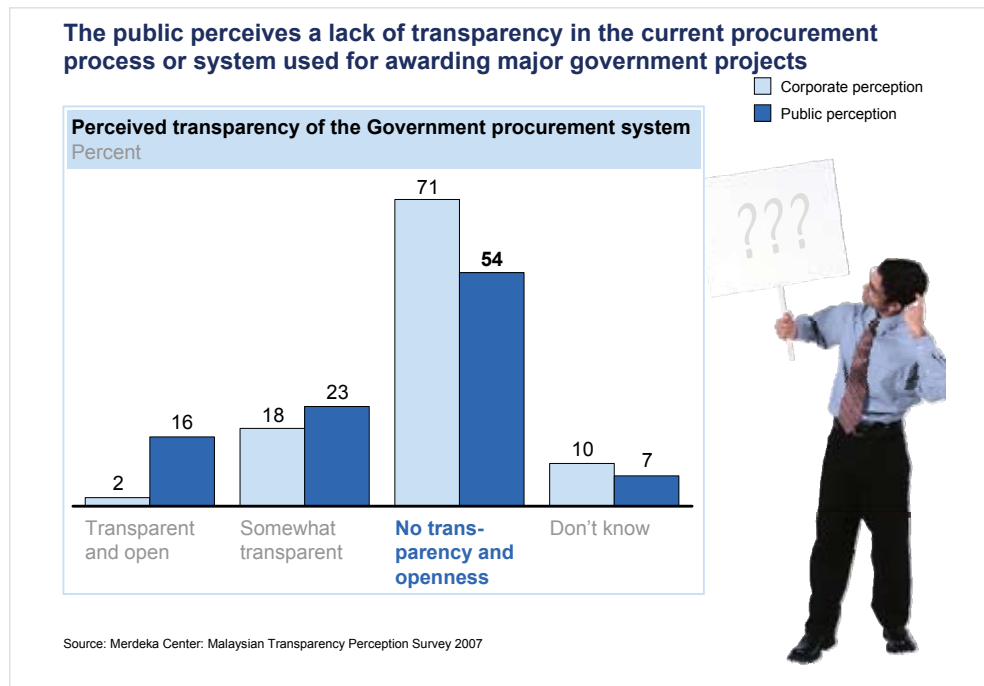


In addition to strengthening and empowering compliance units, we will also implement other initiatives designed to reduce the opportunity for corrupt practices to take place. This includes instituting job rotation to help prevent enforcement officers from forming collaborative relationships with criminal organisations and creating a league table of performance for all local authorities.

### 7.3.2 Reducing leakages of funds in government procurement

We will reduce leakages of funds allocated for national development and operational expenditure and ensure transparency in the award of contracts. Currently the public perceives that there is a lack of transparency in our procurement processes (Figure 7.4).

Figure 7.4



The setting up of a high-powered task force headed by the KSN to study and take action based on the 2008 Auditor-General's report is indicative of our stance in this area.

### Examples of areas to be improved

In the spirit of transparency, we published in full the Auditor-General's Report of 2008. This report highlighted situations which, if not properly managed, could provide opportunities for corrupt or improper practices in government departments and companies. Excerpts:

"...work done not in accordance with the original scope of works, increased project cost... unutilised facilities upon completion, improper payment made for works not done..."

"...weaknesses such as delay in declaring imported goods and payment of import duties/taxes...errors in classification and valuation...poor handling of Customs Declaration Forms..."

"...poor quality construction works..."

"...even though the original plan was to construct a paved road..., only a gravel road was built..."

"...delay in project completion that resulted in an estimated cost overrun of RM 1.43 billion, procurement of excess equipment..."

"...payments made to unqualified recipients...delay in distributing allocations..."

"...(improper) approval based (only) on a draft LP (Local Planning)..."

“...equipment procured at a much higher cost than market value, not less than RM 3.66 million worth of equipments not utilised or underutilised...”

“...approval of loans which does not meet the established criteria or without liquid assets or bank / corporate guarantees, loose process in the release of loans...”

“...no contract signed...”

“...finances not managed according to established regulations...”

To prevent a repeat of incidences like those reported by the Auditor-General, we will take the following actions:

- **Initiative 2: Define parameters of support letters**

We aim to gradually reduce the practice of support letters, which are often used to exert influence on civil servants to circumvent standard government policies and processes in obtaining contracts. Often, these interventions do not necessarily originate from politicians themselves, but from vested individuals who use the support letters as leverage to negotiate with the Government.

Understanding that it is difficult to change this practice overnight, we will phase in this initiative. Initially, we will issue a directive to the civil service that support letters and other associated forms of lobbying should not interfere with or circumvent our processes. The second phase will focus on issuing a directive to eliminate the practice of support letters. In addition, the Ministry of Finance (MOF) will follow up both directives with treasury circulars to all agencies and ministries to reject the content, and any associated recommendations and instructions, within support letters. The initiative will also be supported by a channel through which people can make anonymous reports of such interference to the MACC.

- **Initiative 3: Disclose details of government procurement contracts**

It is well established that transparency is crucial for a fair and efficient government procurement process. This is because transparency increases public scrutiny on the procurement process and helps ensure that accountability and well-defined policies, regulations and procedures have been put in place and followed closely.

Our analysis of the tender process showed that potential for negative public perception occurs at various stages, from project initiation and planning through to contract execution. People in both public and private sectors are particularly sceptical of unnecessary projects, award decisions that are not made public or sufficiently justified, project delays, contract variations and concealment of sub-standard work. This is supported by a number of recent media reports highlighting construction problems (e.g., defects on the Middle Ring Road 2, collapse of sections in the Terengganu Stadium), potential cost overruns and overpayment (e.g., Port Klang Free Zone, laptops purchased at RM 42,320 by a government college) and a lack of transparency in procurement policies, tender processes and budgeting.

The requirement for disclosure is already in place for government procurement processes. For example, Treasury Circular Letter No. 5, Year 2007 clause 43.4, requires respective implementing agencies to announce awarded projects and procurement, names of the successful contractors, contract sums and project period on the agency's notice board. It also requires that all tender decisions be

made public on each implementing agency's website as well as on the Government portal.

A review of implementing agency websites and interviews of representatives from large ministries (e.g., Ministry of Health, Ministry of Education, KDN) finds that disclosure compliance is lax.

### Government Procurement - Examples from Singapore and South Korea

Practices from other countries highlight that governments are moving toward greater transparency and complete information disclosure. For many, the information is disclosed at a one-stop centre, so that all information on procurement processes and decisions are readily available and easily accessible.

Singapore discloses key procurement information at its one stop e-procurement portal:

- Planned projects for purchases greater than SGD 200,000 in the fiscal year: including description of purchase and the name of purchasing ministry or state board
- Invitations for quotations or tenders: including description of tender or quotation and name of the calling entity
- Information on awards: including name of awarding entity, name of awarded party and value of award
- Information on government procurement: including administrative structure, procurement guide, procurement policies and procedures, complaint or appeal procedures and authority and rationale for debarment (including corrupt practices).

South Korea is also at the forefront of advances in government procurement. The following information is disclosed at its one-stop e-procurement portal:

- Invitation for quotation or tender: including description of tender or quotation, name of calling entity and estimated cost
- Information on award: including name of awarding entity, estimated cost, name of awarded party and value of award
- Information on government procurement: including administrative structure, relevant laws, procurement policies and procedures as well as codes of conduct

To correct this lax disclosure, we are now making the KSU and Director-General of each ministry and agency accountable to ensure that the following up-to-date information from their respective ministry and agency is disclosed:<sup>24</sup>

- Annual list of all procurement projects planned for which the budget is approved and allocated
- Details on awarded projects including names of the successful contractors, contract sums and project periods
- Procurement processes including main procurement processes for tenders (open and selective), quotations and direct purchases as well as guidelines on selection of tender committee and evaluation criteria and code of ethics.

Ministries must publish the information centrally at the e-Government portal, which will display a summary of projects for which procurement is planned and awarded by the respective ministries. From this portal, the public will be linked to the respective ministries' websites for further details on the projects or procurement.



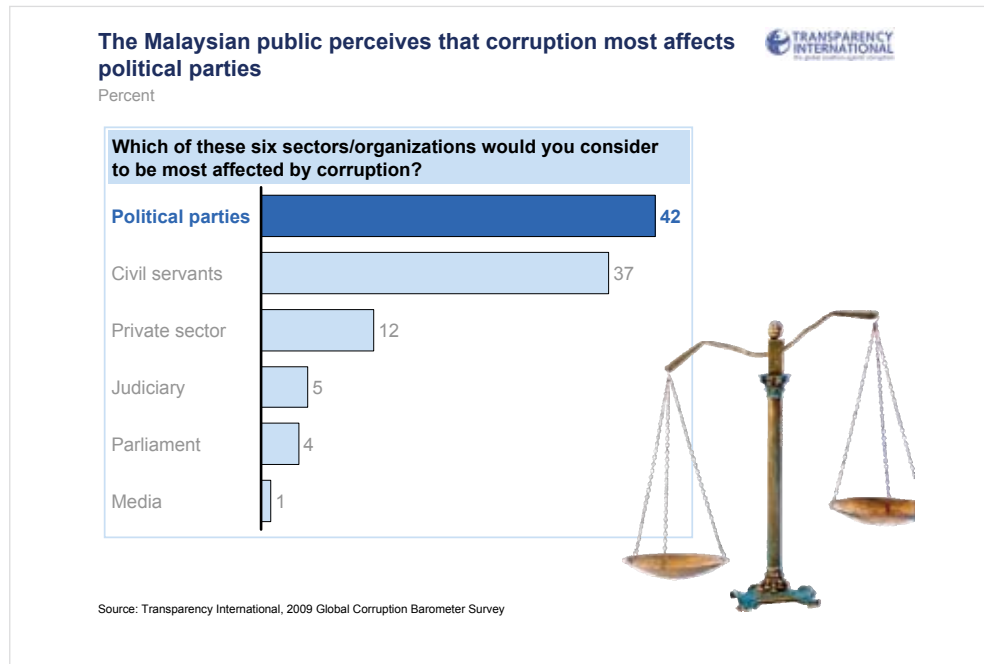
### 7.3.3 Tackling grand corruption

We must prevent the abuse of power and public resources by politicians and senior civil servants. In addition, we must correct the delivery of justice to ensure that all offenders, regardless of status and position, are prosecuted swiftly and harsh punishments are imposed on all convicted offenders. This is an important area to focus on, given that Malaysians perceive that both our political parties and civil servants are the entities most affected by corruption (Figure 7.5).

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<sup>24</sup> Does not include any information that is of national security interest / sensitive

Figure 7.5



While we acknowledge that it would be difficult to deliver fast results in this area, we are committed to implementing the following initiatives:

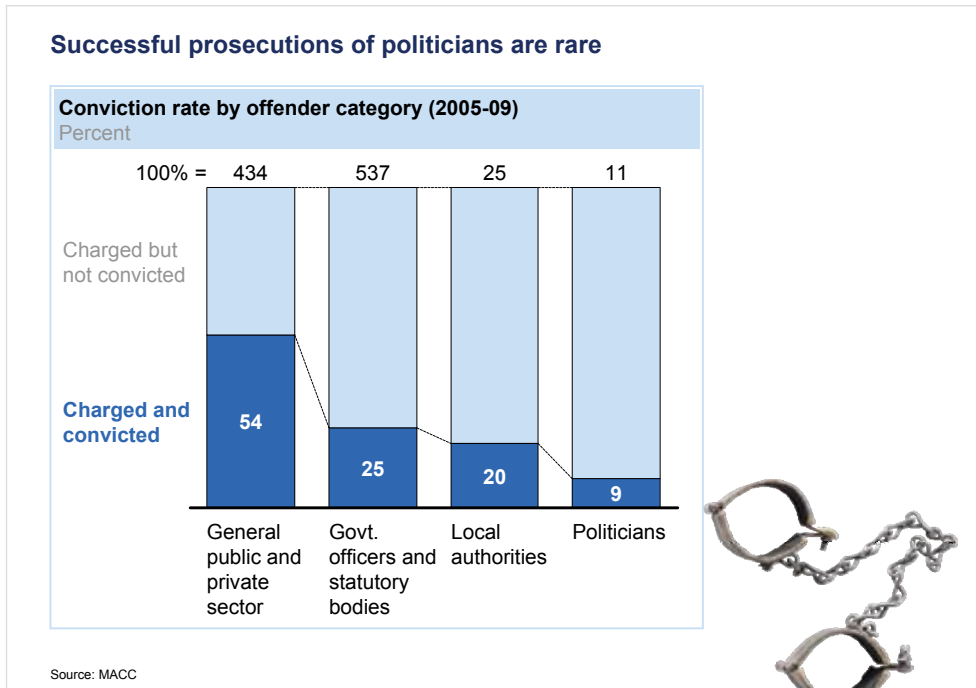
- **Initiative 4: Enforce existing political laws and conduct study to revamp political funding**

To enhance the level of transparency in the political funding process, we propose that politicians and political parties be required to disclose their sources of funding and expenditures to the appropriate agencies. At the same time, the Societies Act 1966 should be strictly enforced on all political parties to ensure that they submit reports to the Registrar of Societies in a timely and accurate manner. In addition, offences prescribed under the Election Offences Act 1954 will be closely monitored during election periods to prevent candidates from engaging in corrupt practices and ensure the integrity of their funding sources. To further strengthen this initiative, we will undertake a comprehensive study, within the bounds of the constitution, of the current political funding landscape in Malaysia. The study will assess the feasibility of introducing a holistic approach to political funding that comprises an enhanced disclosure process, cap on private donations and supplementary public funding.

- **Initiative 5: Announce zero tolerance policy supported by robust whistleblower protection framework**

While there have been many instances of high-ranking officials and ministers implicated in corruption cases which involved substantial sums of money, there has been a lack of transparency and coverage on the action taken in these high-profile cases. Successful prosecutions of powerful individuals are also rare (Figure 7.6), causing the public to believe that we are protecting politicians and politically linked individuals.

Figure 7.6



Hence to make it clear that we are not protecting politicians and politically linked individuals, we will announce a zero tolerance policy, which has three key messages:

- No one is above the law and all reported cases of corruption will be fully investigated regardless of the position or status of those involved
- Full disclosure: Details of convicted offenders will be made public as an act of deterrence
- Swift and harsh punishment will be meted out to those who are found guilty of corruption

To support our commitment against corruption, we will establish a comprehensive framework to protect whistleblowers, consisting of strong legislation and effective implementation mechanisms.

Legislation, which is a fundamental component of the whistleblower protection framework, will be focused on the scope of the protection, type of disclosures and nature of protection. The whistleblower protection law will need to cover any member of the public and private sectors who discloses wrongdoings as well as those who are required to assist in internal or external processes (e.g., performing investigations, carrying out audits).

The disclosures that we propose to protect will include abuse of authority, violation of laws and ethical standards, danger to public health or safety, gross waste, illegality and mismanagement. The disclosure should be made in “good faith” based on “honest and reasonable grounds at the particular time” without necessitating hard evidence from the whistleblower. The duty of gathering evidence will be tasked to investigative agencies to ensure that the whistleblower is not compromised. However, whistleblowers can provide evidence if it is available legally through the course of their work.

The nature of protection should cover protection from civil and criminal liability (e.g., defamation, breach of confidentiality and statutory secrecy provisions), protection of employment status (e.g., dismissal, suspension, discrimination), entitlement to relocate if necessary and entitlement on the part of the whistleblower to take legal action against any person or body responsible for any form of retribution taken against the whistleblower. In addition, the burden of proof for claims of retaliation is to be reversed: Reprisals will be assumed to have taken place if disciplinary actions cannot be justified. For example, a reprisal is deemed to have happened if a whistleblower is dismissed from work after a disclosure has been made, unless proven otherwise by management.

The whistleblower protection law will be supported by three mechanisms: an authorised agency, internal reporting structures and awareness campaigns.

We will establish an authorised agency tasked with implementing, overseeing and enforcing the whistleblower protection framework. The key responsibilities of this agency include: providing accessible channels for complaints, providing assistance with legal advice and receiving and investigating complaints.

Internal reporting structures or channels must be established within all government bodies and agencies to address complaints of wrongdoing, with the private sector also being encouraged to follow suit. While these channels should be easily accessible, the confidentiality of the whistleblower must be guaranteed. Whistleblowers who feel uneasy about reporting an offence internally will be encouraged to approach the authorised agency with their cases.

Awareness campaigns (e.g., through NGOs and the authorised agency) will be run to notify potential whistleblowers of their rights and the protections available to them as well as to counter any cultural stigma that depicts whistleblowers as individuals who betray the trust of their colleagues or employers.

- **Initiative 6: Strengthen independence of key institutions**

We have already undertaken significant reforms to promote the independence of key institutions, with major legislation such as the Judicial Appointments Commission (JAC) Act and the Malaysian Anti Corruption Commission Act, passed in 2009. However, there is still a perception that these and other check-and-balance institutions in this country are still not independent. We intend to reverse this perception and have defined two major areas in which we are prepared to act following a full study of the situation.

Study Area 1: We will undertake a study of the JAC to find ways to strengthen its role in providing recommendations for judicial appointments, within the bounds of the constitution. Areas for study will include:

- Operations – e.g., widen the JAC’s scope of duties and institute better implementation mechanisms
- Capability – e.g., boost the JAC’s capability to find and attract the best talented people for judicial appointments;
- Independence – e.g., increase the perception of the public of the JAC’s independence and transparency.

The study will be tasked to recommend changes for the short and long term that will result in restoring the public’s trust in the country’s judiciary (Figure 7.7).

Figure 7.7

Proposed considerations for study on JAC		
Action plan		
	Short term	Long term
<b>Procedure</b>	<ul style="list-style-type: none"> <li>▪ Greater and more transparent consultation process to source potential candidates                             <ul style="list-style-type: none"> <li>– Advertising of vacancy</li> <li>– Development of more thorough and specific job profiles</li> <li>– Formal consultation with the legal fraternity</li> </ul> </li> </ul>	
<b>Legislation</b>	<ul style="list-style-type: none"> <li>▪ Judicial Commissioners must also be nominated by the JAC as they are part of the superior courts*</li> <li>▪ Dismissal of committee members must be approved by Parliament</li> </ul>	<ul style="list-style-type: none"> <li>▪ Expand the selection process to include the appointment of Sessions Court judges</li> <li>▪ Increase the composition of eminent persons</li> <li>▪ Give JAC full control over its procedures but PM can request for review of decisions</li> </ul>

\* High Court, Court of Appeal, Federal Court

Study Area 2: A second study will be conducted to strengthen the independence of other key judicial institutions, within the bounds of the constitution. We will study initiatives to ensure that the institutions play a more important role in providing appropriate check-and-balance on our judiciary. Table 7.1 outlines the proposed considerations for further study.

Table 7.1: Proposed considerations for independence of key institutions

Institution	Initiative
<b>Auditor General's Office and Election Commission</b>	<ul style="list-style-type: none"> <li>• Appointments                             <ul style="list-style-type: none"> <li>– PM proposes a candidate to the King after agreement by Parliament or a subcommittee, e.g., Public Accounts Committee.</li> <li>– Appointments are made on a fixed-term, non-renewable basis, e.g., five years, to ensure independence and focus on the current tenure.</li> <li>– Institutions have a closed service scheme for employees to prevent interference from other parties with vested interest.</li> </ul> </li> <li>• Reporting                             <ul style="list-style-type: none"> <li>– Independent bodies report to Parliament through relevant subcommittee, which reviews its financing, planning and outcomes.</li> </ul> </li> </ul>

Institution	Initiative
	<ul style="list-style-type: none"> <li>- New parliamentary committee set up to monitor the Election Commission as well as other independent bodies chaired by the Speaker of the Dewan Rakyat</li> <li>• Budget                             <ul style="list-style-type: none"> <li>- Budget for independent bodies determined by Parliament based on recommendations of the Parliamentary subcommittee and upon consultation with the Government.</li> </ul> </li> </ul>
<b>MACC</b>	<ul style="list-style-type: none"> <li>• Appointment                             <ul style="list-style-type: none"> <li>- PM nominates a Chief Commissioner to the King after agreement by the Parliamentary Special Committee on Corruption</li> <li>- The Director of Prosecution is appointed from outside AG's Chambers e.g., retired judges and lawyers on a contractual basis to promote greater independence in prosecution of cases. The powers of the Director is still subjugated and derived from the Attorney General</li> </ul> </li> </ul>
<b>Attorney General's Chambers</b>	<ul style="list-style-type: none"> <li>• Reporting                             <ul style="list-style-type: none"> <li>- AG's Chambers' performance and conduct to be monitored by a Parliamentary Committee to ensure that prosecutions are done in a rigorous and fair manner</li> </ul> </li> </ul>

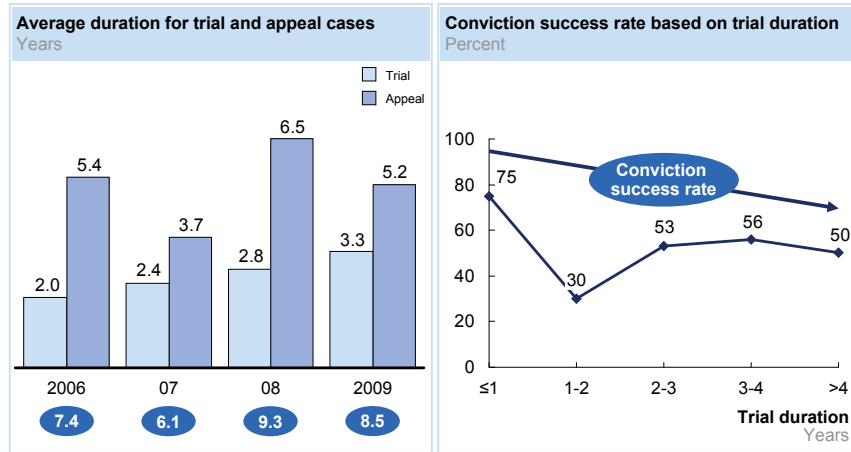
• **Initiative 7: Endeavour to complete prosecution of corruption cases within one year, particularly for public interest cases**

Currently, the average duration for the completion of a trial and appeal for a corruption case is 8.5 years (data from January to October 2009) (Figure 7.8). These lengthy trials and appeals increase the opportunity for material witnesses to go missing, witness and evidence tampering and fading of witness memory as well as witnesses getting frustrated or losing interest in the cases and thus becoming uncooperative. As a result, these lengthy processes have been shown to reduce the conviction rate and are also seen to delay the delivery of justice.

Figure 7.8

**Trial and appeal of corruption cases take about 8.5 years currently, hampering the delivery of justice**

Corruption cases, 2006-2009<sup>1</sup>



<sup>1</sup> 2009 data until month of October

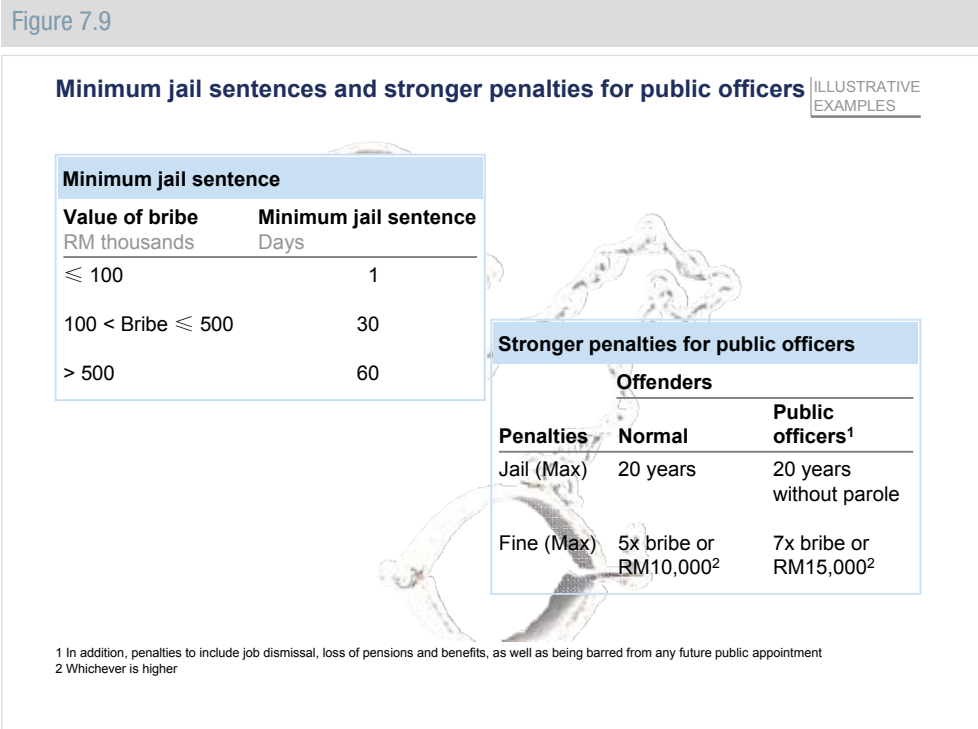
Source: Malaysian Anti Corruption Commission (MACC), DPP from Attorney General's Chambers

In order to ensure swift and efficient prosecution, procedures for the recording of witness statement and the delivery of subpoenas will be strengthened. In addition, strict timelines will be enforced on all prosecution processes and procedures. In line with this, the case handling capacity of the courts will also be increased through additional DPP appointments and the setting up of new special corruption courts.

• **Initiative 8: Enforce stiffer punishment**

Under the current Malaysian Anti-Corruption Commission Act 2009, there is no minimum sentence stipulated if an individual is found guilty of corruption. At the same time, for cases that are not prosecuted, departmental disciplinary actions taken are usually light (e.g., the issuance of warnings). This has resulted in the lack of deterrent against accepting bribes. Therefore, a minimum jail sentence via a tiered approach based on the severity of offences will be adopted as detailed in Figure 7.9. In addition, a harsher penalty structure will also be implemented for convicted public officers (civil servants and members of the administration, legislature and judiciary), as public trust and funds are involved.





Convicted public officers will also be removed from their positions, lose their pensions and other benefits as well as be barred from future public appointments. As for cases which are referred back to the relevant departments, there will be clear guidelines that align disciplinary actions to the severity of the offence. Delivery of such disciplinary actions will adhere to a fixed timeline to ensure that there are no unnecessary delays in the delivery of punishments.

There will also be long-term sanctions addressing the private sector. Currently, convicted offenders are not blacklisted and can still participate in government procurement. As such, government contracts will include clauses that subject convicted offenders to instant termination of contract without compensation as well as a five-year participation ban on any public contract.

- **Initiative 9: Develop a name-and-shame offender database**

A name and shame approach in the form of a public database, listing convicted offenders of corruption, will be implemented as an additional deterrent against committing corruption. In addition, the public database of offenders will also serve to facilitate employment decisions, especially for sensitive positions involving authority and trust.

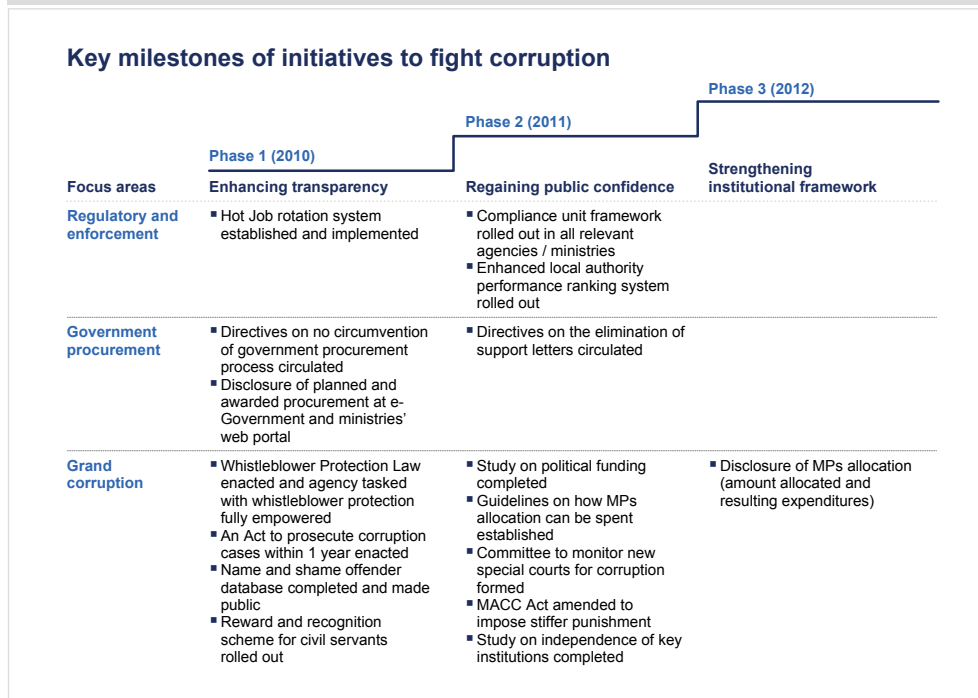
Currently, there is no easy way to check on corruption offenders. Those who are convicted can only be checked through reports in law journals, the Prisons Department or the Registrar of Criminals and Undesirable Persons. The database aims to rectify this and will be made available to the public via the MACC website. Only new records of convictions from 1 January 2010 onwards will be captured in this database. While information on offenders will be made public for three years, all information captured will be housed indefinitely in the database for internal reference.

In addition to these key initiatives, we will also implement other initiatives designed to reduce grand corruption. This includes disclosing the amount of government allocation and resulting expenditure of each MP and developing a reward and recognition scheme for civil servants who provide assistance in corruption cases.

## 7.4 Key milestones of initiatives

Based on the focus areas and the sequencing of the initiatives described above, Figure 7.10 illustrates what the rakyat can expect to see over the next 3 years. These explicit milestones are disclosed following feedback from the rakyat during the Open Days to provide further details on the tangible outcomes that will be achieved in our fight against corruption.

Figure 7.10



## 7.5 Transparent KPI measures and targets to define what success means

Progress in the public's overall perception of corruption and for each of these three focus areas will be tracked and reported against the following KPI measures (Table 7.2) along with respective annual targets. We believe these targets are sufficiently ambitious and if achieved would represent a significant improvement that the rakyat would be able to see and feel.

Table 7.2: NKPIs and targets for Corruption

Focus area	KPIs	Baseline	2010
<b>Public perception</b>	<ul style="list-style-type: none"> <li>• TI's Corruption Perception Index Score</li> <li>• TI's Global Corruption Barometer survey on government actions to fight corruption: – % answering "effective"</li> </ul>	<ul style="list-style-type: none"> <li>• 4.5</li> <li>• 28%</li> </ul>	<ul style="list-style-type: none"> <li>• 4.9</li> <li>• 37%</li> </ul>
<b>Regulatory and enforcement agencies</b>	<ul style="list-style-type: none"> <li>• Number of cases charged versus number of arrests for drug trafficking and possession under Dangerous Drugs Act</li> <li>• Number of summons settled versus number of summons issued by                             <ul style="list-style-type: none"> <li>– PDRM</li> <li>– JPJ</li> </ul> </li> <li>• Number of cases charged versus number of arrests and detentions under Immigration Law</li> <li>• Tax recovered from under-declared goods (in RM value)</li> </ul>	<ul style="list-style-type: none"> <li>• 75%</li> <li>• 50%</li> <li>• 60%</li> <li>• 53%</li> <li>• 9 million</li> </ul>	<ul style="list-style-type: none"> <li>• 80%</li> <li>• 61%</li> <li>• 78%</li> <li>• 60%</li> <li>• 21 million</li> </ul>
<b>Government procurement</b>	<ul style="list-style-type: none"> <li>• Number of audit findings on maladministration of procurement per ministry sampled</li> </ul>	<ul style="list-style-type: none"> <li>• 11.2</li> </ul>	<ul style="list-style-type: none"> <li>• 10.6</li> </ul>
<b>Grand corruption</b>	<ul style="list-style-type: none"> <li>• Percentage of trials completed within one year</li> <li>• Number of people in the database of convicted offenders</li> </ul>	<ul style="list-style-type: none"> <li>• 8.5%</li> <li>• 0</li> </ul>	<ul style="list-style-type: none"> <li>• 30%</li> <li>• 84</li> </ul>

Additional KPIs and targets will be defined and announced in Q1 2010, once an independent survey covering the public perception of the level of corruption (specifically grand corruption) is completed.

## 7.6 Early signs of progress seen on corruption

Even at this early stage, we have begun working with other institutions, such as Parliament, to signal our serious intent to combat corruption. Some of the actions that have already been started are:

- 14 Special Corruption Sessions Courts and 4 Special Corruption High Courts have been included in the 2010 Budget and will be established to accelerate trials for corruption

- Formulation of the Whistleblower Act was announced by the Prime Minister during his 2010 Budget speech. The Act aims to encourage informers to expose corrupt practices and other misconduct and will give them immunity from civil or criminal charges
- A study by the MACC to conduct a study to plug loopholes and opportunities for misuse of constituency funds by state assemblymen and MPs has been completed. The MACC's state directors have already been tasked to brief elected representatives on how to manage their allocations and the right procedures to prevent abuse or misuse
- The MACC's request to add 600 people to its headcount has been approved and included in the 2010 Budget. This is a great boost for the MACC, as its previous request for manpower was put on hold. With additional capacity, the MACC will be able to strengthen its enforcement efforts.

While these are modest steps, our level of transparency in dealing with the above cases has been unprecedented. This is only the beginning – over the following 12–36 months, we will continue to implement other initiatives as outlined above in our efforts to meet the NKRA targets in fighting corruption.

### **7.7 The rakyat has a major role in fighting corruption**

The rakyat can play an important role in our fight against corruption by letting their leaders know that current practices cannot continue, exercising pressure and serving as a watchdog of reform. A strong voice from the rakyat (and media) expressing frustration and anger on how corruption is currently being managed will make a difference. Currently this sentiment is only being stressed by a small number of bloggers and NGOs, which are insufficient to support the tide of change that some politicians are advocating.

We urge the rakyat to step forward and report all known cases of corrupt practices or activities and provide information to assist in the investigation against those charged with corruption. We cannot prosecute without sufficient evidence and witnesses, and the lack of these has resulted in many reported cases ending in acquittals. Our fight against corruption needs the rakyat's support and co-operation.

