

# National Integrity System

*A Guiding Framework*



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UNDP-IIM CAPACITY BUILDING PROJECT





TUN DR. AHATHIR MOHAMAD

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*A Guiding Framework*



PUSTAKA PERDANA



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UNDP-IIM CAPACITY BUILDING PROJECT



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# Foreword by the Chairman of the Board of Directors, Malaysian Institute of Integrity

It started with a discussion between Datuk Dr Sulaiman Mahbob (President, Malaysian Institute of Integrity, 2004–6) and Dr Richard Leete (Resident Representative, United Nations Development Programme) in January 2005. The result was the formation of a strategic alliance via a Memorandum of Understanding document (signed in the presence of the Honourable Prime Minister of Malaysia, Dato' Seri Abdullah Haji Ahmad Badawi in April 2005) and a Capacity Building Project document (approved by the Economic Planning Unit, Prime Minister's Department, in June 2005). The terms of reference were very specific: to develop the necessary human capital and knowledge resources within the Malaysian Institute of Integrity, also known as Institut Integriti Malaysia (IIM), and to pilot a participatory modality of engaging state-based stakeholders in implementing the National Integrity Plan. One key strategy was to identify and consult notable authorities in the good governance circle so as to substantively build upon the plan in a coherent and systematic manner. Hence, the appointment in August 2005 of Jeremy Pope, a renowned scholar and institution builder, to help frame IIM's curriculum befitting the globally-accepted benchmarks.

Mr. Pope has successfully facilitated a week-long course on 'National Integrity System' in mid-October 2005 for 70 Master Trainers from the Malaysian public service, private training firms and civil society organizations. He has also delivered a lecture on 'Making Integrity Work' to senior government officials and business leaders in Putrajaya. It is from the feedback collected in these sessions that he has written this document, as an extension to his earlier works on anti-corruption and transparency, in an integrity system framework.

From Mr. Pope and other authorities on ethics and integrity, IIM has learnt lessons that help shorten the learning curve of our key resource persons. Through them we have forged lasting linkages with common-interest parties. Within the span of three years, we have built a credible resource centre of ethics and integrity literature, formalized personal ties with anti-corruption experts via the World Ethics and Integrity Fora, as well as organized intellectual discourses on current issues of ethical concern through the regular public fora. These efforts may seem diverse but our resolve is singularly focused on strengthening the integrity system within the network of good governance stakeholders of Malaysia as inspired by the philosophical virtues of the Rukunegara.

On behalf of the UNDP IIM Capacity Building Project Team, I commend Mr. Pope for his pertinent pointers on the guiding framework for a credible national integrity system and I appeal to all concerned stakeholders to digest them within the context of Malaysia's National Integrity Plan. These pointers were put forth by Mr. Pope for our consideration. I wish to thank Dr Richard Leete of UNDP, Dato' Haji Yaacob Hussin of MAMPU as the Chairman of the National Steering Committee, the Economic Planning Unit, the Auditor-General Office, the Anti-Corruption Agency, both immediate past presidents of IIM, Datuk Dr Sulaiman Mahbob and Dato' Seri Dr Isahak Yeop Mohamad Shar, and IIM Private Sector Division for their professional assistance and invaluable contribution to the project.

Thank you.



TAN SRI MOHD SIDEK BIN HJ HASSAN  
Chairman of the Board of Directors  
Malaysian Institute of Integrity

# Foreword by the UNDP Resident Representative for Malaysia, Singapore and Brunei Darussalam

United Nations Development Programme (UNDP) views the fight against corruption as crucial in strengthening democratic governance, and in enhancing accountability and transparency in government institutions. In many cases, corruption remains one of the main obstacles to achieving equitable development and thus, one of the main barriers in eradicating extreme poverty. Corruption destabilizes democratic institutions, discriminates in the distribution of resources, and violates the rights of people.

The United Nations Convention Against Corruption (UNCAC), which calls on governments to implement a range of anti-corruption measures affecting their laws, institutions, and practices, is a step forward in combating corruption. In part to support the implementation of the UNCAC, and in part to help promote pro-poor development, UNDP works on developing the capacity of institutions and individuals to combat corruption at the country level.

The greatest impact of corruption is on the poor, especially women and the disadvantaged—those least able to absorb its costs. By illegally diverting public funds, corruption undercuts services, such as health, education, public transportation, and local policing. Petty corruption imposes additional costs on citizens. Service provisions are often perceived to be inadequate, while payment is sometimes required for the delivery of even the most basic of services.

UNDP fully supports the efforts of the Honourable Prime Minister of Malaysia, Dato' Seri Abdullah Haji Ahmad Badawi, to foster a culture of integrity, and to develop a society free of corruption. In particular, we welcome his vision of a multi-ethnic Malaysia maturing 'into a higher economic, political and cultural plane' where the rules of engagement demand excellence, integrity, and social responsibility. To this end, we are pleased to partner the Malaysian Institute of Integrity (IIM) in monitoring and coordinating the implementation of the National Integrity Plan, formulated to enhance ethical values and integrity across all sectors of the economy.

Since its inception in September 2005, the UNDP-IIM Capacity Building Project Team has implemented numerous strategic initiatives, the latest being the publication of this book. This book brings together a wealth of knowledge and ideas, including best practices, pertaining to the development of Malaysia's National Integrity System. It also contains valuable feedback obtained from participatory gender-focused and faith-based workshops, stakeholder consultations, and technical meetings organized by the IIM.

A work of this magnitude is the outcome of the collaboration of numerous organizations and people. I would like to thank the President of the IIM, Dato' Seri Dr Isahak Yeop Mohamed Shar, and his predecessor, Datuk Dr Sulaiman Mahbob, for their clear leadership and effective monitoring of the UNDP-IIM Capacity Building Project. I would also like to thank Jeremy Pope for his inspired guidance of the project team, his many substantive inputs, and his contribution to the writing of this book. Thanks are also due to members of the National Steering Committee under the chairmanship of Dato' Haji Yaacob Hussin for their ongoing support. Last but not least, I would like to express my appreciation to Mohd Nizam Mohd Ali and the many unnamed individuals who participated in the project and contributed to the preparation of this book. I hope that the critical insights and diverse ideas it contains will prove useful and relevant to all those interested in reducing corruption and enhancing integrity.

*Richard Leete*

DR RICHARD LEETE  
UNDP Resident Representative  
for Malaysia, Singapore and Brunei Darussalam

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# Preface

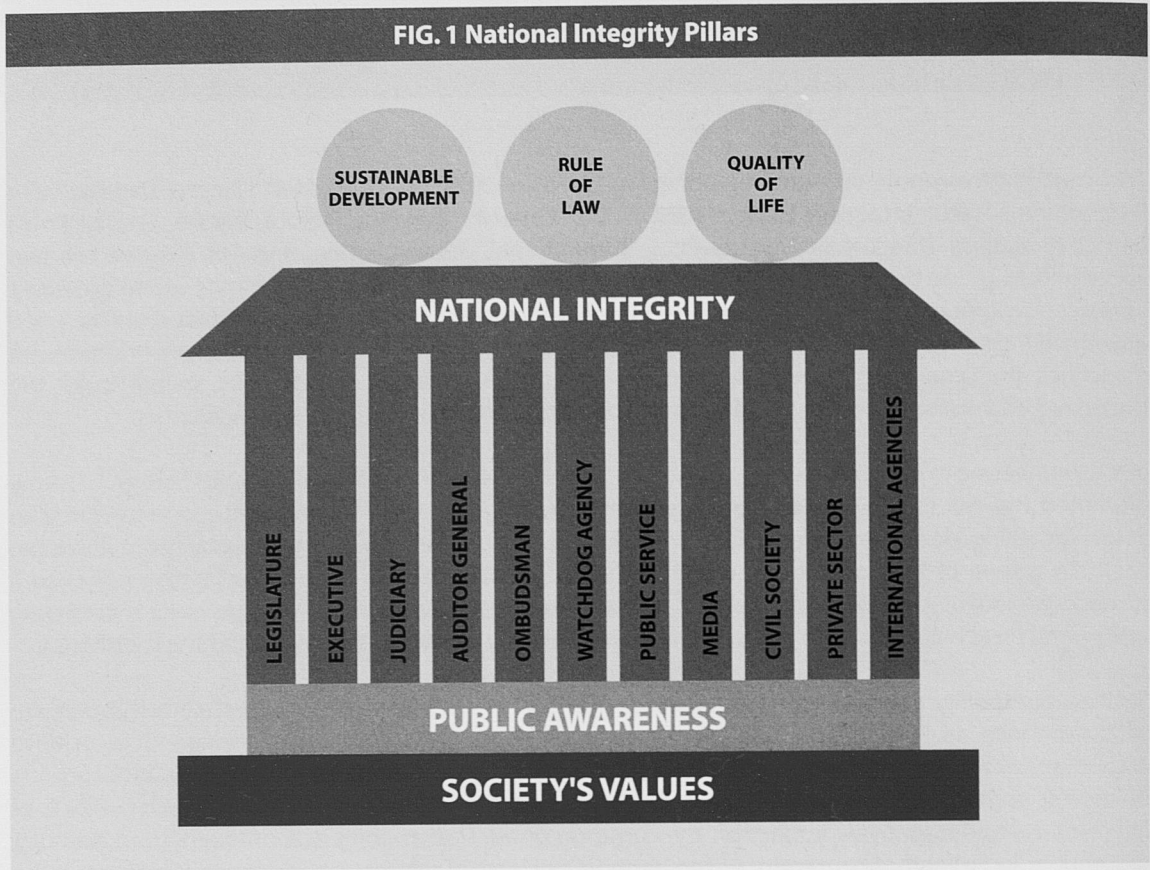
This consultative report was commissioned in October 2005 by the United Nations Development Programme–Institut Integriti Malaysia (UNDP–IIM) Capacity Building Project 2005/6. Jeremy Pope, former Managing Director of Transparency International, Berlin/London, and TIRI Co-director, was appointed to guide the project team and prepare the report. Its Terms of Reference are to provide a framework within which Malaysia’s National Integrity Plan could be properly placed vis-à-vis the good governance theoretical and best practices working contexts. It is also intended to provide relevant guidelines for promoting informed discourse among IIM internal stakeholders, in particular the leadership and management teams and their appointed external members and facilitators.

In his pioneering work, *Confronting Corruption: The Elements of a National Integrity System*,<sup>1</sup> Jeremy promoted the call to move away from a system which is essentially top down (i.e. one in which an autocratic ruling elite gives orders which are followed, to a greater or lesser degree, by those down the line) to a system of ‘horizontal accountability’ (i.e. one in which power is dispersed, where none has a monopoly, and where each is separately accountable). Under such a system, a ‘virtuous circle’ is perfected: one in which each actor is both a watcher and the watched as well as a monitor and the monitored.

Such accountability mechanisms, when designed as part of a national effort to reduce corruption, are what comprise an ‘integrity system’. This system of checks and balances is designed to achieve accountability among the various arms and agencies of the government. The system manages conflicts of interest in the public sector, effectively disperses power and limits situations in which conflicts of interest arise and negatively impact on the common good. This involves accountability, transparency, prevention, and penalty. An integrity system embodies a view of reform and addresses corruption in the public sector through government processes (leadership codes, organizational change, legal reforms, procedural reforms in bureaucracies, etc.) and through civil reforms. The primary emphasis is on reforming and changing systems, rather than on blaming individuals.

A ‘National Integrity System’ reform programme can accommodate a piecemeal approach, but this must be coordinated within the bounds of a holistic programme which embraces each one of the relevant areas and their interrelationships. Underpinning the integrity system approach is the conviction that all issues of contemporary concern in the area of governance—capacity development, results orientation, public participation, and the promotion of national integrity—need to be addressed in a holistic fashion.

<sup>1</sup> Jeremy Pope, *Confronting Corruption: The Elements of a National Integrity System*, Berlin and London: Transparency International, 2000.

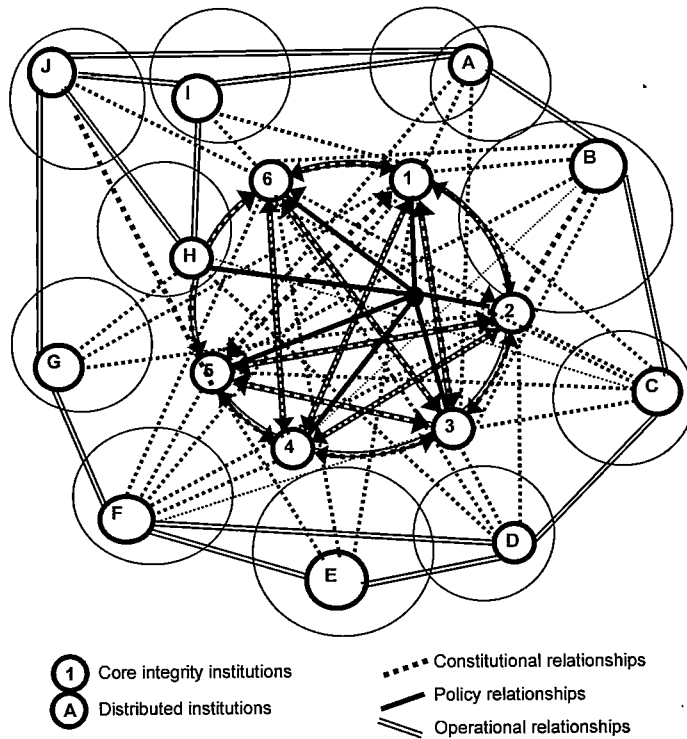


While there are variations around the world, the most recognized ‘integrity pillars’ (Fig. 1) of a society seeking to govern itself in an accountable fashion include the following:

- the Executive
- Parliament
- the Judiciary
- the Civil Service
- ‘Watchdog’ agencies (Public Accounts Committee, Auditor-General, Ombudsman, Police, Anti-Corruption Agency, etc.)
- Civil Society (including the professions and the private sector)
- the Mass Media, and
- international agencies.

Another variation of an integrity system model is the Bird's Nest metaphor, proposed by Charles Sampford, in his 'Integrating Integrity' lecture<sup>2</sup> at the World Ethics and Integrity Forum, 2005, Kuala Lumpur. The Bird's Nest is there to protect and support the 'egg of integrity'. Individual twigs are put together, and though weak each by itself, they interact with one another to produce a strong and effective nest (Fig. 2).

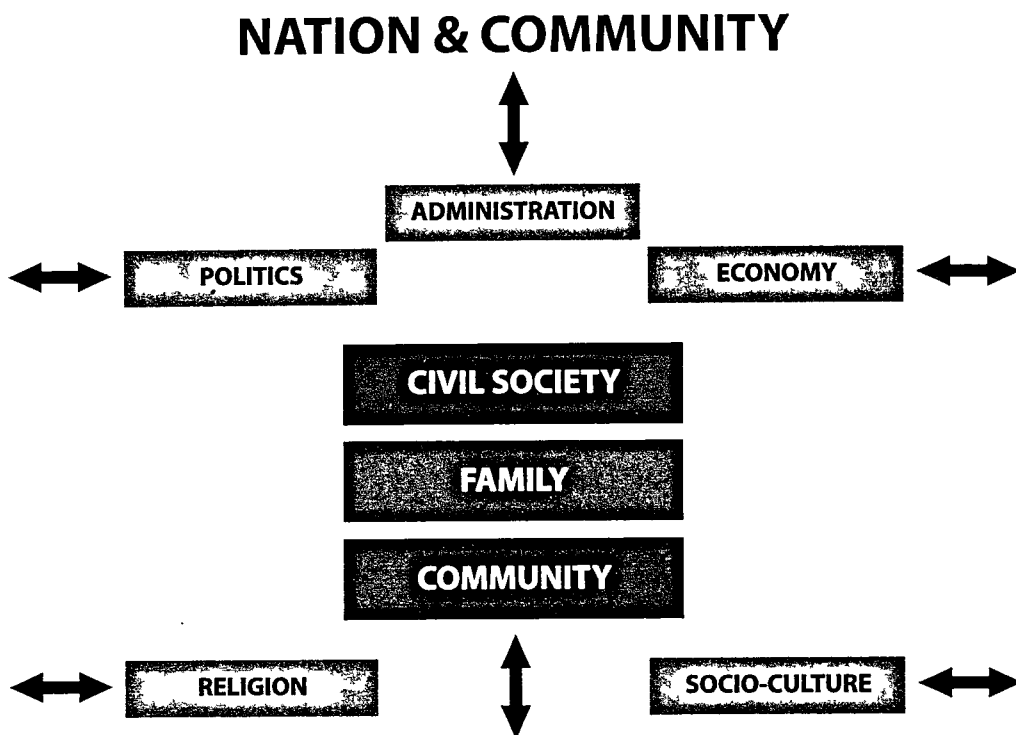
**FIG. 2 Integrity System's 'Bird's Nest'**



The National Integrity Plan of Malaysia documented a more humane version of an integrity system by introducing the family as the core institution around which other institutions fit in symbiotically (Fig. 3). Its approach is to coordinate the various components and sectors in their efforts to enhance integrity by requiring the governance institutions (i.e. the Executive, Legislative, and Judiciary) to respect and defend the principle of separation of powers, and to perform their respective functions efficiently and effectively, justly and with full transparency. There are other institutions, namely civil society and the community, religion, politics, administration, economics and socio-culture, which provide cross-linkages with one another in the societal and national framework. By introducing the family as the binding core, the National Integrity System of Malaysia gives space for individual virtues, traditional values, and belief systems to be nurtured within the citizen concerned.

<sup>2</sup> Charles Sampford, 'Integrating Integrity', Proceedings of the World Ethics and Integrity Forum 2005, Malaysian Institute of Integrity, Kuala Lumpur, 28 April 2005.

**FIG. 3 Model for the Enhancement of Integrity<sup>3</sup>**



This report has been validated by subjecting the initial draft to be read and commented upon by IIM members. A panel consisting of relevant academicians, civil society representatives, and policy shapers was established to conclusively debate these comments. The panel recommendations were then discussed with Jeremy Pope and a joint editing task force was commissioned. A final draft was presented to the National Steering Committee for its approval and the final version forwarded to the Board of Directors of IIM for final acknowledgement.

This work is intended for local publication and for internal circulation among the IIM network of integrity and anti-corruption stakeholders. A Malaysian-developed reference work is scheduled to be commissioned by the Project Team in the next phase which hopefully will bring in domestic case studies and insights for public knowledge.

May Allah bless us with the sincerity of purpose and true knowledge in this eternal quest for wisdom and endow us with a blissful life here and hereafter.

MOHD NIZAM MOHD ALI  
 UNDP-IIM Capacity Building Project Secretariat

<sup>3</sup> National Integrity Plan model.

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# Abbreviations

ACA	Anti-Corruption Agency
BBC	British Broadcasting Corporation
BPI	Bribe Payers Index
CPI	Corruption Perceptions Index
CSR	Corporate Social Responsibility
EU	European Union
FATF	Financial Action Task Force
FCPA	Foreign Corrupt Practices Act (USA)
FDI	Foreign Direct Investment
FOI	Freedom of Information
FOMCA	Federation of Malaysian Consumers Associations
GDP	Gross Domestic Product
HKICAC	Hong Kong Independent Commission Against Corruption
ICAC	Independent Commission Against Corruption
ICC	International Chamber of Commerce
IFI	International Financial Institution
Interpol	International Criminal Police Commission
IP	Integrity Pact
IPCC	Independent Police Complaints Commission
IPOs	Initial Public Offerings
IPSIG	Independent Private Sector Inspector-General
IRA	Irish Republican Army
MAMPU	Malaysian Administrative Modernization and Management Planning Unit
MIA	Malaysian Institute of Accountants
MNIS	Malaysia's National Integrity System
MP	Member of Parliament
MRT	Mass Rapid Transit (Singapore)
MASB	Malaysian Accounting Standards Board
NGO	Non-Governmental Organization
NIP	National Integrity Plan
NIS	National Integrity System
NSW ICAC	New South Wales Independent Commission Against Corruption (Australia)
NYPD	New York City Police Department (USA)
OECD	Organisation for Economic Cooperation and Development
OGE	Office of Government Ethics (US)
OPEN	On-line Procedures Enhancement (Seoul)
OSA	Official Secrets Act
PAC	Public Accounts Committee
PCB	Public Complaints Bureau
PCPC	Permanent Committee of Public Complaints
RCMP	Royal Canadian Mounted Police
SCA	School Construction Authority
TI	Transparency International
UNCAC	United Nations Convention Against Corruption
UNCITRAL	UN Commission on International Trade Law
WTO	World Trade Organization

# Executive Summary

This consultative work is intended to promote discussion among the global community and local stakeholders about the various elements in a National Integrity System. A holistic constitutional and institutional framework that collectively protects and promotes a nation's integrity has been put forth with specific references made to the roles inherent in a working democratic modality of governance.

In the unique framework of Malaysia's National Integrity Plan, a variety of stakeholder groups (e.g. family, community, administration, and the general population) make up the logical and structural pillars of a working integrity system. In their various ways, families and groups protect the ethical standards of their members. Similarly, there is a socio-cultural mechanism that ensures accountability and promotes ethical conduct among those whose activities impact on public welfare. This framework embraces all of society—the public and the private sectors, as well as civil society. It is discussed comprehensively in this work as a National Integrity System (NIS).

The overall purpose of a National Integrity System is to provide a system of governance that creates trust among citizens. As Confucius told his disciple Tzu-kung, three things are needed for government: weapons, food, and trust. And of the three, the contemporary philosopher, Onora O'Neill, suggests that trust should be guarded to the end because 'without it we cannot stand. Elaborate measures to ensure that people keep agreements and do not betray trust must, in the end, be backed by—trust.'<sup>1</sup>

A National Integrity System is the sum total of institutions, processes, people, and attitudes that collectively work to create trust by ensuring that entrusted power is exercised with integrity. It is important to keep this whole picture in mind when developing reform programmes. Many countries have reform programmes that fail to achieve their objectives because of the piecemeal—or 'sticking plaster'—approaches they have adopted. For example, they have frequently focused on the passage of new laws, overlooking the lack of capacity for their enforcement. Certainly, a sound legal structure is essential, but it has to be thought out in a holistic fashion and be appropriate for the institutions that are to administer it.

A cursory assessment of the roles played by Malaysian society and traditions suggests that the family lies at the very heart of the nation's integrity and plays the most important role of all in nurturing the development of people and citizens of integrity. In fact, it is the core of the integrity system modality which Malaysia, as an emerging developed country, offers to the world to consider.

This is reinforced by a legal framework of institutions, laws, and practices that creates a system of governance that is kept just and honest through systems of accountability. Each institution and group is accountable in one way or another to other institutions and groups within the system. None is above the law. The system is designed, through the Constitution and subsequent legislation, to ensure that the Rule of Law prevails, and that any government functions under the law and is kept within constitutional bounds by an independent Judiciary.

<sup>1</sup> Onora O'Neill, *A Question of Trust: The BBC Reith Lectures 2002*, Cambridge: Cambridge University Press, 2002.

This is not to suggest that there is any 'perfect' system of governance that a country should emulate. It is for every nation and government to formulate the institutions and practices that best suit their traditions and circumstances. However, all societies throughout the world are facing challenges of some sort, and it is generally considered useful to examine the responses that others may have developed to see whether experience gained elsewhere might be helpful in developing a country's own local responses.

This working document seeks to identify some of the many positive features of Malaysia's governance 'landscape', with a view to fostering discussion and the development of policies which can build on these so that the country's level of integrity may be even higher than it is today. It also acknowledges the initiatives which have been made by the Malaysian Institute of Integrity since its establishment in 2004, in building the necessary capacity and in enhancing institutional capability. This work is exploratory in nature, and it is hoped that further research would be done to strengthen each pillar of the National Integrity System as well as enhance the linkages with international bodies and sources of authority.



**PART 1**  
**INTRODUCTION**



# National Integrity System: Measuring Trust

*The plain truth is that if you were to remove certain subtle safeguards in society many men who had been respectable all their lives would be transformed by the discovery of the things which it was now possible to do with impunity.<sup>1</sup>*

Just as families and groups in various ways protect the ethical standards their members share, so, too, is there a framework that ensures accountability and promotes ethical conduct on the part of those whose activities impact on the public welfare. This framework embraces all sections of society—the public and the private sector, as well as civil society. This we can call a National Integrity System (NIS).<sup>2</sup>

## Purpose of a national integrity system

The overall purpose of a National Integrity System is to provide a system of governance that creates trust among citizens. As Confucius told his disciple Tzu-kung, three things are needed for government: weapons, food, and trust. And of the three, the contemporary philosopher Onora O'Neill suggests that trust should be guarded to the end: 'Without trust we cannot stand ... Elaborate measures to ensure that people keep agreements and do not betray trust must, in the end, be backed by ... trust.'<sup>3</sup>

A National Integrity System is the sum total of institutions, processes, people, and attitudes that collectively work to create trust by ensuring that entrusted power is exercised with integrity in any given society. It is important to keep this whole picture in mind when developing reform programmes. Many countries have reform programmes that fail to achieve their objectives because of the piecemeal—or 'sticking plaster'—approaches they have adopted. For

example, frequently these programmes have focused on the passage of new laws, overlooking the lack of any capacity for the new laws to be enforced. Certainly, a sound legal structure is essential, but it has to be thought out in a holistic fashion and be appropriate for the institutions that are to administer it.

## Basis of a national integrity system

In an effective integrity system, the relationships between the various elements of the system will be based on the powers and responsibilities set out in the Constitution as well as in other laws. There will be mutual involvement in each other's knowledge gathering or policy formation, and support for each other's operational effectiveness. Some relationships will be supportive, some procedural, and some will involve checks and balances. The system will manage conflicts of interest in the public sector, effectively dispersing power and limiting situations in which conflicts of interest can arise or have a negative impact on the common good. This will involve accountability, transparency, prevention, and penalty.

Meaningful change is unlikely to come about in the absence of strong political will, and any focus that concentrates on junior posts and does not address the apparent shortcomings of a leadership is not only a failure but a perpetration of apparent injustices. The National Integrity System is the concern of all, and not just the political party in power for the time being. It should be sufficiently robust to withstand the ebb and flow of political allegiances and changes in government. The concept of the National Integrity System thus allows the reformer to see how improvements can be brought about in a sustainable fashion.

<sup>1</sup> Herbert Butterfield, *Christianity and History*, London: Fontana Books, 1958, p. 45.

<sup>2</sup> The term used by Transparency International for much of the last ten years and widely adopted by multilateral and bilateral aid agencies. More developed accounts can be found in Jeremy Pope, *Confronting Corruption: The Elements of a National Integrity System*, Berlin and London, Transparency International, 2000; N. Preston, C. Sampford, and C. Connors, *Encouraging Ethical Leadership: Challenging Corruption: Reforming Governance in Public Institutions*, Sydney: Federation Press, 2002.

<sup>3</sup> Onora O'Neill, *A Question of Trust: The BBC Reith Lectures 2002*, Cambridge: Cambridge University Press, 2002.

It is today universally recognized that official corruption cannot always be assumed to be simply a problem of individual 'bad apples' and therefore just a matter for law enforcement. Rather, it is often a systemic problem requiring systemic solutions. The 'bad apple in the barrel' theory in corruption scenarios has long been exposed as fallacious. It is simple enough to remove a 'bad apple', but unless systemic changes are made, the person who takes his or her place is exposed to precisely the same temptations, pressures, and opportunities as before.

An integrity system embodies a comprehensive view of reform, addressing corruption in the public sector through government processes (leadership codes, organizational change, legal reforms, procedural reforms in bureaucracies, etc.) and in the private sector through civil reforms and improved corporate governance. The primary emphasis is on reforming and changing systems rather than on blaming individuals.

Prior to the 1990s, serious and widespread ethical lapses were viewed as a 'law and order' problem, and a common response was the creation of a single, very powerful, anti-corruption agency along the lines of the Hong Kong Independent Commission Against Corruption (HKICAC). However, this model has been criticized for placing too much reliance on a powerful single institution—one that can itself be used politically to corrupt ends if care is not taken with the design.<sup>4</sup>

In the 1990s, reforms in Queensland and Western Australia (two Australian states plagued by corruption) reflected a fresh approach. The answer to corruption was viewed not so much as resting in a single institution, let alone on a single law, but rather in the institutionalization of integrity through a number of agencies, laws, practices, and ethical codes. In effect, the goal became the institutionalization of integrity throughout the entities concerned.

The concept of National Integrity Systems was highlighted at an early stage by the Economic Development Institute of the World Bank and other bodies within the UN system.<sup>5</sup> Since then, the development of National Integrity Systems has become a central means for reducing corruption and promoting integrity in both developed and developing countries.

## Core principles of a national integrity system

Important developments in the concept recognize the following underlying principles:

- There is no uniform model of an integrity system and no 'one size fits all' template;
- Integrity institutions vary from country to country, and their roles vary;
- Some countries have high levels of integrity even though they may lack some of the integrity institutions others believe to be critical on the other hand, other countries are highly corrupt despite having them all;
- There is a need to start any process of reform with a description of what is already there and functioning, rather than simply identifying the Western-modelled institutions that may, or may not, be present.

As Malaysia's National Integrity Plan (NIP) makes plain, public sector ethics are crucial. It has been said that 'if men were angels we would need no laws', and it is axiomatic that even the most perfectly designed institutions can be rendered corrupt if key people within them lack integrity. It is also important to bear in mind the fact that accountability is designed to promote the functioning of government, not to impede it. Such measures need to facilitate professional Public Service work; they should not, as in some countries with police work in particular, be so demanding as to reduce a department's capacity to discharge its mission.

<sup>4</sup> John Heilbrunn, 'Anti-Corruption Commissions: Panacea or Real Medicine to Fight Corruption?', World Bank, 2004, <http://siteresources.worldbank.org/WBI/Resources/wbi37234Heilbrunn.pdf>.

<sup>5</sup> An early working paper was later published by Petter Langseth, Rick Stapenhurst, and Jeremy Pope: 'The Role of a National Integrity System in Fighting Corruption', *Commonwealth Law Bulletin*, 499 (1997): 23.

## Concept of accountability

In the past, many saw accountability as being confined to a vertical process, with officials accountable to their superiors and elected officials answerable to the ballot box. More recently, it has been realized that accountability also has a horizontal element, with officials accountable across a network of relatively autonomous powers (i.e. other institutions) that can call into question, and eventually punish, improper ways of discharging the duties of a given office.

The concept of 'horizontal accountability' has been developed by Guillermo O'Donnell, who explains its origins thus:

The mistrust of power, especially of power that can muster overwhelming coercion on its behalf, is as old as human society. We saw that already at its origins democracy and republicanism shared this mistrust, and invented several institutional controls that contemporary democracies have inherited. These controls are based on the idea of dividing and, as far as possible, balancing various agencies located at the apex of that 'something' (whether it is called kingdom, empire, republic, or state) that can issue collectively binding decisions and back them with the supremacy of coercion. The idea that division and balance may produce checks among the feared powers is, of course, as old as Aristotle and Polybius, but nobody put it better than Madison:

Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature that such devices should be necessary to control the abuses of government. But what is government itself but the greatest of all reflections on human nature?

In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.

This policy of supplying, by opposite and rival interests, the defect of better motives might be traced through the whole system of human affairs, private as well as public [so] that each [power] may be a check on the other—that the private interest of every individual may be a sentinel over the public rights. These inventions of prudence cannot be less requisite in the distribution of the supreme power of the State.

Furthermore, by means of a brilliant innovation that runs counter to the views of 'the oracle', Montesquieu and the common sense of the times, Madison devised, as he put it, further 'auxiliary precautions': since he was persuaded that a sheer separation of powers was not enough guarantee of control, he advocated that these powers would better check each other if each of them had some jurisdiction over important decisions of the others. Consequently, what this constitution created was not separation of powers but the partial interpenetration of mutually autonomous and relatively balanced powers.

In some of his tracts Madison expresses, rather inconsistently with the assumptions that inspired his extraordinary institutional design talents, the hope that anyhow virtuous republicans would govern. But this clearly was not the guiding thrust of his arguments: it was that it would be extremely unwise to design political institutions ignoring that human beings are likely to abuse the power these institutions confer upon them.

But notice that none of these institutional controls prevents that a collusion among the relevant powers may run roughshod over their subjects. Here ... liberalism erects another set of barriers: it asserts there are some rights that no political power may ignore or [a]void, because in some sense and for some reason these rights are superior to and/or precede that power. Of course, political and moral philosophers have offered many ways to justify this claim, and no less often it has been roundly challenged. In spite of these disagreements, suffice to mention that legal constitutionalism, declarations of rights, and judicial review are derived from the purpose of protecting some (liberal) rights from majorities and other collusive constellations of power. Yet, as the history of Latin America illustrates, however much enshrined in constitutions, these additional controls may be no more than 'parchment barriers' if courts, and eventually other institutions or political forces, cannot or would not uphold those rights. History and comparative politics teach us that, even with the barriers that liberalism erected in modern times, there are no ultimate guarantees against the abuse of power—although of course some countries have been more prone to this risk than others.<sup>6</sup>

<sup>6</sup> In *Further Thoughts on Horizontal Accountability* (draft prepared for the workshop on 'Political Institutions, Accountability Democratic Governance in Latin America', University of Notre Dame, Kellogg Institute, 8–9 May 2000).