

A National Integrity System

Edited by
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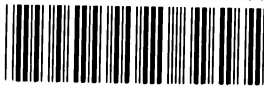


Untuk Tun Dr. Mahathir,
my small contribution
for a better Malaysia

Anis
8/4/19

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Edited by
Anis Yusal Yusoff and Mohd Nizam Mohd Ali



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FOREWORD

Malaysia's Way Forward: Managing Success, Strengthening Governance and Integrity

Malaysia is one of the few countries in the world that has its own National Integrity Plan (NIP) and an agency, the Malaysian Institute of Integrity (INTEGRITI), which was specifically set up to champion integrity in the governance of the country and the private sector, as well as the inculcation of integrity among all sectors of society. Both the NIP and INTEGRITI were launched by the then Prime Minister Abdullah Ahmad Badawi on 23 April 2004. The principal role of both the National Integrity Plan and the Malaysian Institute of Integrity is to strengthen the national integrity system of Malaysia so that good governance and integrity can prevail and be sustained in all state institutions as well as institutions in the private sector, civil society and in other areas of life. This will facilitate the transformation of Malaysia into what it aspires to be -- a developed nation by 2020 and beyond -- in accordance with Vision 2020 which was launched in 1991.

Many may wonder why the NIP was formulated and INTEGRITI set up more than a decade ago. What were the compelling reasons?

It should be recalled that by the 1990s, Malaysia has achieved a deep and historic economic transformation, whose success closely followed on the heels of the East Asian 'tiger economies', aspiring to be a 'tiger' in its own right. But with success come serious challenges and problems such as the eclipse of idealism, and the dominance of materialistic values, greed and corruption.



In some countries such as Indonesia, the problem was diagnosed as KKN – corruption, collusion and nepotism - especially at the height of the 1998 Asian financial crisis. So serious was the problem that the Nobel Laureate for Economics, Professor Joseph Stiglitz, in his book *The Roaring Nineties* dubbed the decade as “the greediest decade in history.” This damning insight on the roaring nineties by Stiglitz was also true for Malaysia.

Such challenges and problems identified must be addressed effectively with the right approach. Success must be properly managed to ensure sustainability. This is the short and succinct answer to the question. Indeed, Malaysia cannot overcome the so-called ‘middle income trap’ and scale new heights to be a developed nation without having integrity as its foundation. Malaysia also cannot become glorious the way it wants to be without the political will of its leaders at all levels to overcome corruption, strengthen integrity, overcome the trust deficit by walking the talk, mobilise the people’s support to participate in the integrity movement, and improve the livelihood of the *rakyat* irrespective of ethnicity, religion, gender, political affiliation and region. This is the way forward for Malaysia.

What preceded – indeed what became the catalyst that led to the launching of NIP and INTEGRITI in 2004 -- was the “*Study on Public Perception of Corruption in Malaysia*”, which was commissioned by the Government of Malaysia through the then Anti-Corruption Agency (now the Malaysian Anti-Corruption Commission). The report, prepared by a team of experts from Universiti Kebangsaan Malaysia (the National University of Malaysia) or UKM, and submitted to the Government in 2002, made essentially four policy recommendations:

- (a) The fight against corruption has to be based on the fundamentals of integrity;
- (b) Curbing corruption and instituting integrity is a national agenda that must involve all institutions of the state, private sector and society, and not only the government;
- (c) To implement this national agenda, there must be a holistic plan in the form of a National Integrity Plan to serve as a guiding framework;

- (d) An independent Institute of Integrity should be set up to monitor the implementation of the NIP, conduct studies and organise dialogues, as well as to make policy recommendations to the Government.

It was the same team from UKM that was subsequently commissioned by the Prime Minister to formulate the National Integrity Plan (NIP) and the blueprint for the establishment of the Malaysian Institute of Integrity (INTEGRITI). Both the NIP and INTEGRITI have had a history of slightly more than decade in Malaysia, and have become increasingly known regionally and internationally.

The Global Integrity Leadership Course (GILC) organised by INTEGRITI with its partners, Universiti Kebangsaan Malaysia and the London-based Integrity Action held in Kuala Lumpur on 25th July to 5th August 2016 – the first such course to be offered in ASEAN – is a fitting testimony to the many good works done by INTEGRITI. This is the first in a series to be offered by the institute. It is our hope that participants in the inaugural GILC and the subsequent courses as well as other users of this book will be inspired by this programme and other works by INTEGRITI, and will be able to contribute meaningfully to their work in strengthening integrity in their respective organisations and countries.

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18 July 2016

Introduction

Almarhum Tunku Abdul Rahman was quoted to say *“I like to think that I am a man of principle. I have always endeavoured to do what I have to do, regardless of what people may think or say.”* Such a concise, compelling quote may do more to explain the impetus for the need to have more men (and women) of principle in our country today. If people are not willing to stand up for what they believe in and worst if they condone wrong doing because the gain is much more than the pain, then all efforts in promoting good values and integrity in this country will go down the drain.

We recently learned about a friend who had been arrested by the Malaysian Anti-Corruption Commission (MACC) for corruption. Regardless of the nature of the charges inflicted on him and regardless whether he will be found guilty or otherwise, his reputation and family name has already been adversely affected as the news of his arrest with his name and photograph spread across the newspapers.

The question is, how much of the shame arising from this exposure would bring realization to the accused? Or is the shame and pain worth enduring for what they had gained? These questions have been playing in our mind in an effort to understand and answer the question of what else can we do as a country to ensure that, *standing by principles*, as stated by Almarhum Tunku, becomes common practice?

A couple of years ago, colleagues from the Institute for Democracy and Economic Affairs (IDEAS) and Dr. Anis Yusal Yusoff authored a book entitled *“Combatting Corruption: Understanding Anti-Corruption Initiatives in Malaysia”*. Indeed a lot has been done in this regard, yet today, we still ask

ourselves, what else can we do? One thing is for sure, we must target our children and youth and continue educating them on values of integrity, and while doing so, be conscious to also restrain any materialistic behaviour. Any ravenousness and greed displayed by certain parties who justify such behavior as a means to an end, should be highlighted as bad examples, for fear that they are hero-worshipped and emulated by the young and naïve.

We read about and watch exposures of numerous cases of breach of trust and abuse of power, yet we are skeptical that these stories will deter or make the society at large come to a realization. The trend of recurring cases reported in the Auditor General's report suggests that we never learn from past mistakes.

Trending discussions on social media these days are on who is better at embezzling and cheating the public of their savings, regardless of the form of savings or where it is kept. Whether there is truth to the accusations, no one seems to care, although to most people, there is no smoke if there is no fire.

At times like these, we should reflect on the courage of a young bank auditor, the late Jalil Ibrahim, who died as a victim of a murderer who feared that he would use the evidence to report of a misappropriation that amounted to several billion ringgit. Jalil was 34 years old when he was killed on 21 July 1983, leaving a widow and four children aged between six months and six years old at that time. Let us ask ourselves, how many more young men like the late Jalil do we want to see killed for doing what is right?

In the 2013-2025 Malaysian Education Development Plan, the government has outlined ethics and spirituality as one out of six targeted outcomes for students. Formal school curriculum, from pre-school to higher education will be enhanced in order to achieve the targeted outcomes. Campaigns to instill civic mindedness and integrity amongst the youth will also be increased, particularly for susceptible youth groups. The Malaysian Institute of Integrity (INTEGRITI) will have to collaborate with the Ministry of Education to achieve this.

The 11th Malaysia Plan (11MP) intends to involve the society at large in their effort to promote and inculcate understanding, tolerance and ethics.

The government will cooperate with civil society organisations to instill ethics and morale through specific awareness programs and campaigns. Whilst political, society and professional leaders are encouraged to set good examples for the public, particularly to the younger generation.

The 11MP also emphasizes on continuous efforts that are required to elevate integrity, curb corruption, implement outcome-based budgeting and instill good values amongst public servants. Concurrent efforts are also required to achieve a greater outreach and implementation of the Corporate Integrity System in the private sector, to ensure a more effective coordination of all anti-corruption initiatives. The government intends to establish strategic partnerships between civil society organisations and political parties in an effort to involve all parties in such initiatives and to act as change agents.

In the context of good governance today, all parties must come forward even when the stakes are high. The late Jalil Ibrahim must be used as an example to the youth of today. Respect for public agencies must be earned through delivery of services with commitment, integrity and knowledge. The ecosystem has to be engineered so that integrity becomes common norms. The executive, judiciary and legislative institutions that are independent, trustworthy and ensure the protection of public rights will contribute towards positive positioning of our country in the eyes of the world.

On this point, a national integrity system is needed to provide the overarching framework that would be of useful reference by all and sundry. It could also be made workable by introducing some key elements and corresponding instruments that measure the progress, or lack of, in the integrity agenda framing and monitoring. This holistic approach is a better way to address integrity risks – either as burning issues or structural flaws – rather than following the populist path of blaming and shaming rule of law offenders or corrupt state actors. The past two decades of such practices have shown us that the public at large and rightful beneficiaries of ethical and moral governance regime have grown tired of shocking scandals and endless trials.

The pillars of governance and its foundation of ethical and integrity principles are duly described in this book as a starting point for serious discourse. They are not necessarily exhaustive due to the need of wise leaders to weigh each

and every single pillar according to its own efficacy and merit. Some integrity systems may have matured to a level where ‘less is more’ whereas some others would benefit more to start building their integrity system by laying down all possible solutions to their own sets of challenges and take baby steps in establishing them. Part of this book is a reprint of some of Mohd Nizam Mohd Ali’s integrity-themed publications on anti-corruption, ethics advocacy and corporate integrity system topics. The writings of Jeremy Pope who served as the International Consultant to the UNDP-INTEGRITI Capacity Building Project (2005/6), provided the generic content within Malaysia’s context in 2006 and are herein republished. The authors were then responsible in mapping Malaysia’s National Integrity System during the formative years of NIP and INTEGRITI.

Of more significance is that this document attempts to consolidate some tested and validated sets of tools and instruments in the appendices. These materials are put together to allow readers to experiment in their own controlled environment, be it in organizational setting or even community-based groupings, and adjust their own pacesetting in the integrity agenda. To be able to measure their own journey in real time would make it easier for them to manage themselves, and their limited resources, in a systematic mind set. It is not just a simplistic input-process-output framework but it also incorporates clear and realistic desired outcomes based on deployment of projects or programmes within due constraints.

We hope that this book would be useful to every persons and institutions that are in this integrity building endeavor. As in any works of similar tome, its true value lies in the practical use of the tools and systems . To that, we and INTEGRITI would always be at hand, if need be, to walk the talk jointly with all parties concerned. As the saying goes, we have stopped pretending to be the sage on the stage, and instead prefer to be a guide by your side.

by

Dr. Anis Yusal Yusoff and Mohd Nizam Mohd Ali

The Malaysian Institute of Integrity (INTEGRITI)

13 July 2016

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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.¹

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).²

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.

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

² 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 Ethics and Challenging Corruption: Reforming Governance in Public Institutions*, Sydney: Federation Press, 2002.

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.'³

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

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

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.

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.⁴

In the 1990s, reforms in Queensland and Western Australia (two Australian

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

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.⁵ 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

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

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.

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.⁶

Other basic concept

1. *Integrity, corruption, and accountability are conceptually linked.*

The World Bank has defined corruption as the ‘abuse of entrusted power for personal and political ends’. By contrast, its converse—integrity—is ‘the use of public power for officially endorsed and publicly justified purposes’. The latter definition is primary because we cannot identify an ‘abuse’ of power if we do not first know what the ‘correct use’ of the power is supposed to be. In a democracy, the officially endorsed uses of public power are those set by the Executive and the Legislature. Institutional integrity is analogous to individual integrity. An individual has integrity if the individual is true to his or her principles and does what he or she says they will do. So it is that institutions have integrity when they are operating to further goals that have been publicly set by democratically elected governments.

2. *Discouraging corruption is merely a part of promoting integrity.*

Integrity systems are not built around the negative goal of limiting corruption, but the positive goal of maximizing integrity at all levels. The

⁶ *In Further Thoughts on Horizontal Accountability* (draft prepared for the workshop on ‘Political Institutions, Accountability, and Democratic Governance in Latin America’, University of Notre Dame, Kellogg Institute, 8-9 May 2000).

negative goal is necessarily implied by the positive one; if power is to be used in officially sanctioned ways, it should not be abused by being diverted to other ends. It is not enough to avoid corruption. In placing power in the hands of individuals or groups, communities are taking a risk—that the benefits to be gained from the use of the power will outweigh the risks of any abuse. Integrity systems need to be designed to increase the likelihood of benefits and to reduce the possibility of any abuse.

3. *Integrity is not achieved by laws or institutions alone.*

Legal institutions alone do not dictate how society is governed. As well as legal regulation, effective institutional reform relies on a mix of ethical standard-setting and institutional design and management. The National Integrity System process therefore looks beyond formal laws and institutions to what actually happens in practice, and to social and cultural values. It identifies the forms of individual behaviour that make it increasingly likely that institutional power will be used for democratically endorsed goals. Positive incentives (from promotion to public honours) need to be attached to the types of behaviour that are most likely to further the goals set for public institutions. At the same time, negative incentives (from reprimand to jail) need to be attached to any abuses of that power.

4. *Integrity is supported by 'mutual accountability'.*

The relationships between these different institutional 'elements' become just as important as the individual elements involved. The National Integrity System process can be employed to 'map' accountability relationships, as well as the policy and operational relationships that define how integrity is pursued and protected in practice. Assessing the strengths and weaknesses of these relationships, as well as within individual institutions, is central to assessing the strengths and weaknesses of the integrity system as a whole.

5. *Leadership contributes to, but cannot be a substitute for, an effective integrity system.*

Many leaders 'role model' ethics and integrity learnt from others, and



although integrity reforms may be understood and supported by leaders, reliance upon leadership alone is very dangerous.⁷

In a system of modern government, for example, there must be a free press. But the press must respect certain limits imposed by law, such as avoiding defamatory attacks on individuals, for even a free press is accountable, not only, perhaps, to a Press Council (which may or may not be a statutory body) but also, and ultimately, to the courts.

For their part, the courts are no longer ‘servants’ of the ruling elite, but rather act with independence and enforce the Rule of Law, and require elites to submit to the rule under the law. Yet such independence is not absolute. Judges are answerable for their individual decisions through a system of appeals, and each judge is accountable for his or her integrity and competence to another body, be it a Parliament or a Judicial Services Commission. That body, in turn, is accountable elsewhere, and ultimately to the people through the ballot box. So do the strands of accountability link the various elements, or ‘pillars’, and by so linking, they effectively brace and strengthen each other.

The task of developing a system of modern government is to move away from a system which is essentially top down—that is, one in which an autocratic ruling elite gives orders which are followed, to a greater or lesser degree, by those down the line. The approach instead is to move towards a system of ‘horizontal accountability’—that is, one in which power is dispersed, where none has a monopoly, and where each is separately accountable.

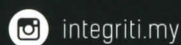
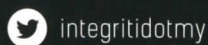
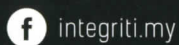
The assumption underlying the approach advanced here is one of evolution with society participation. This is the most promising route—and the one adopted by Malaysia’s National Integrity Plan. This embraces democratic processes and involves the private sector, the media, the professions, mosques and churches, as well as non-governmental organizations (NGOs). Thus,

⁷ Carrie Johnson reports that in many of the companies where fraud began to flourish, workers vowed loyalty not to ethical business practices or even to the company, but to the charismatic leaders who came to personify their business (‘Fraud’s Many Helpers’, *Washington Post*, 20 March 2005).

reform is initiated and sustained not only by politicians and policy makers, but also by members of special interests groups within civil society.

We do, however, have to be realistic about the tasks we face when endeavouring to bring about sustainable change. The challenges faced today can, in truth, never be fully met. The sombre fact is that, without exception, all the countries considered to be the most ethical and the least corrupt are constantly fine-tuning elements of their National Integrity Systems. As with freedom, the price of integrity is eternal vigilance.





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