

3rd MALAYSIA ANTI-CORRUPTION FORUM-REPORT "Restoring Trust with Collective Action" 24 May 2022 (Tuesday), The Everly, Putrajaya

• VVIP Attendees:

Tan. Sri. Dato' Sri. Haji Azam Bin Baki Dato' Mohamad Fazin Mahmud Dato' Sri Shamshun Baharin bin Mohd Jamil

• Moderators:

Dato' Seri Azman Ujang Yahya Mat Hassan Chew Hoong Ling

• Panelists:

Nattachak Pattamasingh Na Ayuthaya Saut Situmorang Mohamed Azmi Abdul Hamid Cynthia Gabriel Dato Sri Ayub Yaakob Professor Dato' Dr. Jayles Yeoh Dato' Seri Abdul Razak bin Musa Philip Koh Tong Ngee Christopher Tock Prof Khaeruddin Sudharmin Rani Wemel



ABOUT 3rd MALAYSIA ANTI-CORRUPTION FORUM

Anti-Corruption is an effort to combat, mitigate, and overcome the greatest issue in Malaysia, corruption. Corruption is a long-standing issue that is hotly debated at the national and international levels. The Corruption Perception Index (CPI) is an annual index released by Transparency International that measures the perceived amount of corruption in each country. Based on the 2021 index, Malaysia dropped and ranked 62 on the list. Consequently, it affects the nation in the aspect of the economy as well as society. For the long-term effect, this will endanger the next generation.

In Malaysia, corruption usually occurs among high-ranked officials to secure a job, position, or project. In most cases, to ensure a project that involves thousands or billions of Ringgit. It includes corporate people. In other words, they are making money via shortcuts. This is not a healthy competition and a good example to be shown to the public because it will damage a country's pride. In the meantime, a particular country may lose many foreign investors, which is essential for economic growth, due to a lack of trust.

Therefore, the 3rd Malaysia Anti-Corruption Forum is a platform offered by International Strategy Institute (ISI) to gather all the information, exchange knowledge on anti-corruption efforts, and address corruption issues that have repeatedly emerged. This is following the Sustainable Development Goals (SDGs) adopted by United Nations Member States in 2015 to combat corruption that undermines human development. Hence, this forum promotes equality and fairness among the people to ensure everyone gets the same treatment without distinction to create a better nation.



ABOUT ISI

The International Strategy Institute (ISI) is a not-for-profit organisation that helps connect governments and businesses across Asia and the world. We stand for universal ethical business values such as: equality, transparency, fair trade, and sustainable development.

Our dialogues, research and networking platforms, are designed to drive economic growth in the region. We aim to,

1. Build platforms for regional dialogue and networking opportunities that allow businesses, industry captains and governments to come together to drive economic growth of the region;

2. Provide timely research to keep our members and governments informed and updated on global trade and political issues that may have an impact on their operations;

3. Match businesses to the right investors- to ensure that the companies are paired with the right strategic investment partner

VISION AND MISSION

International Strategy Institute (ISI) aims to be the leading regional connector and networking platform for governments and businesses across Asia and the Pacific.

Through our networking events, conferences, and rigorously research publications, we hope to promote a robust Asian business environment that is strategic, inclusive, innovative and sustainable.



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Welcoming Speech Mr. Cheah Chyuan Yong Chairman of International Strategy Institute (ISI)

The 3rd Malaysia Anti-Corruption Forum was organized to overcome and mitigate corruption cases in Malaysia, fight against the challenges, and find the best methods to combat corruption since Malaysia has dropped from 57th place in 2020 to 62nd in Corruption Perception Index (CPI) 2021.

Concerning the spread of corruption at the climax of the Covid-19 pandemic, it is a brilliant idea to conduct this kind of forum to raise awareness among individuals and educate the public because education is important. Notably, regarding corruption-related matters to prevent more issues in the future, especially for the young generation. It is good to start it from home, where parents teach their children about corruption since it is dangerous to mingle around bribery.

Therefore, it is important to unite and fight against this deep-rooted problem to bring peace to our country and prohibit further damage. All groups of the society must collaborate, and most crucially, anti-corruption institutions or agencies must be impartial and free from political involvement at all costs. This is to ensure that Malaysia becomes more progressive in the coming years.



Opening Keynote Address YBhg Tan Sri Dato' Sri Haji Azam Bin Baki Chief Commissioner of Malaysian Anti-Corruption Commission

In Malaysia, the Malaysian Anti-Corruption Commission (MACC) is the government agency that is responsible for fighting against corruption-related matters. In 2018, the Malaysian Parliament passed a bill regarding corporate liability, which came into force on the 1st of June 2020, introducing Section 17A of the MACC Act 2009. Under this provision, the Commission has the power to exercise corporate liability directly towards commercial organisations, including public and private limited businesses and associated persons. In March 2021, the first case involving bribery between an offshore vessel support company and a Government Linked Company cost RM321,250.00 fell under Section 17A of the MACC Act 2009.

The Governance, Integrity, and Anti-Corruption Centre (GIACC) has released a Guideline on Adequate Procedures in accordance with Subsection 5 of Section 17A of the MACC Act 2009. Furthermore, the Commission also assists commercial organisations in implementing effective internal controls to avoid corruption by offering training and consultancy on Corruption Risk Management (CRM) and Organisational Anti-Corruption Plan (OECP). As a result, the United Nations Office on Drug and Crime (UNODC) identified 23 best practices during the two comprehensive Governmental Peer Review Processes carried out by the Implementation Review under the United Nations Convention against Corruption (UNCAC) in 2013 and 2017.

In addition, MACC via the Malaysian Anti-Corruption Commission Act 2009 (MACCA) provides training, namely the Certified Integrity Officer Programme (CeIO), to incorporate best practices into strategic and tactical approaches within an organization to assimilate the culture of integrity. On top of that, the Ministry of Finance also initiated an initiative to reduce income tax through Corporate Social Responsibility (CSR) pertaining to the corruption prevention method. This is subject to Section 34(6)(h) of the Income Tax Act 1967. Indeed, this tax reduction is intended to encourage more private companies to work with MACC in combating corruption, which is beneficial in every aspect, particularly for the education sector.

During the state of emergency, various investigations ran by the MACC, such as the bribery in the procurement of medical services and abuse of power in diverting relief aid and stimulus packages. This includes the Community Education Division, which spreads anti-corruption messages, while the Inspection and Consultancy Division provides checks and balances as Covid-19 prevention measures. In the first four months of 2022, 376 investigation documents were opened, resulting in 415 arrests. Meanwhile, RM12.58 million assets were seized, and RM59 million in forfeitures had been recorded.

The Commission also ran operations in the Immigration Department of Malaysia regarding a syndicate that hacked the Immigration's system to generate fake visitor passes, the Halal Meat scandal with relevant bodies, and the 1MDB case. Lastly, the National Anti-Corruption Plan (NACP) introduced in January 2019 promotes corrupt-free nations and greater transparency, where 11 initiatives are conducted by MACC and the rest by other Ministries and Agencies. Therefore, everyone should work together in fighting against corruption in this country and cannot solely rely on MACC's shoulders for a better nation.

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SESSION 1: INTEGRITY AS THE BASIS FOR GOOD GOVERNANCE

Nattachak Pattamasingh Na Ayuthaya

Commissioner, National Anti-Corruption (NACC) Thailand

The process of combating corruption through suppression and prevention is known as integrity. The government must be transparent, with no interference from any interested parties. According to American economist Professor Robert Klitgaard, corruption derives from monopoly plus discretion, which has the power over the rule of law and the capacity to impose policies on personnel administration or the economy that contradict the management principles, which may result in an economic catastrophe.

In Thailand, the government has implemented several populist projects such as the '30 Bath treat all for healthcare' and 'Debt moratorium for agriculturists'. Nevertheless, the 2021 Corruption Perception Index (CPI) put Thailand at 35 but later dropped to 91 in October. Besides, Thailand, the United States, and European Continents have adopted the Foreign Corrupt Practices Act (FCPA) to combat corruption. This Act prohibits bribing any foreign officials to get a project. There was a case in Thailand where the former Governor of the Tourism Authority of Thailand (TAT) received a bribe from an American couple that amounted to USD\$1.8 million to show their film at the Bangkok International Film Festival. The verdict was imprisonment for 50 years and 40 years for bribery, both for the former Governor and her complicit daughter.

Similarly, the light motorcade scheme and the manipulations of medicine price cases in Thailand. However, inefficient law enforcement can be an obstacle, such as the absence of criminals during court hearings since they flee abroad and never return. The other obstacles were the current unstable political regime and patronage system with no common process and a corrupt mindset among politicians, especially the locals. Therefore, the National Anti-Corruption Commission (ONACC) has conducted research and collaborated with private sectors to do several measures to preserve and develop integrity, such as 'Zero Tolerance and Shame on Corruption'. This is to enhance individuals' self-control and raise awareness among children in the school to college students.

Moreover, the Thailand government also imposed an obligation on the government servants to declare their assets and liabilities to MACC and separate it from politicians. Failure to comply may be punished and considered an offence. Last but not least, regarding corporate liability and international collaboration, such as the bilateral assistance between Malaysia and Thailand, where both countries work together to solve corruption. As in the case of smuggled imported vehicles involving former officials who were in charge of the seizure of 410 cars from Malaysia.

Hence, to solve this problem, each individual's attitude and mindset shall be improvised towards developing fairness, including other countries, via collaborations.



Saut Situmorang

Former Deputy Head, Indonesia Anti-Corruption Commission (KPK)

Combating corruption requires the application of theories. The most significant to take into account is its complexity. To prevent crime, it must be conducted properly with a clear approach. Thus, integrity is the center of gravity. For example, Krakatau is an Indonesian steel company and one of the Indonesian Government Linked Company (GLC), which has integrity problems.

For a better understanding of corruption, the details must be complete. Otherwise, it is difficult to understand the situation. In the Krakatau case, they lost to the private company though they used the same technology, namely a blast furnace. However, the manager stopped the blast furnace, and there was corruption between the director and Parliament members regarding the suspension of the blast furnace. The next example is Garuda, which is technically bankrupt. Nonetheless, they still managed to work on new projects like the new island and airlines.

In 2001, the Indonesian chambers of commerce gathered for corporate liability, professional integrity, and cooperation with procurement in Singapore. They found out that prosecution is essential for the virtue of good integrity as it deals with prevention.

Summary in Q&A Session

The effective method to curb corruption is through prevention rather than cure because it already happened all over the place with the involvement of politicians. As in the case of Indonesia, the preventive measure is done via assistance from the Commissioner, who will visit the project site and monitor it. For example, the big project in the Pertamina Kalimantan. Furthermore, a nation's leader must be vocal, honest, and have a preventive mindset regarding corruption to ensure efficiency.

On top of that, education shall be the primary action to prevent corruption by teaching what is good and what is not. At the same time, the prosecution is also important for the sake of substantial results. This can be portrayed through the practice of capital punishment or known as the death penalty, practiced by several countries, including China, Iraq, Indonesia, and Thailand. However, it got a few criticisms, especially under the Vienna Convention. Notwithstanding, it is important to have this kind of prosecution to overcome corruption problems since it instills fright in public.

Besides that, a whistleblowing system can be used to free a country from corruption. However, it must come with concrete evidence and document to prove the bribery actions. In fact, the court must also conduct an in-depth investigation to ensure there is no dispute between the criminals and the whistleblower. Lastly, the whistleblower must be qualified to provide such information and not receive money to report the case. Otherwise, it will be considered corruption as well.



SESSION 2: RESTORING TRUST BY COLLECTIVE ACTION – CIVIL SOCIETY PERSPECTIVES

Mohamaed Azmi Abdul Hamid

Council Committee Member, Consumer Associations of Penang (CAP)

Corruption is a compelling topic for nationhood, democracy, and economic development. To restore trust by collective action, the people need vocal and transparent NGOs in their activities. Law is indeed a way to combat corruption, but it is not a cure. The real cure is within the people, where the organisations play their role.

Similarly to education, it is crucial, especially for parents who teach their children. Yet, it is noteworthy that education must be delivered and shown through real practice. If the parents are involved in corruption, the school receives bribes, and elders take part in corruption; thus, this is a big issue. Fighting against corruption must come with credibility, competency, and independence to show the ability to execute. To gain the trust of the public, each organisations, individual, and particularly the government agency like MACC must have this character, or else people will not believe in them.

To be exact, the netizens know that there are so many corruptions out there. For example, politicians mingle around private persons, organisations, institutions, or corporations to collect political funds. In return, they will get tenders or projects. On the other hand, corruption also emerges in the system that is hard to be changed. Hence, we need to approach and engage with the public to understand their concern on this matter. This is what NGOs do. They educate, approach, and stand for the people.

Cynthia Gabriel

Founder, Centre to Combat, Corruption and Cronyism (C4)

According to the Corrupt Perception Index, efforts to combat corruption cannot lie on politicians since they are top of the list for being corrupt. Thus, a clear understanding of power mapping is necessary to understand power corrupt because civil society can hold power, including the private sector and stakeholders. Under Article 13 of the United Nations Conventions Against Corruption, civil society shall be included and participate actively in corruption preventive measures.

Unfortunately, it is not easy in Malaysia to access the information, particularly regarding this matter. People are impeded by the accessibility and lack of information since the public is not included in the policy-making process. Indeed, we are controlled by the secrecy law. Thereby, people nowadays tend to look for better laws or frameworks to regulate this hotly debated issue.

Regarding the whistleblower, in Malaysia, the 2010 Whistleblower Protection Act is the law protecting them legally. However, the law does not protect the person practically. As a result, it is time for everyone to unite and move together. This country needs a well-regulated check and balance system to ensure efficacy for a better environment in corporate governance. With the change of government multiple times with different administrations for the past few years, people should fight against corruption together. Simultaneously, corruption cases can be reduced.



Dato' Sri, Ayud Yaakob

Senior Vice Chairman, Malaysia Crime Prevention Foundation (MCPF)

Malaysia is one of the world's first countries to develop its national integrity strategy as part of the National Integrity Plan (NIP). Subsequently, Malaysia formed the National Integrity Institute to instill honesty, good conduct, and the spirit in civil service. Besides that, Malaysia also has established the Institute of Integrity of the nation and the Enforcement Agency Integrity Commission (EAIC). The function of EAIC is to ensure that integrity is upheld throughout the country's enforcement agencies. For example, the Immigration Department, Customs Department, and all other enforcement agencies.

Moreover, the police department has a department called integrity and standard compliance to ensure discipline and adherence to the standards in executing their function. A commissioner, on the other hand, is responsible for auditing and monitoring the operation and procedures of enforcement to determine when they can intervene. As in the case of police, they must follow the rules and assist the government in formulating legislation and initiatives to promote integrity within the enforcement agencies.

Importantly, leaders make policy, but the civil servant is the advisory. They must have the courage to advise the political leaders or even their superiors when they are not providing adequate guidance or instruction. It is against the law and process, but preventing corruption from happening again is considered an effective effort rather than a cure.

Lastly, an NGO is an organization filled with voluntary activities and no one is forced to do their tasks. However, it is only applicable to the members of the NGOs. Once a person holds an important position in the NGO, they must ensure compliance and carry out their roles properly in achieving the mission and vision. Otherwise, the organisation failed to run its function following its goals.

Summary in Q&A Session

Collective action can be concluded as an effort from various entities to fight against corruption, such as the private sector, civil societies, and politicians. Though corruption has changed its dynamic, people see things very straightforwardly. Yet, certain people do not care about their surroundings and move forward without thinking about others. Conversely, collective action requires everyone to take part in this struggle. It means Thailand, Malaysia, and Indonesia must collaborate and work on a proper strategy to combat this disease. In short, each individual participates in this fight.

Despite that, a strict law should be imposed or amended to enhance the effort to mitigate corruption in this country. At the same time, it is a method to avoid corruption spreading excessively to other public sectors, the private sector, or civil society. Again, trust from people to the government, government to the private sector, or vice versa is the pillar of nation-building. In other words, to restore trust by collective action, the first thing to be secured is trust at all costs. Eventually, all the stated strategies like education, building a culture of integrity, empowering check and balance, and a good mindset requires everyone to practice them in real life.



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SESSION 3: INTEGRITY VS PERCEPTION

Prof. Dato' Dr. Jayles Yeoh President & CEO AIMSMET

Integrity means doing the right things, although no one is watching. It also trains a person to be honest and speak only the truth, resulting in trust. Everyone has their own responsibility that shall be carried out properly, including conscience regarding corruption. It should be noted that corruption is like a disease that could spread and increase in number. This is what we call CPI and is monitored by the expert assessment and opinion survey.

Prior to that, perception of corruption was a big thing because not everyone perceived corruption the same way, especially during festive seasons when the public normally sends, gives, and accepts gifts. However, certain people presumed it as corruption that destroys trust. Indeed, it weakens economic development and democracy. In general, corruption happens in front of the public, thus harming trust. This is because corruption creates distrust between institutions. Sometimes, it involved someone we knew; most of them were government servants and politicians.

Therefore, education is the key to prevent future cases, while the core value is integrity. Essentially, integrity is the center of preventive measures to foster a person to speak the truth. The struggle against corruption must be embedded in society and be part of the culture. Everyone must be taught fundamental values by a great person who recognises the worth of this effort. At least the public understands what it is to be integrated.

Datuk Seri Abdul Razak bin Musa

Former Solicitor General

Integrity is defined as good conduct, while perception is the view of something which can be either good or bad. Normally, during a hearing, the court will use the terms bonus, debt, and loan to illustrate corruption. In Malaysia, we have huge corruption cases, like what has happened in Indonesia. However, it is crucial to remember that capital punishment or imprisonment is not the only sanction suitable for corruption. Many sanctions can be taken into consideration to punish criminals, such as disciplinary action and seizure of assets to educate them. Removing a person from society solely through capital punishment does not make any changes because it could happen again.

To be more specific, integrity is an educational approach that teaches the public about honesty. In fact, it is everyone's responsibility to teach others not to participate in corruption. According to Section 2 of the Malaysian Anti-Corruption Commission Act 2009, integrity is the MACC's core value, followed by education. Subject to Section 25, guilty to report, where every person has a duty to report any bribery attempts. Otherwise, this will put the whole country in critical condition. Meanwhile, perception is not fixed and depends on one's point of view. For example, corruption has undermined Malaysians' perception of financial stability, affecting the value of the Ringgit and foreign direct investment. Therefore, it is important to educate and instill integrity in each individual.



Phillip Koh Tong Ngee

Senior Partner, Messrs Mah-Kamariyah & Phillip Koh Advocates & Solicitors, Adjunct Professor UM

Integrity is all about sincerity and honesty. These are great and very powerful words that may be congruent. It is different from perception, yet the perception is the most powerful thing in human society, especially with the existence of social media. After all, integrity is important because it could undermine one's administration. For example, the fall of the Ming Empire because of corruption and the collapse of a great civilization.

Normally, people are trapped within their race, religious beliefs, and biases. This is more to perception, such as the perception of corruption cases in Singapore, where they ranked much higher in the list, and everyone assumes they are good at combating corruption. Furthermore, to be listed among the top ten countries with the least corruption does not mean there are no corruption cases. It is noteworthy to mention that their AP is supreme, and the Prime Minister holds absolute power. Whilst, Malaysian judiciary officials are not influenced by legislative or executive power. In Malaysia, the judiciary system is independent. Therefore, they have their stance, which may not be the same as others. However, people tend to look for an ideal figure, such as a father figure to become the protector. This is what modern democracy is all about and this could influence the interpretation of a person regarding corruption.

Summary in Q&A Session

Wholly, the people's perception is based on their own interpretation because some people may look at a situation positively, but some may look at it the other way around. It is more effective if the upcoming forum invites those charged with corruption offences since this will open up more room to be discussed and educate the public about the consequences. It is definitely beneficial for future generations to learn about corruption regarding integrity and perception. This is because, in certain cases, there are people who committed the same crime and repeat the same mistakes, but there are people who repent. For that reason, having them in this room is good for sharing their experience and promotes integrity.

As a matter of constitutional law, investigating superior judges deems unconstitutional. Even a discussion over the conduct of judges among members of parliament without proper motion with a supermajority of the member's notice is against the law by virtue of the Code of Ethics. In Malaysia, the alleged misconduct of judges is testified through the establishment of a tribunal governed by the judiciary. Therefore, a tribunal is the only place to address judges' conduct lawfully and does not mean those superior judges cannot be testified.



SESSION 4: CAN ECONOMIC INCENTIVES REDUE CORRUPTION

Christopher Tock

Chief Executive Officer, Digitally Asia Group

Corruption can be in any approach a person gives, and they get benefits in return. The benefits usually double the actual price they paid, and sometimes they could reach an unexpected circumstance where they gain trust from various high-rank officials in the government like ministers. This is what happened in the Malaysian political world, where most of the elected leaders are getting votes from youngsters who have been paid for voting. This could be understood as lobbying, where the lobbyists will collect the vote to bring up the leader they want through any approach that suits the situation. If the candidate wins the election, thus the leaders normally will give them funds or projects from ministries or corporates.

Money cannot solve everything, but it is paired with money to solve a problem. For that reason, Malaysians should be careful with their perception of money because ordinary people are powerless. Thus, blockchain technology is the answer to solve this issue because this system has the details of the previous owners. It can verify the owner, and it is immutable too. Hence, it might be useful to implement this technology into our system to combat as well as mitigate corruption.

Prof. Khaeruddin Sudharmin

FCILT, Adjunct Professor Asia Metropolitan University (AMU), Malaysia

To combat corruption in Malaysia, the government shall increase the salaries of public servants like Singapore did. This is a way to enhance integrity among oneself and avoid continuous bribery among public servants.

Additionally, imposing strict laws and inculcating integrity in our cultural aspect can also prevent corruption. This can be seen during the Sukarno administration 70 years ago when he obliged all his citizens to be named in Bahasa Indonesia and have a Japanese name at the same time. Subsequently, this resulted in strong nationalism and patriotism within Indonesian culture. The same goes for the Falsafah Pendidikan Negara, a compulsory subject in Malaysian institutions that everyone has to take with the goal of producing resilient and solid students who know what corruption is all about.



Rani Wemel

Co-Founder & COO, LTT Global Communication Sdn Bhd

Incentives are rewards and punishments that motivate behaviour of a person. For example, the story in 1787 where the British government exported convicts to Australia without proper monitoring and gave inhuman treatment, leading to starvation, sickness, and even worse, casualties. A law has been passed, but nothing changed. Thus, an economist agreed to pay the British government once they had safely delivered the convicts to Australia. This is known as an incentive, but at the same time, it is a punishment for the sake of humanitarian values.

Corruption is commonly defined as the misuse of public office or private gains. It can be in the form of money or bonus gifts. Here, it will depend on one's role whether to receive it or not. Normally, if it is involved more money, people will not hesitate to accept it. However, if they just received a small amount of money, sometimes people tend to think first. Based on both situations, this illustrates that a person's character may be influenced by their environment. Thus, to mitigate corruption, a person must balance the three important things: money, environment, and personality.

Incentives are divided into two, intrinsic incentives and extrinsic incentives. Intrinsic incentive occurs when a person is motivated to do their job and love what they are doing without any pressure or reward from outside. It means they do something that brings satisfaction to themselves. Meanwhile, the extrinsic incentive is when a person does their work but with a reward. In other words, they do their job with the expectation of receiving a prize. Otherwise, they will not get the tips, or they may be punished. It is the opposite of intrinsic incentives that do their work voluntarily.

Economic incentives are normally considered extrinsic because people do their job for money. Thereby, it is important to find the right person to carry out their duty accordingly, which could motivate them to do their part based on the set goals. Ergo, it could overcome corruption.

Summary in Q&A Session

Countries with rigid regulations have a high disciplinary level, such as Indonesia, Thailand, and the Philippines. Everyone has a different point of view on corruption since some people consider it a positive action that could drive the economy to grow. This is because corruption secures a project done by someone who gained our trust and can do their job following the timeframe given efficiently. The same example is capital punishment, where some people perceive it negatively on the ground of a humanitarian basis, and some perceive it as an action to foster integrity. The perception of corruption depends on how a person interprets it.

The next issue that should be addressed is transparency because corruption can be prevented with the practice of transparency in our system. Nevertheless, Malaysia has a strict system, and the information is not accessible to everyone. This is the adopted bureaucracy system in Malaysia. If the government loosens up the system and gives access to the public to see the database, this will create intrinsic incentives motivating people to work hard to achieve what they want. To be exact, this is a good effort to overcome corruption cases in Malaysia.



To sum up, if something is wrong with our nation, then we must resolve it. This will affect the younger generation if the people do not take prompt action. Whether in public or private sectors or corporations, all sectors must unite and work together to combat corruption issues. This is a long-standing issue that repeatedly emerged with no end. Each individual shall participate in this fighting and contribute something to produce a great nation.

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