

1MDB: The Causes! Part II

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Abstract

From the probing done to a total of seven published research works plus one report issued by an NGO, it may be concluded that the 1MDB causes raised in Part I and the present Part II do not differ at all except in how some of the causes are identified as. There appears to be similarities too in treating some of the causes which are probably symptoms as the main or primary causes. Also, many are concerned with similar causes to the neglect of other possible causes. And as far as the root causes are concerned, it may be concluded that they are as follows: the decadent leadership at the very top; the unhealthy political and social culture; the debilitating public governance; the deficient global financial system plus the lacking in integrity of the so called facilitators working at the international arena; and, last but certainly not the least, the style of followership within a political party or level of submissiveness within the civil service or for that matter the kind of citizenry found within the country.

Keywords: 1MDB, causes, leadership, culture, governance, international arena

Introduction

On the basis of what various experts in their fields have pointed out as the causes for the 1MDB scandal, a total of nine is laid out in Part I of a series of writing on the causes for the 1MDB scandal (Azham, 2022):

- over-concentration of power (together with weak public institutions, muzzled mainstream media and lack of transparency) – journalist Clare Rewcastle Brown (March 2015)
- political interference (the outcome of ones' nefarious agenda and rotten system) – journalist P. Gunasegaram (May 2015)
- government extensive involvement in business (together with the presence of inadequate institutional arrangements to counter potential abuse by politicians plus the kind of democracy going nowhere) - graduate student Teck Chi Wong (August 2016)
- corporate governance going haywire – academic Terence Gomez (July 2015)
- kleptocracy – academic Syed Farid Alatas (October 2016)

- horrifying international dimension – NGO head and former senior staff of the United States Senate Dennis M. Kelleher (May 2019)
- troubled human governance – newspaper editor R. B. Bhattacharjee (January 2017) and former prime minister Mahathir Mohamed (October 2021)
- rotten systems & persons – columnist Steve Oh (December 2019)
- vulnerable governance at the corporate level affected by the corrupt public and regulatory governance – state’s chief minister (June 2015) and later federal’s finance minister (May 2019) Lim Guan Eng, MICG president and former Bursa Malaysia CEO Yusli Mohamed Yusoff (May 2017; March 2019) and academic Vivien Chen (November, 2018; September 2021)

Sites where the nine 1MDB causes are raised include local news portals or freely accessible foreign based websites and these are in contrast to the present Part II of the series whereupon the causes are found to be elaborated upon in materials such as research papers found in refereed journals. Recall that at the very end of Part I, the following two questions were raised: “Are there going to be additional 1MDB causes to be considered? And in case more or less the same set of causes is found, are there new details emerging which one has not seen previously?” The attempt to answer these questions shall appear in the section on discussion and conclusions which will appear following the next section that lays out a total of seven research papers elaborating on the 1MDB causes plus a report on the 1MDB scandal issued in early May 2017 by the C4 Center, an independent Malaysian nonprofit organization that promotes government transparency.

The Causes

A total of eight research output comprised of seven journal articles by five different parties and a research report by an NGO is of interest. The seven journal articles are: Jones (2022), Jones (2020), Gabriel (2018), Chen (2019), Quah (2022), Chen (2020) and Siddiquee and Zafarullah (2022). Jones (2022) is dissected first to be followed by the others. The section comes to an end with discussion of the research report on 1MDB by the NGO (C4 Center, 2017).

Jones (2022)

The first paper of interest is Jones (2022). Jones started his paper with the following devastating remarks on corruption in Malaysia (Jones, 2022, p. 136):

Public and private sector corruption are rampant in Malaysia and reflected in the prevalence of bribery, embezzlement, fraud, cronyism, bid-rigging in procurement, and money laundering at the highest levels in major investment, infrastructure, and procurement projects, logging and other concessions, and at lower levels in law enforcement, low value tenders, and business regulation. Corruption has prevailed under the Barisan Nasional (BN), a coalition of parties which ruled Malaysia from independence in 1957 until 2018, with the principal party being the United Malays National Organisation (UMNO).

Early on in the paper Jones had the 1MDB case mentioned too. He wrote (Jones, 2022, p. 138):

The extent of corruption can also be gauged from recent corruption scandals. Examples include the Port Klang Authority concerning the Free Zone project, the Islamic Pilgrims Fund Board (Tabung Haji), the Sabah Water Department, the Federal Land Development Authority (FELDA), the State Government of Penang regarding the construction of the Penang undersea tunnel, and most seriously the 1Malaysia Development Berhad (1MDB). These scandals have involved bribery, embezzlement, money-laundering, fraudulent transactions and extensive cronyism, often amounting to billions of ringgit, that have benefited political leaders, senior administrators, and their business associates...

In various parts of quite an informative work, Jones had touched on the causes for the widespread corruption in the country providing pointers towards explaining the 1MDB scandal. First, it is the title of the very paper: “Challenges in combating corruption in Malaysia: issues of leadership, culture and money politics”. Next, within the paper’s abstract under item Findings, he had mentioned the following (Jones, 2022, p. 136):

Corruption remains widespread because of ineffective implementation, *a culture of money politics* based on mutually beneficial crony associations between political actors and business leaders, political interference to frustrate enforcement against corruption offenders, especially prominent personalities, and the mixed impact of corruption prevention measures. The paper concludes that the political and business culture and the nature of *political leadership* have eroded the political will to combat grand corruption in Malaysia. (Emphasis added.)

And also noticeable is that within the paper’s abstract under item Originality/value, he pointed out (Jones, 2022, p. 136): “This paper builds on previous research on corruption in Malaysia and highlights the combined negative impact of political leadership and a business and political culture that tolerates and espouses corruption, especially through money politics, and the consequent weak political will for tackling grand corruption.” Later for the short two paragraph literature review, he had mentioned (Jones, 2022, p. 137): “... in spite of the policy commitments, and many legal and administrative measures to deal with corruption, corrupt practices, including those at senior levels, prevail in Malaysia. A major cause has been poor implementation and enforcement, exacerbated by political interference in the enforcement process.” Subsequently under the heading “The reasons for the persistence of corruption in Malaysia”, Jones provided with detailed explanation of the four causes for what he says to be “the on-going prevalence of corruption”: weak enforcement; politics-business nexus and the issue of money politics; political interference in the investigation and prosecution of corruption cases; and, limited impact of anti-corruption measures and bodies.

At the paper’s end, under the concluding section, Jones had among others in two consecutive paragraphs devastatingly stated (Jones, 2022, p.146):

Despite the range of measures and agencies introduced to combat corruption in Malaysia in recent years, corruption continues to be prevalent. A key factor has been the deeply entrenched practices of money politics which link political parties and individual politicians to the business sector for their mutual benefit. These practices are deeply ingrained in the political and business culture of the country, and have entailed favouritism, cronyism, bribery, embezzlement and fraud. Such practices have continued partly as a result of the tolerance of corruption over the years in Malaysian society. Reinforcing the political and business culture based on money politics has been the political leadership in Malaysia which has promoted this culture, and interfered with efforts by anti-corruption bodies to root out corruption. This was particularly evident during Najib’s tenure as prime minister when he used his dominant leadership style to intensify corruption at the highest levels.

Consequently, the set of anti-corruption measures, in the words of the NACP, 2019-2023, “was not followed through in its implementation”... This failure according to the NACP [National Anti-Corruption Plan], “is mainly due to [the] lack of political will as the main factor hindering the initiatives planned back then in addressing issues of corruption”... Thus, despite repeated undertakings to address the problem of corruption by senior political figures, the lack of political will to deal with corruption has rendered them no more than nominal commitments.

It is notable that earlier in the middle of the paper Jones had given elaboration on money politics and Najib's political leadership. Regarding Najib, the prime minister responsible for the 1MDB scandal, he wrote (Jones, 2022, p.144):

... Najib had a strong power base among the UMNO elite, which was extended through patronage and a willingness to turn a blind eye to their own corruption. The support for Najib was reinforced by his ability to harness electoral support for UMNO in the rural areas. Again in contrast, he exercised a dominant style of leadership in which he would not tolerate dissent within his party and the BN, or any independent action against him by the enforcement agencies. Given his power base and leadership style, he was able to frustrate investigations into corruption, control top-level appointments for his own purposes, and engage in bribery, embezzlement and fraud on a grand scale, especially evident in the 1MDB scandal... This was facilitated by his close connections with high-level business through various members of his family and a core of powerful political allies and business cronies who owned or had a stake in multiple major companies both in Malaysia and overseas... Najib thus personified the culture of money politics in Malaysia, and reflected the absence of a genuine political will to stamp out corruption.

As for the culture of money politics, Jones mentioned early on in discussing it as one of the reasons "... for the persistence of corruption in Malaysia" the following (Jones, 2022, p.141):

A key factor to explain the persistence of corruption in Malaysia and a failure to properly implement anti-corruption measures has been the close links between, on the one hand leaders in the BN, especially UMNO, as well as individual Members of Parliament (MPs), and on the other hand, big business – referring to the politics-business nexus or money politics. This factor has pervaded Malaysian political and business culture, and is closely associated with grand corruption in the country.

Next, he explained (Jones, 2022, p.141-142):

Money politics is evident in different ways. At its heart, is the granting of favours to those companies closely linked to the political elite, including high value procurements and infrastructure projects, often without a competitive tender... Similar preferences have also been shown in the award of logging concessions, the granting of trading and import licences, the receipt of business subsidies, grants and low interest loans, tax allowances and the purchase of property... Other favours include positional patronage such as appointment to executive or advisory board positions in state enterprises including statutory authorities, GLCs, government investment and financial institutions, and State Development Corporations... In return for these benefits, businesses have provided financial support to UMNO and other parties in the BN (in effect, politically-based bribery). Of particular importance is the funding of BN parties and their election candidates to enhance their prospects either in a general election or a by-election... Support is frequently offered by businesses to UMNO politicians vying for key party posts in internal elections in the party. A feature of the party is its factionalism and members from different factions competing against each other in party elections.

The fact that money politics are strongly ingrained is reflected by other remarks of his including the following (Jones, 2022, p.142-143):

Money politics in Malaysia has been spurred by the increased ownership of companies both by UMNO and individual politicians... Over the years UMNO widened its portfolio from initially media companies to 23 major companies in different sectors listed on the Kuala Lumpur bourse. Funds from these companies may be channelled to UMNO, other BN parties and individual politicians, to serve their election purposes... Such companies are well placed to secure special

favours such as major infrastructure projects, pharmaceutical procurements and other high value contracts... Money politics has also affected GLCs, because often their chairperson, board members and CEOs are political appointees. Consequently, GLCs too are a source of funds to serve the election purposes of UMNO and other BN parties. In return, they secure special favours such as infrastructure projects to the detriment of private sector companies with a better performance and greater expertise... A further aspect of money politics is the embezzlement and laundering of funds from enterprises which are linked to, and controlled by parties and politicians... In the biggest scandal, the 1MDB corruption case, Prime Minister Najib Razak together with his business associates appropriated more than RM40 billion through embezzlement, money-laundering and fraud...

As if all that are not bad enough and provide the picture of a very strong influence coming from money politics as one of the reasons “... for the persistence of corruption in Malaysia”, in the subsequent discussion for what Jones calls the “[p]olitical interference in the investigation and prosecution of corruption cases” as another reason for such, he had further made a connection with money politics. As he put it (Jones, 2022, p.143): “Money politics has also enabled political leaders to interfere by stifling investigations and prosecutions to hinder the work of watchdog and enforcement agencies such as the Auditor-General’s Department, Public Accounts Committee in Dewan Rakyat, the AGC, and the MACC...” And the example of a recent case he provided is none other than the 1MDB. He wrote (Jones, 2022, p.143):

The 1MDB scandal provides prime examples of this. In 2016, the Auditor-General produced a highly critical report highlighting irregularities in the 1MDB. However, the investigation team was hampered by lack of cooperation from senior political figures and bureaucrats including not being allowed to see several important documents and denied access to computers and servers of the 1MDB. The sections of the report containing damaging evidence against Najib and his business associate, Jho Low, were later removed. Moreover, the report was classified under the Official Secrets Act, which greatly restricted those who could read it... Moreover, a special task force was set up in 2015 to ostensibly uncover evidence of corruption in the 1MDB, but the key figures in it were soon side-lined or dismissed when they started to reveal incriminating evidence, implicating Najib himself. The task force was soon after disbanded... Furthermore, the MACC stated in 2017 that it would no longer pursue allegations against the 1MDB...

On the basis of all that coming from Jones (2022), it may be safe to say that as far as he is concerned, there appear to be two main or primary causes for widespread corruption and which in turn have led to the emergence of the other three secondary causes. The primary causes come in the form of money politics and decadent leadership while the secondary causes are weak enforcement, political interference in the investigation and prosecution of corruption cases and limited impact of anti-corruption measures and bodies. And as far as the secondary causes are concerned, the weak enforcement and that of political interference in the investigation and prosecution of corruption cases are the results of money politics whereas the limited impact of anti-corruption measures and bodies is due to corrupt political leadership at the highest level. Finally, it is notable that when it concerns the two primary causes for widespread corruption, the crooked political leadership reinforces money politics as the basis for the political and business culture.

Jones (2020)

The second paper to be looked into next is Jones (2020). In comparison to Jones (2022), the Jones (2020) is directly concerned with the 1MDB to the extent that the paper’s title has the 1MDB mentioned. Jones in the first few lines of his work had made it clear why the case of 1MDB deserves

the attention of many and what ugliness had taken place and who were the responsible parties. He wrote (Jones, 2020, p. 59):

The 1 Malaysia Development Fund Bhd (1MDB) scandal is perhaps the most serious corruption scandal that has been recorded. The corruption has involved the embezzlement and laundering of billions of US dollars from its accounts together with gains from bribery and bond pricing, facilitated by false declarations by its officials and others. The illicit money was often transferred and laundered outside Malaysia. A cohort of bankers, businessmen and senior government officials mainly from Malaysia, but some from Saudi Arabia, the UAE and other countries have been implicated in the scandal.

In the second half of the work and for close to two pages Jones under the heading “Why did the 1MDB scandal arise?” had elaborated on six reasons:

- defective corporate governance marked by weak internal controls over spending, lending and investment;
- political control over the watchdog and investigative agencies restricting attempts to do the necessary;
- weak internal rules against money laundering in banks in Malaysia and elsewhere - and even where such rules existed there is the bankers’ willingness not to adhere to these rules since there is a perception that corrupt practices were low risk and high reward;
- the lack of political will at the highest level in doing the necessary and who had instead made the unforgivable move to shackle the watchdog and investigative agencies from embarking on a far reaching investigation and in turn taking on the enforcement action;
- the hegemonic nature of the country’s democratic system by the Barisan Nasional coalition, at the centre of which was the main political party UMNO, placing constraints on watchdog and enforcement institutions, such as the MACC, the National Audit Department and the Police Force, whenever its interests were at stake, while preventing Parliament from effectively scrutinising and vetting the actions of the government but enabling the then prime minister who was also one of the protagonists in the 1MDB scandal to exercise his personal authority with little restraint to suit his own ends; and,
- the presence of decades old mind-set in high places in government and the private sector which considered corrupt practices leading to large financial gains as acceptable and to be engaged in when opportunities arose.

All in all, it may be inferred that as far as the defective corporate governance in the 1MDB is concerned, it can hardly be considered a main or primary cause, for it is the outcome for the presence of some other primary causes (in the form of for example the ever present mind set among the powerful to be corrupt that Jones himself has noted) to make it possible for unsavory characters from inside and outside the corporate entity to get their easy money making mission completed. This is well pointed out a decade earlier by Azham et al. (2012) in talking about a well designed reason for the weak functioning of internal audit in Malaysia’s government sector. And as far as the lack of political will, it should perhaps be expected when the person with such will is the very person who is one of a handful of protagonists in the scandal! So, it may be safe to say that it is related to corrupt leadership which Jones later in the work discussed earlier (Jones, 2022) has noted as being one of the two main causes for the scandal. Finally, it may be surmised too that UMNO-BN political hegemony and the weak internal rules against money laundering in banks in different places including Malaysia provide some of the main causes for the 1MDB scandal. In short, their presence had ensured that there was no way for Malaysia and for that matter numerous other places in the rest of the world to escape from being damaged by the scandal!

Gabriel (2018)

The next brilliant paper to go over is by a Malaysian Cynthia Gabriel published just a few months before Malaysia's momentous 14th General Election in May 2018. At first glance the paper (Gabriel, 2018) appears to give focus on just one aspect – the international governance covering the so called global financial system - of what possibly is one of a handful of main causes of the 1MDB scandal. But a close reading proves that it is indeed concerned with more than that. That said, there is a good emphasis on the state of the global financial system early on – and the focus for almost all the paragraphs covering the second half of the paper. Note what she had raised within the first three paragraphs of her work (Gabriel, 2018, pp. 69-70):

Over the last two years, a pair of civil asset-forfeiture filings by the U.S. Department of Justice (DOJ) has opened a window into one of history's most outrageous public-corruption scandals. The court papers tell a tale of brazen misdealings and outright theft that have cost the people of Malaysia billions of dollars, spawned large street protests, and roiled the country's political scene. At the heart of the affair is the 1Malaysia Development Berhad (1MDB), a government-owned "strategic development company" that Prime Minister Najib Razak of the long-ruling United Malays National Organization (UMNO) set up soon after taking office in 2009. The stated purpose was to promote growth and investment on a nationwide scale, particularly through the formation of "global partnerships" in the real estate, tourism, and energy sectors. *In fact, 1MDB was used to raise funds that insiders then stole in a massive "pump and loot" scheme. Vast sums were borrowed via government-backed bonds, then siphoned abroad: The Justice Department says that more than US\$4.5 billion was pilfered from 2009 through 2015. ... The conduits for the diversion of funds included regional financial centers such as Singapore; secretive shell companies in the British Virgin Islands, the Caymans, Curaçao, and the Seychelles; and large international banks such as RBS, Deutsche Bank, Citibank, JP Morgan Chase, Standard Chartered Bank, and UBS, among others. The 1MDB scam, by no means unique although especially grotesque in its mammoth scale, underlines in bright red the continued complicity of the global financial system in helping kleptocratic developing-world regimes to turn ill-gotten gains into assets held abroad.* (Emphasis added).

Later in the paper's second half, Gabriel talks about how money flew out from the 1MDB to the pockets of the guilty ones. Wrote Gabriel (2018, pp. 71-72):

The 2016 [Department of Justice] civil filing describes three phases of illicit conduct beginning in 2009. The first mainly involved the fraudulent transfer of slightly more than a billion dollars from 1MDB to the Swiss bank account of a concern called "Good Star Limited" that was in fact covertly owned by Jho Low himself. The second phase revolved around proceeds that 1MDB had raised through 2012 bond offerings worth \$3.5 billion (arranged and underwritten by Goldman Sachs International). More than two-fifths of that sum wound up in a Swiss bank account belonging to a British Virgin Islands entity known as Aabar-BVI. These funds, claims the Justice Department, were then diverted for the personal benefit of 1MDB officials and their associates... The third phase of the fraud came in 2013. That year, a group that included 1MDB officials diverted more than \$1.2 billion out of \$3 billion that 1MDB had raised through a third bond offering arranged by Goldman Sachs. The bond offering was supposed to be funding a joint venture between 1MDB and Abu Dhabi, but in reality a big chunk of the money was going into another Singapore bank account held by "Eric Tan," this time acting as owner of the "Tanore Finance Corporation." Tanore had no legitimate connection to 1MDB, but the fund's executive director Casey Tang was an authorized signatory on the account. The money went to pay for more personal spending by Jho Low and other conspirators. Investigators have traced the trail of the laundered billions through

a maze of bank accounts not only in Singapore and Switzerland, but also in Luxembourg and the United States.

Next, Gabriel explained the illegal earnings made by the colluding investment bank from the United States (Gabriel, 2018, p. 72):

It should be noted that Malaysia's citizens, through their government, are on the hook for the \$6.5 billion in bonds arranged by Goldman Sachs, since the bonds are effectively government-guaranteed. Goldman Sachs, meanwhile, took nearly \$600 million in fees, commissions, and expenses out of the bond sales. That represents close to a tenth of the money raised, which is well above the industry norm and many times the 1 or 2 percent that Goldman Sachs typically charges for arranging such deals.

Also, worth quoting is what Gabriel said about the banks in Singapore (Gabriel, 2018, p. 73):

Singaporean authorities are looking at a number of other banks, including UBS and DBS Group Holdings, to see if they broke rules while handling transactions linked to 1MDB. In fact, almost \$3.7 billion that was stolen from 1MDB was laundered through various banks in Singapore, which should raise alarms there about vigilance by bankers as well as about Singapore's oversight of its financial institutions.

As for the reasons behind banks in so many places playing the dirty role, Gabriel mentioned (Gabriel, 2018, p. 73):

Big international banks that have in the past paid heavy fines for lapses in this area nonetheless continue to play a huge role in laundering dirty money. If banks and other global financial institutions took care to avoid letting themselves be used, large-scale money laundering of the 1MDB sort would stop. Corrupt politicians and their proxies in the developing world would no longer be able to rinse vast sums stolen from their own countries into assets located in the developed world. That these famous banks do not in fact "take care" is a sign of the developed world's lack of resolve. Fines are treated as a mere "cost of doing business." But money paid out by one's institution is one thing; going to jail personally is something else altogether... As of this writing, hardly anyone outside Singapore has been criminally indicted for money laundering in a 1MDB case... Until bank officials start ending up behind bars for criminal complicity in hiding ill-gotten gains, global financial institutions will continue to help launder money: There is too much easy cash to be made by simply closing one's eyes.

That the paper is more than just about the despicable role played by the world's international banks in the 1MDB scandal but also about the sinister part played by local parties particularly leadership at the highest level in the federal government is made clear in the last three paragraphs of the paper where both elements are emphasized (Gabriel, 2018, p. 74):

The fish rotted from the head. All evidence points to 1MDB having been deliberately set up for fraudulent manipulation, with complicity from the very top. Without such complicity, 1MDB's massive losses could not have happened. The global financial system was an accomplice too. International banks moved and stored stolen funds. It is no secret that big banks have engaged in such practices for a long time. Some have paid heavy fines, but these have obviously not been enough to put a stop to banks' involvement in money laundering. Meanwhile, individual bank officers are generally not held criminally liable, which may be the problem.

The 1MDB scandal, on its Malaysian side at least, also presents a classic example of a cover-up and the suppression of information through direct interference in the operations of enforcement and policing agencies. The aim was to stop these agencies from taking action against crimes, and the methods included replacing key officials while intimidating others into submission. Malaysia has laws on the books with which to charge those implicated in fraud and financial offenses, but for that to happen, the political pressures that have so far prevented the rule of law from taking

its course will have to be lifted. The final say rests with the voters. Najib and UMNO remain formidable, however.

From the international side, if money laundering, especially of ill-gotten gains from developing countries such as Malaysia, is to be stopped, banks and others who accept funds from overseas must be made to do much better due diligence. Now more than ever, the world needs a cross-border legal mechanism to investigate, catch, and try grand swindlers and global kleptocrats.

And in several different places earlier in the paper, Gabriel had taken pain in detailing out the wicked role by the person at the very top in the scandal: one the thievery and the other the cover-up. Each of these two had come about in different forms. A paragraph that appears quite early in her paper has made this clear (Gabriel, 2018, p. 70):

The swindle reflects the blatant cover-up of criminality within Malaysia, with domestic investigators compromised by intimidation, manipulative personnel moves, and a conspicuous lack of official curiosity about tons of missing money. Over a period of years, the state-backed 1MDB was allowed to pile up billions of dollars' worth of debt through bond mispricing, overpayment for assets, the creation of phony "strategic partnerships" with shady foreign concerns such as PetroSaudi International (PSI), and plain fraud. Meanwhile official inquiries in Malaysia were hampered and went nowhere. As much as a billion dollars reportedly ended up in the personal accounts of the prime minister, whom a January 2016 official inquiry nonetheless held blameless of legal wrongdoing.

And after a few paragraphs, at the end of the first section of the paper, she pointed out (Gabriel, 2018, pp. 70-71):

Almost from the outset in July 2009, 1MDB was under the direct control of Najib Razak, who was not only prime minister but Malaysia's finance minister as well. He chaired the fund's advisory board. In September 2009, not long after the first billion dollars went into 1MDB's coffers, the free-for-all began. The mismanagement and failures of basic corporate governance were so glaring that they point to criminal complicity, with losses mounting to the level at which the fund lost the ability to keep up payments on its towering debts.

A web of transactions linking Jho Low to 1MDB and a host of questionable practices became public in early 2015 when a former PetroSaudi staffer leaked a trove of the company's emails. The publishers of the leaks—a website known as Sarawak Report (sarawakreport.org) and the Malaysian financial newspaper The Edge Malaysia—were hit with suspensions under Malaysia's tough media-licensing laws..."

Later, in the middle of the paper, she claimed (Gabriel, 2018, p. 71):

In an effort to shield himself from the 1MDB scandal's fallout, he has purged critics within UMNO and turned to the dangerous but familiar game of stressing his Malay ethnicity and Muslim religious identity in order to paint himself as a man of virtue and keep his voter base on board. He has used material inducements as well, offering tax cuts designed to benefit his party's most loyal supporters. How will all this turn out? The Najib government has stonewalled domestic inquiries—not only muzzling media outlets, but even going so far as to classify the Malaysian auditor-general's report on 1MDB as an "official secret" in order to prosecute an official who leaked part of that report.

And finally within the very last page of the paper, Gabriel concluded (Gabriel, 2018, p. 74):

The 1MDB swindle would not have happened had basic principles of public and corporate governance been followed, to include the use of proper checks on how 1MDB's funds were being handled. Such checks do exist in Malaysia. They govern the dealings of the Khazanah Nasional Berhad, the country's government-run sovereign wealth fund. But 1MDB was exempted from all such controls, and no corrective measures were taken despite repeated signs

of abuse. Although some 1MDB board members tried to instruct management to avoid certain deals, the warnings went unheeded and the board never stepped in forcefully enough to stop the misdeeds. Billions are still at risk.

By and large, Gabriel had basically made clear in her work that for the 1MDB to have taken place bringing much misery to Malaysians and Malaysia, the two main causes had to appear. One came from overseas and is concerned with mainly the international banks while the other comes from inside the country in the form of the most powerful person in the country then. In short, one without the other would mean no 1MDB. All that said, for the one main cause which came from inside the country, his ability to do all the despicable things that he did had come about due to the fertile grounding which was Malaysia then. And this is elaborated next.

Chen (2019)

The debilitating political and business culture which comes together with among others regulators and judiciary failing to play their role effectively has found quite a penetrating detailing in Chen (2019) whose work as she put it (Chen, 2019, p. 91) "... investigates the enforcement of directors' duties in Malaysia and seeks to explain the manner and extent to which regulatory safeguards against the expropriation of corporate property are enforced." Note what she mentioned in the very first paragraph of her work where the 1MDB was mentioned (Chen, 2019, pp. 91-92):

1Malaysia Development Berhad (1MDB), the Malaysian state-owned company, has been at the centre of money laundering investigations internationally. The debacle has been criticised by the US Attorney-General as 'kleptocracy at its worst'. Billions of dollars are claimed to have been misappropriated through questionable transactions, leaving the company struggling to pay its debts. Evidence indicates that the impugned transactions were entered into by 1MDB's board of directors in breach of their fiduciary duties to act in good faith in the best interest of the company. The magnitude of the scandal raises questions as to how a Malaysian company was able to be used as a vehicle for fraud despite the existence of regulatory safeguards, modelled largely on Anglo-Australian regulations, aimed at protecting the company from misappropriation of corporate property.

And if that is alone not perceptive enough, there is the case of the following which she noted in the work's abstract (Chen, 2019, p. 91): "Although the scandal resulted in the imprisonment of Singaporean bankers, for many years no enforcement proceedings were taken against the directors of 1MDB in Malaysia..." But if truth be told this is not at all an isolated incident! As she had noted in just two paragraphs under the section that comes with the heading Summary of enforcement outcomes (Chen, 2019, p. 106):

The discussion above reveals a consistent pattern of more robust enforcement of directors' duties in Australia than in Malaysia. The analysis of judicial decisions [involving a total of 102 relevant reported and unreported breaches of directors' duties from 2008 to 2015] reveals that Malaysian minority shareholders had little success in the private enforcement of directors' duties. Minority shareholders in Australia also have better access to redress through the courts seemingly as a result of the more liberal judicial approach towards granting leave to bring derivative actions and greater use of the power to order access to the company's books. When the substitutes for enforcement of directors' duties are examined, the analysis likewise indicates that Australian regulations have facilitated better access to redress. Class actions for breaches of securities law and liquidators' proceedings for the recovery of assets dissipated by directors were substantially more common in Australia. Likewise, minority shareholders in Australia have had more success in influencing significant matters such as directors' remuneration at general meetings.

In a similar vein, the public enforcement of directors' duties is substantially more robust in Australia. Australian regulators' active role in bringing proceedings against high profile directors stands in stark contrast to Malaysian regulators' relative inaction. In addition to criminal sanctions, Australian regulators have obtained civil penalties against errant directors and disqualified many directors. While the fewer sanctions obtained by CCM may in part be attributed to less enforcement options, the evidence suggests that the regulators' limited role in enforcement was driven by political considerations, particularly where companies with strong political connections such as 1MDB were involved.

So, in Malaysia, it can safely be deduced that there are challenges in both the private enforcement of directors' duties through litigation and in public enforcement of directors' duties by the regulators of concern! And when it concerns the former, the three available mechanisms which may function as substitutes for the enforcement of directors' duties by the company through litigation have also left much to be desired. Chen discussed three of them: class actions for breaches of securities regulation; liquidators' proceedings for the recovery of assets; and, shareholders' exercise of voting rights.

It should be worth pointing out too that when it concerns the sick and sad state of affairs related to the public enforcement of directors' duties by the regulators, Chen had it detailed out in over two plus pages. Early on she had this to say (Chen, 2019, p. 103-104):

Enforcement initiatives by the regulator play an important role in strengthening the deterrent effect of regulations aimed at safeguarding shareholders from directors' misconduct. The regulators have better access to evidence than private litigants, while the cost of enforcement action is borne by the public purse. The corporate regulators in both countries have wide powers of investigation. Differences in the laws relating to enforcement in the two jurisdictions centre on the range of enforcement options available to the regulators. *Australian laws provide regulators a wider range of enforcement options including criminal proceedings, civil penalties, enforceable undertakings and disqualification of directors. Malaysian law limits regulators to criminal proceedings and, more recently, regulators have been given the right to apply to the courts to disqualify directors.* (Emphasis added.)

And right after saying that she went on to make the following penetrating revelation (Chen, 2019, p. 104):

The regulator responsible for the public enforcement of directors' duties in Malaysia is the Companies Commission of Malaysia ('CCM'). Analysis of reports and media releases from CCM indicates that the enforcement of directors' duties is limited. The CCM's enforcement activities have focused largely on procedural safeguards in the form of disclosure requirements, such as the lodgement of annual returns and financial statements. In 2015, the CCM registered 10,473 cases in the courts for breaches of company law, most of which were in relation to procedural safeguards. The Annual Report mentioned only one prosecution involving a breach of directors' duties. Likewise, CCM's 2016 and 2017 Annual Reports reflect similar trends, with only one case filed in the courts for a breach of directors' duties in 2016 and none in 2017. Statistics from previous years similarly indicate that most of CCM's enforcement proceedings concerned procedural matters.

As to be expected too is the revelation which she mentioned next (Chen, 2019, p. 104):

More importantly, despite the public outcry surrounding various high profile listed companies alleged to have engaged in controversial transactions detrimental to minority shareholders, the CCM's annual reports suggest that it did not investigate nor bring enforcement proceedings in relation to these companies or their directors. Chief among these are the scandals surrounding

1MDB, the state-owned company at the centre of criminal investigations in other countries. While Singaporean bankers have been imprisoned for their role in money laundering of billions of dollars misappropriated from 1MDB, political intervention has resulted in investigations into the 1MDB debacle covering up the scandal.

But the so called political intervention or interference is nothing new. She talked about one infamous case that took place in the late 1990s involving the acquisition by public listed company United Engineers (Malaysia) Berhad of 32.6 per cent of the shares of Renong Berhad in the text of her work and another two more cases in a couple of footnotes with one of the two taking place in the 1980s (Chen, 2019, p. 105). And thus with all of that to be the disgraceful state of affairs, she next had this to say (Chen, 2019, pp. 105-106):

These and other high-profile scandals which were not investigated by the CCM raise questions as to why the regulator did not act. In situations such as 1MDB, where there was sufficiently strong evidence resulting in criminal convictions overseas, decisions not to prosecute those responsible for corporate scandals were ostensibly politically motivated rather than driven by limitations in enforcement options or the lack of evidence. By contrast, proceedings relating to high profile scandals and corporate collapses feature prominently in Australian public enforcement. Although at times the Australian Securities and Investments Committee ('ASIC') has been criticised for its lack of enforcement action, ASIC has had a substantially more active role in enforcing directors' duties than CCM in Malaysia... Professor Welsh's study of ASIC's enforcement action indicates that 78 criminal prosecutions and civil penalty proceedings alleging breaches of statutory directors' duties were issued from 2001 to 2006. She finds that ASIC was highly successful, obtaining declarations of contravention and civil penalty orders for breaches of directors' duties in 29 of 33 finalised cases from 1993 to 2003.

In trying to explain the reasons for the differences found in the analysis done to the private and public enforcement of directors' duties in Malaysia versus Australia while both have substantive laws which impose duties of good faith on directors and allow the company or its shareholders to bring proceedings for breaches of those duties, she mentioned corporate ownership structures, the politics-business nexus and cultural norms. And under the politics-business nexus she argued (Chen, 2019, p. 109):

The strongest explanation for the manner in which mechanisms for the enforcement of corporate law operate in Malaysia lies in the nexus between politics and business. For decades, Malaysia was a 'soft authoritarian' state in which the political elite were able to exercise substantial control over the judiciary and regulatory authorities. Scholars assert that privatisation and redistribution policies have brought about the synthesis between politics and business in Malaysia and, as a consequence, the Malaysian corporate environment is dominated by political connections. The CCM's lack of enforcement action in relation to politically well-connected companies and individuals resonates with the use of political influence over the regulator to serve the agenda of the dominant ruling elite.

Note that right after saying all that, within the next two pages plus, Chen detailed out the pervasiveness of connections between the political elite and businesses to be followed by almost three more pages on the sinister efforts by the combined forces to limit the independence of the judiciary and regulatory authorities! Regarding the former, note what she said among others (Chen, 2019, p. 109):

The influence of politics on the governance of Malaysian companies occurs through multiple channels. The first and most direct method of influence is through its ownership of controlling blocks of shares, the second is through state-linked institutional investors, while the third, and the least direct channel of influence, is fostered through relationships between controlling

shareholders and political patrons. The benefits offered in the form of contracts and licences provide incentives for controlling shareholders to comply with state policy and the preferences of political patrons. In addition, evidence suggests that controlling shareholders of large corporate conglomerates at times carry on business as unofficial nominees of the political elite and are subject to their directives.

As for the latter involving the regulatory authorities lacking in independence in particular, she pointed out what had taken place over so many years (Chen, 2019, pp.113-114):

Concerns have also been raised in relation to the independence of regulators responsible for the public enforcement of directors' duties. The World Bank's report raises questions about the impartiality of regulatory authorities, particularly when politically well-connected companies are involved. The Finance Committee [on Corporate Governance established in March 1998 as part of a series of measures in dealing with the then Asian Financial Crisis] observes that '[t]here have been questions as to the will and ability of regulators to ensure transparency and protect investors'. The Committee further notes the 'overwhelming public opinion that regulators are not effectively discharging their duties in enforcing the law'.

And right after that she revealed what happened in the case of two government-linked companies (Chen, 2019, p. 114):

Scandals such as the Bumiputra Malaysia Finance Ltd (BMF) case in the 1980s illustrate the political interference in law enforcement processes. BMF was a subsidiary of Bank Bumiputra Malaysia Berhad (BBMB), established as part of the state's redistribution policies, whose board allegedly reported directly to the Prime Minister. Prosecution of BMF directors by regulatory authorities in Hong Kong led to the imprisonment of several directors for corporate fraud. In contrast, Malaysian authorities ostensibly covered up the wrongdoing and used repressive laws such as the Official Secrets Act 1972 to deter further scrutiny of the matter. Investigations into the 1MDB scandal were also alleged to have been obstructed at multiple levels. The Attorney-General was removed from office as he was about to file criminal proceedings against Prime Minister Najib Razak for misappropriation of billions of dollars from 1MDB. Witnesses were threatened and civil servants with the Ministry of Finance were instructed to withhold evidence. There were claims of police interference with investigations by the Malaysian Anti-Corruption Commission, including arrests of staff, and the intimidation and dismissal of high-level investigators.

By and large, Chen's paper that is comprised of almost thirty pages and where just about every single sentence has a footnote is quite an informative piece to strengthen the argument that in Malaysia, the politics-business nexus is an important factor explaining why there is a lot of room for improvement in regard to the enforcement of directors' duties. Note that Chen (2019, p. 115) had also pointed out that the politic-business nexus together with the other two factors – concentrated ownership and cultural norms – "... are commonly found in various parts of Asia and some were borrowed from other Asian countries." Interestingly is what she said next regarding the politic-business nexus and Asian countries as a whole (Chen, 2019, p. 116):

The inter-relation of state and business exemplified in Malaysia resonates with the concept of the Asian developmental state which is thought to be prevalent in various parts of North East and South East Asia. Common features include collaboration between the political and economic elite and 'dominant party rule where democratic principles may in practice be limited in scope'. Scholars have also observed the tendency for limited judicial and legislative roles, while the executive arm of government and its developmental policies predominate.

Following that remark, Chen touched on how the other two reasons – concentrated ownership and cultural norms – to explain the differences between Malaysia and Australia are also widely found in some other parts of Asia. For example, in regard to concentrated ownership, she wrote (Chen, 2019, p. 116): “State ownership of corporations is prevalent in China, Hong Kong, Singapore, Indonesia and Thailand. In various parts of South East Asia, it is common for corporate ownership to be concentrated in the hands of families, some of whom are politically well-connected.” Certainly this would not at all bring any comfort since as far as concentrated ownership in Malaysia is concerned she earlier in the piece had mentioned the following to be the debilitating outcome to the country’s minority shareholders (Chen, 2019, p.107-108):

The prevalence of self-dealing by directors in Malaysia has been attributed to concentrated ownership structures and the dominance of controlling shareholders over corporate management. Studies have consistently found that the ownership and control of Malaysian companies is highly concentrated, primarily in the hands of families and the state... This means that in many of the largest listed companies, controlling shareholders on their own or together with the state-entity holding the second largest block of shares would be able to attain the 50 per cent threshold needed to pass ordinary resolutions at a general meeting. *Many significant corporate decisions such as the appointment of directors, approval of their remuneration and approval of recurrent related party transactions are determined by way of ordinary resolutions at the general meeting. In the circumstances, minority shareholders’ votes would make little difference to ordinary resolutions.* This is consistent with observations in the literature that minority shareholders’ holdings are often too insignificant to influence resolutions at a general meeting, and in practice, controlling shareholders appoint the board of directors. The World Bank’s report likewise asserts that the Chief Executive Officer or board chairman is usually a nominee of the controlling shareholder... Scholars argue that countries with concentrated corporate ownership often have less effective implementation of laws which protect minority shareholders... (Emphasis added.)

And it looks like as far as Chen is concerned, there is no escaping from all of this – not just for Malaysia but also similar other countries! What she wrote at the very end of the concerned section says it all (Chen, 2019, p. 116): “... the observations on the interaction of law with features of the Malaysian context discussed above would, to varying degrees, ostensibly have some relevance for other countries which share similar characteristics.” Assuming that that is true how come it is Malaysia and no other countries which she mentioned or had failed to mention that is burdened by the case of 1MDB global kleptocracy labeled as the worst in the world? Is it possible that there are other factors which she had failed to take into account in discussing the reasons for the differences found in the minority shareholders’ treatment in Malaysia versus Australia? And these other factors are found in Malaysia and not in those countries from Asia which she had compared Malaysia with? All that said, Chen in no uncertain terms delivers a powerful conclusion at the very end of her work on those working on corporate laws convergence at the international level which may in all probability be extended to accounting arena over the so called accounting and auditing standards’ harmonization which has seen some parties working strenuously at the international level for so many years now... She wrote (Chen, 2019, p. 117):

The analysis demonstrates the need to consider the significance of corporate ownership structures and political economy for the effectiveness of corporate law borrowed from Western liberal democracies. These considerations are relevant particularly for developmental states in various parts of Southeast Asia and Northeast Asia which share similarities in shareholding

patterns and state involvement in business. The limitations in the enforcement of corporate law highlighted in the article have broader implications for the trend towards international convergence in corporate law which have centred primarily on formal law. *The findings demonstrate the superficiality of formal convergence, illustrating the deeper differences in the effectiveness of reforms in practice revealed by analysis of the interaction of law and the context in which it operates.* (Emphasis added.)

If context marked by concentrated shareholding, politic-business nexus and cultural norms is the main consideration in Chen's paper, in the case of Quah (2022) he gives emphasis to two factors - leadership and culture – in fighting against corruption in his comparative analysis of the goings on in five places in Asia plus New Zealand. Thus far in the present work, not every single paper probed had pointed out the importance of leadership. So, has there been neglect by some on leadership as a crucial factor leading to widespread corruption inside a country and which in the case of Malaysia's 1MDB accounting for much of what had happened and how it happened?

Quah (2022)

Quah quite early on had talked on the importance of leadership in combating corruption (Quah, 2022, p. 194):

... political leaders play a critical role in changing the culture of corruption by making the laws and allocating the funds for enforcing these laws. However, if they have accepted bribes to fund their parties and themselves, they would not cleanse their colleagues or their nation of corruption. If the incumbent government in a country were committed to curbing corruption, it should demonstrate its political will and capacity by providing the anti-corruption agency (ACA) or other equivalent agencies with adequate legal powers, personnel and resources to enforce the anti-corruption laws impartially, without political interference. ... [C]orrupt political leaders are unlikely to demonstrate the required political will to curb corruption because they would be "killing the goose that lays the golden eggs". Since they "control and exploit everyone and everything for personal gain", corruption enables them to transform the economy into "an instrument of leader wealth creation" and claim as their own "the fruits of the nation's labor"... [C]orrupt leaders as bad leaders who advance their self-interests above the public interest and "lie, cheat, or steal" to acquire more of scarce resources by bending the rules and breaking the law.

And he was crystal clear on such at the end of his detailed work too. As he wrote it (Quah, 2022, p. 204):

What is the role of leadership in combating corruption in the six countries/regions...? The comparative analysis shows that these six countries/regions can be divided into three groups. First, the experiences of Singapore and Hong Kong show that leadership plays a critical role in minimising corruption in both city-states. Second, in New Zealand, leadership does not play an important role in combating corruption... Third, the situation [as found in Taiwan, Japan and Malaysia] is "hopeless" if the political leaders themselves are corrupt and exacerbate the situation by perpetuating their corrupt behaviour with impunity... Without a strong dose of political will, no country/region, including Singapore and Hong Kong SAR, can succeed in minimising corruption, which remains an impossible dream.

Note in particular too what he mentioned earlier in the piece in relation to Taiwan, Japan and Malaysia (Quah, 2022, p. 200): "The pernicious influence of corrupt political leaders like Tanaka of Japan, Chen of Taiwan and Najib of Malaysia, is reflected in the irreparable damage they have

wrecked on their countries/regions and their population's quality of life." And subsequently regarding the specifics on what a certain leader from Malaysia had committed, he wrote among others (Quah, 2022, p. 201):

In 2008, UMNO, the dominant party in the ruling coalition, the *Barisan Nasional* (National Front), was re-elected into power and Najib became prime minister in 2009, succeeding Badawi. In September 2009, the Terengganu Investment Authority became a national investment fund known as 1MDB, which was fully owned by the government with Najib as the Chairman of its Board of Advisors... As mentioned above, US\$681million was transferred into Najib's personal bank accounts in March 2013, followed by the deposit of another sum of US\$11.1 million into Najib's accounts by SRC International [which between 15 August 2011 and 13 February 2012 was an 1MDB subsidiary] in December 2014... On 1 March 2016, *The Wall Street Journal* reported that more than US\$1 billion from the 1MDB was deposited into Najib's personal bank accounts. On 28 March 2016, the *Australian Broadcasting Corporation* (ABC) *News* confirmed that Najib had received a total of US\$1,050,795,451.58 in his personal bank accounts from January 2011 to April 2013... ABC *News* was concerned that "so much money was pouring so rapidly into the Malaysian Prime Minister's personal banking accounts that it rang internal money-laundering alarms inside AmBank, a major Malaysian institution part-owned by Australia's ANZ (Australia New Zealand Bank)"... Najib covered up the 1MDB scandal by removing from office the Deputy Prime Minister, four ministers, the Attorney-General, and some junior officials during 2015-2016 to prevent them from revealing evidence of corruption or convening a public inquiry. The government also hindered investigations by withholding documents and computer files and influencing the investigators in the National Audit Department and the MACC to change their findings or abandon their investigations...

As for the interdependence of bad cultural habits *and* the top leadership of a country, he had begun his explanation with the following remark (Quah, 2022, p. 201): "In the past, culture was viewed as a "residual" factor to explain people's attitudes toward productivity and other issues. More recently, culture is now viewed as an important factor contributing to corruption..." Subsequently, in talking about the relationship between the two as far as Malaysia is concerned, he mentioned among others the following (Quah, 2022, pp. 203-204):

In Malaysia, the culture of corruption is linked to "money politics" i.e., the reliance on vote buying by the political parties to secure their electoral victories. The "spectre of money politics in Malaysia" is reflected in the "lavish campaign spending, vote-buying or the award of contracts to vested interests"... *In sum, culture constitutes a serious obstacle to curbing corruption if the political leaders are corrupt* (like Prime Minister Tanaka, President Chen and Prime Minister Najib) *and lack the political will to enforce impartially the regulations prohibiting gift-giving, vote-buying and money politics in Japan, Taiwan and Malaysia*. On the other hand, Lee Kuan Yew's zero-tolerance policy toward corruption in Singapore is effective because it addresses the causes of corruption and provides the CPIB [Corrupt Practices Investigation Bureau] with the necessary legal powers and resources to minimise corruption without political interference and regardless of the offenders' position, status or political affiliation. (Emphasis added.)

All in all, Quah deserves the credit in making clear the crucial factor of a country's top leadership in fighting widespread corruption which some others have inexplicably failed to do. But has he done enough? Early in his piece, he talked about the effectiveness of a country's anti corruption measures is dependent on two factors (Quah, 2022, p. 197): "(1) the adequacy of these measures in terms of their comprehensive scope and powers; and (2) the political will and capacity to minimise

corruption in the country.” And right after, he said (Quah, 2022, p. 197): “Anti-corruption measures would be adequate and effective if they were properly designed to address the causes of corruption and be sponsored and sustained by the political leaders...” Next, he came out with two examples (Quah, 2022, p. 197): one from Singapore and another from Malaysia where for the latter he wrote “... the 1MDB scandal in Malaysia reflects the MACC’s failure to enforce the anticorruption laws impartially” which is in contrast to “CPIB’s impartial and consistent enforcement of the Prevention of Corruption Act (PCA)” in the case of Singapore.

But in probing at the so many things which he shared with his readers, and some are noted above, it may be safe to say that there is a third factor to be added to his list of two factors influencing the effectiveness of a country’s anti corruption measures. And this additional factor comes in the form of political parties’ members or electorates supporting or failing to support government’s anti corruption measures responsible for the success or otherwise of such measures. Note what he mentioned regarding the debilitating goings on in Japan taking place over several decades (Quah, 2022, p. 198):

Japan’s structural corruption (*kozo oshoku*)... is built into its political system and results from the prevalence of money politics... Carlson has compared the different anti-corruption approaches of Prime Minister Tanaka Kakuei (1972-1974) and his successor, Miki Takeo (1974-1976)... He shows how Tanaka capitalised on the structural corruption in Japan to enhance the fortunes of the Liberal Democratic Party (LDP), his supporters and his political survival... Japan signed the United Nations Convention Against Corruption (UNCAC) on 9 December 2003 and accepted it on 11 July 2017... Japan’s reluctance to ratify the UNCAC after more than 18 years reflects its government’s reluctance to establish an ACA to replace the ineffective and inadequately staffed SIDs in Tokyo, Nagoya and Osaka... *Indeed, the entrenched structural corruption in the Japanese political system is legitimised and accepted by many citizens and foreign residents as “part of the system”... (Emphasis added.)*

Also, note what he uncompromisingly revealed at the end of his work (Quah, 2022, p. 204):

In Japan, the late Prime Minister Tanaka Kakuei is surprisingly viewed as a “folk hero” by many Japanese in spite of his corrupt behaviour and lack of accountability for his corruption offences. President Chen Shui-bian of Taiwan broke his campaign promise to fight corruption after winning the 2000 presidential election and continued his corrupt behaviour until the end of his second term in May 2008. Even though he was imprisoned for his offences, Chen has not apologised or shown remorse for his corrupt behaviour.

Finally, check out what Quah wrote in the case of Malaysia right after what he wrote above in the case of Japan’s Tanaka and Taiwan’s Chen showing how party followers or electorates playing the crucial role (either knowingly or not) of ensuring corruption inside a country to be out of control (Quah, 2022, p. 204):

However, the corruption offences of Tanaka and Chen pale in comparison with the much larger amounts of money embezzled and laundered by Prime Minister Najib Razak of Malaysia through his involvement in the 1MDB scandal. Like Tanaka and Chen, Najib is also not remorseful and claims instead that he is innocent and the charges against him are politically motivated. He was found guilty of misappropriating RM42 million in July 2020 and sentenced to 12 years imprisonment and fined RM210 million. *Instead of spending his days behind bars, Najib is free to campaign with impunity for his UMNO colleagues in the recent state elections in Malacca and Johor because he filed an appeal and is out on bail of RM2 million. (Emphasis added.)*

But could it be that such concerning acts coming from party followers and citizenry matching up to blatantly corrupt leadership are already expressed indirectly when Quah was talking about culture? After all, it is in a later section of the paper with the heading “Does culture matter in fighting corruption?” that Quah detailed out the work done with the masses by the Community Relations Department (CRD) of the Independent Commission Against Corruption (ICAC) from Hong Kong. But first note what he first said earlier in the paper regarding the ICAC’s CRD (Quah, 2022, p.197):

In the first article, Johnston explains why the ICAC has been effective in enforcing the Prevention of Bribery Ordinance (PBO) 1971 in Hong Kong, even after its handover to China as a SAR in July 1997. As mentioned above, Governor Sir Murray MacLehose established the ICAC in February 1974 to replace its ineffective predecessor, the ACO, in the wake of the escape of a corruption suspect, Police Superintendent Peter Godber to Britain on 8 July 1973. Governor MacLehose’s leadership was critical because he accepted Sir Alastair Blair-Kerr’s recommendation to consider public opinion and establish an independent ICAC for political and psychological reasons... *Johnston concludes that the ICAC has been effective in curbing corruption in Hong Kong because of the extensive efforts of its Community Relations Department (CRD) to enhance the population’s awareness of the adverse consequences of corruption.* (Emphasis added.)

And later Quah gave more details on the work done by the CRD (Quah, 2022, pp. 202-203):

As 92 per cent of Hong Kong’s population is Chinese, the ICAC’s CRD is concerned with enhancing the population’s awareness of the adverse effects of corruption and to discourage them from accepting those cultural values and practices which nurture corruption in Hong Kong. As the Chinese have been conditioned for many centuries to using personal connections to get things done, what was important were the moral or folk norms of an individual’s informal social network and not the legal codes... Apart from convincing the older, less educated and more traditionally oriented Hong Kongers of the adverse consequences of corruption, the other important challenge facing the ICAC’s CRD was the giving and taking of commissions by employers and employees in the business sector for more than a century in Hong Kong... The business community in Hong Kong was initially apprehensive with how the CRD would deal with the common practice of paying commissions by firms for services rendered... The investigation of several high profile private sector fraud cases by the ICAC during 1984 to 1994 reinforced the importance of the contacts established by the CRD with the industrial and commercial sectors. The CRD’s extensive liaison with diverse private sector companies resulted in the establishment in 1995 of the Hong Kong Ethics Development Centre to handle liaison work with the professional and commercial organizations...

A question may be raised as to why all this on anti corruption agency working with the masses should be significance. And the answer comes in the form of the following remark mentioned early in the paper (Quah, 2022, pp. 194-195):

... New Zealand, Singapore and Hong Kong have much higher Corruption Perceptions Index (CPI) scores and percentile ranks for the control of corruption than Japan, Taiwan and Malaysia. New Zealand has retained its joint first position with Denmark and Finland on the CPI in 2021. Singapore is ranked fourth jointly with Norway and Sweden. Hong Kong is ranked 12th, followed by Japan (ranked 18th) and Taiwan (ranked 25th). Not surprisingly, Malaysia’s performance on the CPI in 2021 has deteriorated in the wake of the 1Malaysia Development Berhad (1MDB) scandal as its rank has plummeted from 51st to 62th position, with its score declining from 51 to 48.

In other words, surely Hong Kong would not be among the top for the Berlin-based Transparency International's CPI scores and percentile ranks if there is no CRD working closely with the masses? And the key word here is the masses or electorates who of course include party followers. Anyway, it is none other than Quah himself in another research paper published a year earlier regarding what is needed to break the cycle of failure in combating corruption in Asian countries who had made it crystal clear on the essential role played by the general public within its very last paragraph - but which ironically he had failed to dwell on earlier in the paper (Quah, 2021) and thus adding up to the failure shown later in his other paper (Quah, 2022) in bringing it up as one of the main or primary factors influencing the effectiveness of a country's anti corruption measures. As for that very last paragraph from the paper published in the previous year (Quah, 2021, p. 136):

... the plunder wrecked by corrupt political leaders in Indonesia, Malaysia, the Philippines, South Korea and Taiwan, to mention only five examples, confirms that such leaders would perpetuate the cycle of failure to further their own kleptocratic interests with impunity at the expense of their citizens and countries unless they are stopped. In the final analysis, the cycle of failure in combating corruption in Asian countries can only be broken *if and when their citizens abhor corrupt leaders and elect honest and competent political leaders* who would use ACAs as independent watchdogs instead of abusing the public trust by using ACAs as attack dogs or paper tigers. (Emphasis added.)

All in all, the matter of followership and citizenry should have been made clear as one of the main or primary factors to decide on the success or failure of measures implemented to fight against corruption. The Hong Kong's successful story and Taiwan, Japan and Malaysia's shameful ones point to the fact that a combination of top leadership of a country and people below are crucial in creating the happy or sad, debilitating ending. In other words, it is not just the top leadership but also party followers and citizenry who have to be given the focus by the concerned parties who want to figure out the factors needed to be around to ensure cases like the 1MDB are to never ever happen again! If not the despicable acts of certain leaders shall never come to a stop when there is around the stomach churning actions of their followers or voters.

To appreciate the significance of what has been presented here coming from Quah's emphasis on the top leadership factor and the related goings on at the societal level such as party followers or citizenry whereby corrupt leaders would correspond with deplorable conducts from people down below, one does not need to look far for more evidence since Chen mentioned above in another paper of hers said to have been "... accepted for publication in June 2020" in the *American Journal of Comparative Law* had raised various remarks pointing to the same direction taking place in Malaysia! Specifically, in the 2020 work of hers, it can be detected that when the nation's top leadership was not serious in making the right move such act shall be matched up with lackadaisical conduct coming from those below in the society.

(Note: In full, in the concerned SSRN website where the 2020 paper by Chen was found the following is stated at the top of the first page just below the paper's title and the author's name: "Author's original submission to the *American Journal of Comparative Law* which was accepted for publication in June 2020 following revisions." And down below on every single page, there is the following stated too: Electronic copy available at: <https://ssrn.com/abstract=3924711>. But later on 27 December 2022 when the paper was finally published – with some changes made to the 2020 version - the following so called "Suggested Citation" has now appeared: Chen, Vivien, Corporate Law and Political Economy in a Kleptocracy (January 16, 2020). (2022) 70(3) *American Journal of*

Comparative Law 480, Available at SSRN: <https://ssrn.com/abstract=3924711> or <http://dx.doi.org/10.2139/ssrn.3924711>. In other words, the 2020 version which is discussed next is no more around at the SSRN website, for it has been replaced with the later published version. And since it is also not found anywhere else in the web, there is no website address given for the 2020 version of the paper in the reference section. Now, it is important for readers to know that *all* the quotations coming from the 2020 version which appear next can still be found in the 2022 published version of the paper – except for a total of six quotations that are included in the part that comes with the heading “In whose interests the failed shareholder protection law reformation had taken place?” Specifically, the three at the beginning plus another three concerning Malaysia’s Capital Market Masterplan 2 at the end.)

Chen (2020)

At the outset and if truth be told, Chen (2020) paper is quite similar to her previous year paper (Chen, 2019) dwelt upon above. This can easily be detected from the paper’s two-paragraph abstract which include the following:

Described by the US Attorney-General as ‘kleptocracy at its worst’, 1MDB, a Malaysian state-owned company, was a vehicle for theft of billions by the former prime minister for nine years. Malaysian corporate law is largely aligned with international standards, raising questions as to why it failed to effectively safeguard against the expropriation of corporate property. The article investigates empirical evidence of the strength and implementation of Malaysian corporate law that ostensibly protects shareholders from expropriation. It examines the translation of global norms into local practice, and highlights the contextual influences that have impeded effective enforcement... While Malaysian corporate law has been modelled on benchmarks of international standards, its corporate ownership structures, political economy and form of political governance have developed in a distinctly different manner from institutions in Western developed countries.

That said, quite a few what Chen (2020) raised within the last two third of the paper were not found in her 2019 paper (or for that matter just about any other papers whose authors touch on the 1MDB and its causes) and those may assist efforts to detect the causes (and the related solutions) of the 1MDB scandal which of course is the aim of the present work. These are: the underlying purpose for law reformation; illusory change; regulatory capture; law’s social embeddedness; Asian’s developmental state; and, last but not the least, gap between laws in the books and laws in practice signifying the futility of harmonization of laws and the like at the international level. All are raised next one after another to be followed with the discussion over the matching up in a society of bad leaders with deplorable conducts from people down below.

In regard to **the law reformation’s underlying purpose** (Chen, 2020, pp. 35-36):

Scholars assert that the underlying purpose for the adoption of reforms is a stronger determinant of its function than the form of the regulations. The post-Asian financial crisis reforms were driven primarily by the perceived need to placate foreign investors, while the government took the view that substantive reforms were unnecessary. The underlying purpose for the adoption of the post-Asian financial crisis reforms was to signal conformity with international standards with the aim of regaining foreign investment. Nonetheless, if implemented effectively, the reforms would have eroded the dominance of controlling shareholders. While controlling shareholders benefit from the investor confidence engendered by regulations conforming to international standards, controlling shareholders have a vested interest in maintaining their dominance over the

governance of companies. *In the Malaysian context, the phenomenon in which formal shareholder protection law is strong but substantive implementation is weak favours the interests of controlling shareholders, their political patrons and, ultimately, the synthesis of political and corporate power in Malaysia.* (Emphasis added.)

As for **the illusory change** (Chen, 2020, p. 41):

The findings demonstrate the limitations of prescribing formal law as a remedy without considering the interaction of law with specific features of the context in which it operates. *While regulatory reforms may create an impression of strong law, such reforms may form a smokescreen for detrimental practices when regulatory protections for minority shareholders are rendered largely illusory as a result of corporate ownership structures, political economy and difficulties in enforcement.* The study suggests a need for greater recognition in the discourse on global standards for corporate law of the significance of political economy for the effectiveness of transplanted law. (Emphasis added.)

On **regulatory capture**, she had first talked about it in connecting her research findings (which suggested a lack of effective enforcement of shareholders protection in Malaysia) with the broader context. As she put it (Chen, 2020, p. 12):

The regulators' inaction despite public outcry over scandals involving high-profile politically-linked companies suggests the influence of politics on regulatory enforcement. At times, the authorities have inexplicably granted waivers to well-connected companies instead of bringing enforcement proceedings. Highly publicised examples include the Bumiputra Malaysia Finance case in the 1980s, Renong in the 1990s and the waiver of a mandatory general offer for Sime Darby Berhad's acquisition of a 30 per cent stake in Eastern & Oriental Berhad. (Emphasis added.)

Next, she elaborated on the subject while talking about the 1MDB (Chen, 2020, pp. 12-13):

The 1MDB scandal serves as an illustration of regulatory capture, epitomising the manner in which political influence may be used to interfere with enforcement and exploit gaps in the regulatory framework. 1MDB was ostensibly established for the benefit of the Malaysian public in 2009. Contrary to its stated purpose, the company was used as a vehicle for the expropriation of more than USD4.5 billion by the then Prime Minister and his allies. The board of 1MDB clearly breached their duties on multiple occasions when they approved fraudulent transactions that enabled billions to be siphoned off from the company. The scandal precipitated criminal proceedings in Singapore and Switzerland, civil forfeiture in the US and investigations in various other countries. *Although evidence of wrongdoing began to emerge as early as 2010 and foreign proceedings began around 2015, a heavy-handed stance against Malaysian investigations and use of repressive laws ensured that the Malaysian authorities did not bring enforcement proceedings in relation to 1MDB until the Najib administration fell in May 2018.* (Emphasis added.)

And right after saying so, she pointed out (Chen, 2020, p. 13):

The scandal demonstrates the impact that the broader institutional environment may have on the enforcement of corporate law. Against a background of soft authoritarianism, the Attorney-General was dismissed as he was about to file proceedings, and political interference in investigations ensured that the then Prime Minister was cleared of wrongdoing. The investigation report was classified as an official secret. Public discussion of 1MDB was suppressed through a range of repressive legislation including anti-fake news laws, sedition laws and the

Communications and Multimedia Act 1998. Notably, the corporate regulator remained silent despite evidence indicating that the board of 1MDB had failed to carry out their duties. Later, in the very last paragraph of her work, she had referred again to it (Chen, 2020, pp. 41-42): “The 1MDB debacle serves as an illustration of regulatory capture and the manner in which the broader institutional environment can affect, and even facilitate, expropriation through Malaysian corporations. The scandal underscores the need for enforcement of corporate law free from political interference, increased accountability and transparency around the finances of state-owned corporations.”

Regarding **the law’s social embeddedness** (Chen, 2020, pp. 37-38):

Harding argues that global norms are ‘clothed in local knowledge’ as they interact with existing socio-cultural, economic and political conditions. The resultant syncretic blend that emerges from these interactions may function differently from the predecessors on which they were modelled. *The analysis of Malaysian shareholder protection law reveals that the way in which it functions may be attributed to the country’s distinctive political economy. Corporate ownership structures, the pervasive nexus between politics and business, a lack of independence among regulatory authorities and soft authoritarianism in which the separation of powers has been compromised, collectively contribute to ineffective legal institutions for the protection of shareholders from expropriation.* The significance of political economy for the effectiveness of Malaysian legal institutions resonates with the proposition that legal institutions are socially embedded. As a consequence of social embeddedness, legal transplants embodying global norms evolve as they interact with the local socio-cultural, economic and political conditions. (Emphasis added.)

As for Malaysia and other **Asian countries’ developmental state**, she had first talked about it in the following manner (Chen, 2020, pp. 16-17):

... the broader institutional environment in which corporate law operates is affected by soft authoritarianism and the inextricable link between politics and business. *The state’s involvement in business and form of political governance resonate with the notion of the Asian developmental state which is often characterised by a strong executive arm of government and a relatively weak judiciary... The judiciary and regulatory enforcement agencies have at times been subject to political interference, particularly where well-connected companies are involved. The judiciary’s and regulators’ lack of independence, as well as their tendency to implement state policy and defend state interests, further impede the regulation’s effectiveness in safeguarding the interests of minority shareholders.* The World Bank’s report observes that the courts have been ‘skeptical towards the claims of smaller shareholders and their grounds to bring complaints against the company, directors, or major shareholders’. Scholars observe that the judiciary has been subordinate to the executive and decisions are often in line with state policy. The restrictive interpretation of minority shareholders’ rights of recourse to the courts is consistent with the preservation of the state’s interests as a controlling shareholder, and the state’s perspective of minority rights. (Emphasis added.)

Later, within the second last section of her work (Chen, 2020, pp. 38-39):

The assumption that corporate law is relatively neutral is open to challenge in various parts of Asia where governments maintain an active role business. In many Asian developmental states, collaboration between the political and economic elite is common. The merger of political and economic interests suggests the relevance of political economy to the evolution of corporate

law... The analysis of Malaysian shareholder protection suggests a need for greater recognition of the implications of political economy for the way corporate law operates in the discourse on global standards for corporate law. State ownership of corporations is common in many parts of the world, and political and economic interests are often intertwined in Asian developmental states. The investment of public funds in state-owned corporations suggests a blurring of the distinction between public and private spheres.

And finally in the concluding section of her paper, when talking about illusory change in laws, she had the paragraph concerned to end with the following (Chen, 2020, p. 41): “The Malaysian case study has implications beyond its borders, given the similarity of institutions to those of other Asian developmental states and the common presence of state-owned corporations in various countries around the world.”

As for **the gap between laws in the books and laws in practice** or in another way of saying the gap between formal laws and their effectiveness in practice (Chen, 2020, p. 14):

The problems with the enforcement of Malaysian regulations resonate with scholars’ observations of a gap between law in the book and law in practice. Katelouzou and Siems posit that ‘copying legal rules is easier than implementing them in the absence of effective judiciary, trustworthy legal and administrative infrastructure, and efficient political and economic institutions’. They suggest that at times countries ‘feel the need to signal to foreign investors that they have decent shareholder protection, even if this is more a form of window dressing.’... In analysing the derivative action in Asia’s leading economies, Associate Professor Puchniak asserts the superficiality of convergence in formal law, emphasising that ‘unique regulatory, economic, institutional, and socio-political features in each of Asia’s leading economies result in significant divergence as to how the derivative action in each jurisdiction actually functions in practice.’ Similarly, a study of the function of independent directors in Asia highlights distinct differences across countries, and greater disparities with the UK and US, although the formal regulations were based on Anglo-American models.

But does all that matter to parties operating internationally and as far as Malaysia is concerned? Apparently not! Note the following which Chen had revealed when it concerns the former (Chen, 2020, pp. 1-2).

The increasing convergence of corporate law internationally in recent decades has been substantially influenced by initiatives such as the G20/OECD Principles of Corporate Governance (‘Principles’). Global standards have gained traction as countries compete for foreign capital in the increasingly internationalised capital markets. The World Bank’s Doing Business index has likewise been influential in driving regulatory reforms in developing countries... As global standards are commonly relied on by rating agencies and institutional investors as a benchmark to evaluate the governance of corporations, many countries have been incentivised to reform their company legislation or adopt codes in line with the internationally-recommended norms. *Consequently, there are similarities in corporate law in the books across various countries. Nonetheless, studies reveal greater differences in the implementation and enforcement of law in practice... The transplantation process that occurs when global norms are adopted, interpreted and applied in a domestic context is thought to have a significant impact on the way in which law operates in practice. Scholars posit that a range of factors and interactions affect the integration of global standards into a country’s legal system.* (Emphasis added.)

And as far as Malaysia is concerned, Chen had pointed out (2020, p. 23-25):

Following criticisms of Malaysian shareholder protection law during the Asian financial crisis, sweeping reforms were made in line with international standards in order to regain the confidence of foreign investors. Malaysia's endeavours in adhering to international standards are part of a broader global shift towards transnational harmonisation of laws. The competition for foreign capital and the common use of the OECD's principles by rating agencies as a basis for ranking companies are thought to encourage transnational harmonisation... As transnational financial organisations put forward Anglo-American regulation as the model of international standards for East Asian countries, Malaysian law reformers looked once again to the regulations of developed common law countries. The importance of international standards has been reflected in various Malaysian reform initiatives since the Asian financial crisis... Following this, the Corporate Law Reform Committee ('CLRC') was established for the purposes of reviewing Malaysian company law. The CLRC's objectives were to facilitate and develop 'a conducive and dynamic business and regulatory environment for the country which is in line with international standards'... More recently, the Companies Commission of Malaysia in its public consultation on the proposed *Companies Bill* observed that 'the new corporate legal framework for Malaysia will remain forward looking' and is consistent with international standards. *Nevertheless, scholars argue that convergence in shareholder protection brought about by transnational harmonisation is limited to formal law, while persistent differences in implementation remain.* (Emphasis added.) All in all, aside from talking about the underlying purpose for law reformation, illusory change, regulatory capture, law's social embeddedness, Asian's developmental state and last but not the least the presence of a gap between laws in the books and laws in practice signifying the futility of harmonization of laws and the like at the international level which should be helpful in charting out the path towards ensuring the very minimal possibility for other 1MDB like scandals in the future, there is one particular revelation that Chen (2020) made that could be considered quite invaluable since it may be used to explain why the law reformation done after the Asian financial crisis 1997-98 had failed to place the country back to its former position as possibly one of Asia's potential dragons – and related to that why the country went through the 1MDB scandal where its early days began just a little over a decade after the onset of the financial crisis!

In whose interests the failed shareholder protection law reformation had taken place? The harrowing truth that Chen (2020) revealed is concerned with the country's top leadership in the late 1990s and the subsequent series of matching devastating conducts coming from those in the public and private sectors. And it all began with the following remark coming from the very first paragraph of the middle section of her work that comes with the heading "Co-evolution of Law and its Context" (Chen, 2020, p. 24):

... theories of legal evolution contemplate the possibility that formal laws may at times fail to operate effectively. The manner in which laws are interpreted and applied by the people involved in legal processes, for instance, has potential implications for the effectiveness of law in practice. Contextual factors, including cultural values, political or economic influences, arguably affect the implementation of law and the extent to which their underlying objectives are fulfilled.

Next, she pointed out (Chen, 2020, p. 25):

Theories of legal evolution are useful in providing possible explanations for the lack of effectiveness of Malaysian shareholder protection law. At the same time, theories of legal evolution offer possible explanations for the shape of formal law, positing that economic, political and socio-cultural factors affect the evolution of formal law. Accordingly, theories of legal evolution appear to be useful in explaining the influences which have contributed to the

strength of formal Malaysian shareholder protection law, as well as illuminating the reasons for the law's lack of effectiveness.

And after several more paragraphs, she claimed (Chen, 2020, pp. 27-28):

The importance of the markets in precipitating legal change is evident not only in the reforms after the Asian financial crisis, but also in the strengthening of shareholder protection law in the two decades after the crisis. Reports indicate that Malaysia failed to regain the level of foreign investment enjoyed prior to the 1997 Asian financial crisis despite regulatory reforms. Government policy documents in 2009 noted the steady decline in Malaysia's economic dominance in the region since the crisis, observing that growth in neighbouring economies further posed a challenge to Malaysia's global competitiveness. Lingering doubts over the effectiveness of Malaysian shareholder protection *in practice* continued to persist. For instance, in 2002, the largest public pension fund in the US announced its intention to withhold new investments in several emerging markets, including Malaysia, due to *poor corporate governance practices*... Policy documents indicate the tendency to respond to the decline in Malaysia's international competitiveness and concerns over the lack of effective shareholder protection by proposing *further law reform*. Many of the recommended reforms were aimed at improving Malaysia's rankings on global indices, such as the World Bank's Doing Business index, by aligning formal Malaysian regulations with international best practices. (Emphasis added.)

But is there any honesty in reforming the law? Apparently not! Note what she said next (Chen, 2020, pp. 28-29):

The reforms, which sought to enhance Malaysia's standing in global rankings, resonate with scholars' propositions that law performs a signalling function. In particular, law reforms may signal compliance with international standards or the state's commitment to addressing problems of ineffective shareholder protection. Such signals are often aimed at enhancing the credibility of a country's regulatory framework. The signalling function of the post-Asian financial crisis reforms is reflected in the remarks of the then Prime Minister Dr Mahathir, '[w]e try to follow [the IMF programmes] not because we think IMF is right, but because if we don't then there will be a loss of confidence ... So we try to show that we are with the IMF.'

And right after all that, she inferred (Chen, 2020, p. 29):

In short, Dr Mahathir indicated that the reforms were aimed at demonstrating conformity with international recommendations in order to strengthen the confidence of foreign investors in the Malaysian market. Notably, the Malaysian government did not agree with international criticisms that substantive reforms were necessary but, nonetheless, conceded the reforms in order to placate foreign investors.

With such to be the case, Chen next concluded (Chen, 2020, p. 29): "This dichotomy has significant implications for the manner in which Malaysian shareholder protection has developed. In particular, the dichotomy is important in explaining the gap between formal law and its effectiveness in practice." But pray tell which parties whose interests have deepened behind the sad affair which may be labeled as "law reformation without substantiation"? The answer she gave appears to begin with the following remark (Chen, 2020, pp. 30-31):

In the context of Malaysia's concentrated shareholding structures, formal regulatory reforms which have strengthened minority shareholders' rights appear to be contrary to the interests of controlling shareholders. Nevertheless, scholars concede that at times, competition for capital in

the increasingly globalised markets leads controlling shareholders to concede reforms which erode their dominance while promoting investment. The post-Asian financial crisis reforms which were aimed at promoting investment appear to resonate with such assertions. *Notably, the reforms were motivated by the need to placate foreign investors rather than the government's perceived need for substantive change.* The substantial outflows of foreign capital after the Asian financial crisis were detrimental to the corporate and political elite. The post-Asian financial crisis reforms signalled conformity with international standards and were aimed at restoring investor confidence. (Emphasis added.)

And the signaling is of little value since it has failed to be followed with the necessary and adequate enforcement actions due to the fact that the long term interests of the elite in the country must be protected under any circumstances! As she explained next (Chen, 2020, p. 31):

While the political elite stood to benefit from the investor confidence engendered by the formal reforms, the erosion of controlling shareholders' dominance was inimical to their interests. Studies suggest that laws which erode the position of dominant corporate interests may subsequently be poorly implemented. Kraakman et al raise the possibility that to an extent, international best practices in blockholder jurisdictions may be 'ornamental', particularly as 'dominant shareholder coalitions retain the power to hire and fire the entire board, including its nominally independent directors.' Consequently, controlling shareholders are able to attract investment, by conforming to standards required by international institutional investors, while retaining power. *The Malaysian corporate regulatory framework's lack of effectiveness is consistent with the proposition that in blockholder jurisdictions, international best practices may be adopted in form while substantive implementation of its underlying values may nonetheless be avoided.* (Emphasis added.)

At the end, it is all the case of triumph of hope over experience: espoused theories versus theories-in-used whereby the latter won hands down? And such is clearly depicted by the day-to-day painful realities – while the espoused theories presumably continue to stay put superbly on paper not to be bothered? Not quiet since the truth is that in the case of Malaysia's supposed strengthening of shareholder protection law even the so called reforms that appear in the books have still much left to be desired! As Chen (2020, pp. 32-33) put it:

Directors' remuneration is an important means by which corporate assets may be expropriated by those in control of companies. Both UK and Australian law have seen major reforms in the area of directors' remuneration which have increased transparency and enabled shareholders to have a stronger voice. Malaysian regulation of directors' remuneration and directors' disqualification remained largely unchanged for over 50 years from 1965 to 2015. Malaysian regulations have only very recently increased transparency and mandated shareholder approval for the remuneration of directors of public companies, listed companies and their subsidiaries. Nonetheless, the disclosure requirements introduced are considerably limited. Further, minority shareholders' votes tend to have minimal effect on resolutions at general meetings due to highly concentrated shareholding. Directors' disqualification is an important sanction for breaches of directors' duties in UK and Australia. Malaysian law only allows directors to be disqualified in very limited situations, and regulators have not used disqualification as a sanction for directors' misconduct. The Companies Act 2016 did not address the limitations to the existing provisions on the disqualification of directors despite extensive reforms in other areas of company regulation. (Emphasis added.)

A question may be raised as to which immediate ends such inadequacies are found in the books? And the answer is simply to maintain ones' dominance and as far as the subject matter of directors' remuneration is concerned it is to ensure ones' continuing ability regarding the expropriation of corporate property! As Chen mentioned (Chen, 2020, p. 33):

The significant potential for directors' remuneration to be used as a means of expropriation, and the wide use of directors' disqualification in the UK and Australia as a sanction for breaches of directors' duties, suggest the importance of reforms to these areas in strengthening shareholder protection. *Minimal and lethargic reform in these areas of Malaysian shareholder protection has seemingly allowed controlling shareholders to preserve their dominance over these critical matters of corporate regulation. The lack of reform in critical areas suggests the possibility that controlling shareholders have used their political influence to avoid reforms which would have substantially eroded their dominance.* This resonates with the political economy perspective which asserts that dominant corporate interests use their political influence to shape corporate law so as to consolidate their control over resources. (Emphasis added.)

And with all that in the background as far as the laws in the books are concerned, surely the practice is not good at all? Definitely! Recall the specifics which were laid out above while discussing Chen (2019) and which in Chen (2020) are detailed out over three full pages which include the following (Chen, 2020, pp. 8-10):

Empirical research investigating the effectiveness of Malaysian shareholder protection reveals that the enforcement of Malaysian law has been weak across all the areas examined. The study of public enforcement indicates that the Malaysian regulator's enforcement proceedings centre on procedural matters such as the filing of annual returns. At the same time, there is minimal enforcement in relation to substantive protections for shareholders such as directors' duties... The corporate regulator's inaction has been particularly evident in the face of highly publicised scandals involving politically-connected Malaysian companies... Likewise, the empirical findings reflect that private enforcement in Malaysia is weak... The empirical study of judicial decisions over an eight-year period reveals that Malaysian litigants faced considerable impediments in obtaining a remedy. The restrictive judicial approach towards shareholders' rights to bring derivative proceedings was a key contributing factor... Collectively, the findings reveal that minority shareholders have had limited success in obtaining redress for wrongs through private enforcement... In short, across both private and public enforcement mechanisms, Malaysian enforcement of corporate law aimed at safeguarding shareholders from expropriation of corporate assets was significantly weaker than in Australia.

As what Chen says to be the specific reasons behind all those debilitating realities, recall that in Chen (2019) she explained them using three factors: the politic-business nexus, concentrated ownership and cultural norms. This time around she mentioned political economy which she discussed extensively under the following headings (Chen, 2020): the role of political economy; the effectiveness of Malaysian shareholder protection; and, legal transplants in a local context. Two paragraphs depict well the corresponding meaning of the political economy to explain the lack of effective enforcement of Malaysia's shareholders protection law.

The first paragraph from the section with the heading "The effectiveness of Malaysian shareholder protection" (Chen, 2020, p. 34):

The inextricable relation between politics and business underscores the relevance of political economy in explaining the effectiveness of shareholder protection. *In an environment where the interest of controlling shareholders is often synonymous with that of the politically powerful, the form of political governance in Malaysia arguably contributes to judicial conservatism in giving effect to minority shareholders' rights, and limited public enforcement of substantive shareholder protection law.* (Emphasis added.)

The second paragraph from "Legal transplants in a local context" (Chen, 2020, pp. 38-39):

The assumption that corporate law is relatively neutral is open to challenge in various parts of Asia where governments maintain an active role business. In many Asian developmental states, collaboration between the political and economic elite is common. The merger of political and economic interests suggests the relevance of political economy to the evolution of corporate law.

All in all, it can be surmised that when a top leader of a country is not a believer in a needed reformation, those below him in the form of for example civil servants and judges shall just act accordingly leaving nothing of value to come out from the so called law reformation and which sadly had led at the end to Malaysia to be tangled up in the worst case of kleptocracy in the form of the 1MDB! One thing leads to another to another, *ad nauseum*. Believe it or not, none other than a Malaysian government document issued just over a decade ago which Chen (2020) had quoted from had made that conclusion crystal clear. As she revealed (Chen, 2020, p. 28):

In 2011, the Capital Market Masterplan 2 acknowledged:

While there have been substantial reforms, it has been observed that many [public listed companies] tend to comply with the form rather than the substance of corporate governance codes. *The recurrence of corporate scandals clearly indicates a gap in the active and independent monitoring of corporate conduct.* (Emphasis added.)

In a related footnote, note the following Chen had mentioned (Chen, 2020, p. 28): "The Capital Market Masterplan 2 was part of the Malaysian government's strategic plan to strengthen economic growth and the competitiveness of Malaysia's capital market. The Masterplan was formulated with the assistance of the Securities Commission Malaysia." Also, in a related matter, note the following which appears in another footnote nearby (Chen, 2020, p. 28): "The Corporate Governance Blueprint 2011 was issued further to the Capital Market Masterplan 2 and sought to implement international standards..." And when the 1MDB is of interest, note what Chen (2020, pp. 3-4) had pointed out:

Malaysian corporate law has largely been modelled on UK and Australian law, countries regarded as having high standards of corporate governance internationally. At first blush, formal Malaysian corporate law resembles Anglo-Australian corporate law in many respects. Nonetheless, repeated allegations of abusive related party transactions highlight the need for closer investigation of the manner in which law is implemented. This is epitomised in recent times by the 1MDB scandal which sparked international investigations across several continents and was described by the US Attorney-General as '*kleptocracy at its worst*'. Against a historical backdrop of questionable transactions involving politically-linked companies, the 1MDB debacle suggests that there are *systemic issues underpinning corporate regulatory failure*. It raises questions as to

how a Malaysian company could be the vehicle for theft of billions despite a seemingly strong corporate regulatory framework. (Emphasis added.)

To give a worthy conclusion to all which come from Chen (2020), it has to be said that while several of what she says are worth noting, at least one concerning the concept of regulatory capture may need amendments while some others are not new at all. In regard to the latter it would include her remarks mentioned earlier on the adoption of global standards for corporate governance revealing greater differences in the implementation and enforcement in practice within countries. Specifically, Azham more than two decades earlier in his 1998 University of Manchester's PhD thesis which had been published almost intact as a book (Azham, 1999) had claimed that accounting in Malaysia at the level of practice as opposed to official documents such as the imported accounting standards is superficial.

As for the regulatory capture which needs amendment, surely in Malaysia for so long it is more than just in regard to the regulations and the regulators concerned? This is because in the country it is the case of the capturing of almost all aspects and sectors in the Malaysian society by the powerful and its network. In short, it is the whole government sector and much of what is not the government! When it concerns the latter, a good example that Chen (2020, 2019) herself had pointed out is concerned with the numerous large companies listed at the Bursa Malaysia whose majority of the shares are in government's hands or parties closely associated with it.

A question may be asked as to why there is the need to get it right as far as the sort of capturing said to be taking place. It relates to the possible suggestions which one would make next to solve problems thought to have come about due to the sort of capturing that is claimed to have taken place. Without the improvement done to the concept of regulatory capture, the proposals for change would most probably not be enough to improve upon matters. This is simply because with the naïve assumption that Malaysia's powerful would either have no problem in opting for such proposals or be forced by circumstances or external influences to act accordingly shall only lead to one and only one thing: changes to happen solely on *papers* since as far as the realities or practices are concerned there would hardly be any changes from the past. The cautionary tale concerning the shareholder law reforms and accounting espoused theories described by Chen (2020, 2019) and Azham (1999), respectively, is the evidence of such.

So, what should be the appropriate move instead? Siddiquee and Zafarullah (2022) discussed next had dwelt on this when talking about anti corruption in Malaysia in recent years from the perspective of politics. For certain what they proffered are not simple matters to implement but logic and experience to date say that there appears to be no other way possible in ensuring the very minimal possibility for the 1MDB's recurrence.

Siddiquee and Zafarullah (2022)

In the very words of the authors concerned (Siddiquee and Zafarullah, 2022, p. 2):

In contemporary Malaysia, corruption has remained a serious problem of governance and development. Despite the existence of a reasonably robust, if not perfect, anti-corruption infrastructure, Malaysia's corruption situation has exacerbated, as reflected by its surge and decline in the 'corruption perceptions index' (CPI) measure. This was especially the case under Prime Minister (PM) Najib Tun Razak (2009–2018)... This situation has provoked some critical questions, including the following: Why has Malaysia's corruption situation under Najib been worse than previously? Why have the nation's anti-corruption strategies and initiatives,

especially those under the Najib administration, failed? This paper explores these questions by focusing on the political context of corruption...

With 1MDB as one of the three illustrative cases showing the nature and scale of the corruption problems in the country, Siddiquee and Zafarullah later in just over four full pages under the heading “The political economy of corruption control in Malaysia” had this to say early on (Siddiquee and Zafarullah, 2022, p. 10):

Since its launch [in 2009], the MACC has made itself known as a dynamic organisation in combating corruption... Evidence shows that in recent years, besides investigating a growing number of corruption cases, the Commission has arrested a large number of offenders including many public officials... However, failures, inactions and controversies in other areas overshadow its successes. A common complaint against the MACC is that for years it has been engaged in catching ‘small fish’ but reluctant to act decisively against grand corruption. This is evident in the fact that very few of those arrested (1.5% in 2016 and 2.9% in 2017) are from higher levels.

On grand corruption cases which the MACC had failed to act accordingly, Siddiquee and Zafarullah mentioned three: Port Klang Free Zone (PKFZ), scorpene submarine and former Chief Minister (now Governor) of Sarawak. Next, Siddiquee and Zafarullah (2022, p. 11) had pointed out:

What it reveals is the MACC’s disinclination to act when the vested interests of the ruling power are involved. It also reveals the lack of independence and ineffective power of key institutions, including the MACC. Despite institutional revamp, the MACC is not an independent organisation free from potential or real executive influence. It continues to invite criticisms for lack of autonomy and genuine power in asserting itself, especially in matters of prosecuting offenders...

It is notable that within the very same paragraph, Siddiquee and Zafarullah had revealed the following two facts:

The first (Siddiquee and Zafarullah, 2022, p. 11): “While the MACC Act 2009 has bolstered its capacity to investigate, it lacks the power to prosecute offenders, which is the responsibility of the AG.”

The second (Siddiquee and Zafarullah, 2022, p. 11): “The MACC’s institutional location within the PMD [Prime Minister Department] is seen as another impediment to its task of vigilance, especially when influential figures in politics and business are involved. The fact that the MACC does not report to the Parliament but to the PM makes the investigation of corruption involving senior officials of the government and politics delicate and challenging...”

With the MACC both lacking in power to prosecute offenders and reporting to the prime minister, they next scathingly claimed (Siddiquee and Zafarullah, 2022, p. 11):

A key to successful anti-corruption is strong leadership and commitment at the highest level of the government. The successive leaders in Malaysia have raised concerns over the levels of corruption, but actions have not matched their rhetoric. Besides, the growing body of conflicting evidence casts doubt about their sincerity to fight corruption. Despite his stated policy to stamp out corruption, Razak neither strengthened anti-corruption institutions nor promoted governance. On the contrary, he used his position to indulge in corruption.

And what an indulgence that was as far as the 1MDB scandal was concerned! This is as described by Siddiquee and Zafarullah (2022, p. 12) in clear details beginning with the remark that “[s]ome MACC officials were transferred and interrogated for their roles in the leak and others removed from their positions” and ending up in another nearby paragraph with the following remark: “As if this was not enough, a new draconian ‘security law’ was enacted to crack down on domestic critics. If anything, such measures showed how desperate the government was to undo the investigation and to keep 1MDB out of public scrutiny.”

But what had made such indulgence possible at all? As they put it in between the description of all the harrowing details (Siddiquee and Zafarullah, 2022, p. 12):

These actions manifest the dangers of excessive concentration of power in the hands of the PM and the lack of institutional restraints on such domination, which meant that he was hardly accountable to anyone. The concentration was so extensive that he became one of the most powerful executives in the world. He was the head of the government, UMNO President, leader of the parliamentary majority and official head of one of the largest and most potent ministries. Furthermore, he was the finance minister that gave him an unfettered authority to use public funds, including funds from the government-linked companies and other state institutions for patronage bypassing any regulatory oversight. (Emphasis added.)

But there is more related to what Siddiquee and Zafarullah claimed to be as “some of the features of Malaysia’s political system” that had made such power concentration in the hands of one person to be worse (Siddiquee and Zafarullah, 2022, p. 12):

Despite being a democracy, Malaysia lacks conditions of good governance including civil liberties, access to information, independent judiciary and a free and robust media, to name a few. Besides government’s tight control over media, a variety of coercive laws and restrictions are stubbornly in place—all in the name of security, stability and public order—which suppress public opinion and thwart the ability of the media and civic groups to check official excesses. (Emphasis added.)

Later, in a telling paragraph at the end of the section, the state of public governance is described in penetrating details to include among others the following (Siddiquee and Zafarullah, 2022, p. 14):

Poor governance marked by opacity in government, diminished accountability, limited public access to information, flawed procurement process, aberrant political financing and a gagged media has dented national integrity... The anti-corruption edifice has been impaired by improper political interference restricting, obstructing or terminating investigations against unscrupulous practices inside and outside state... Other issues that have had a telling effect on public governance include officials displaying a propensity to circumvent ethical values or institutional rules, feeding of inaccurate or fabricated information on governmental spending or transactions that deterred sound financial management, unscrupulous financial dealings with other countries, fraudulence in wealth funds management and, last but not least, the dearth of best practice maxims in corporate governance.

And for sure all that and more which were the poisonous fruits of the menacing labor did not emerge over night in recent time? Siddiquee and Zafarullah (2022, p. 14) appeared to have concurred with such sentiment, for the following was what they revealed taking place years earlier:

Although the Mahathir era (1981–2003) was successful in modernising the country and placing its economy on a solid pedestal, it was primarily a product of an authoritarian pluralist political system, with a non-competitive element that placed several restraints on political freedom. State institutions were designed to operationalise policies biased towards the ruling elite, while public policies have favoured the Bumiputeras (indigenous Malaysians) in social, political and economic arrangements, while the non-Malays have been discriminated against. Institutional pathology with overwhelming bureaucratisation and underwhelmed accountability mechanisms has harmed anti-corruption measures.

Aside from the debilitating state of public governance which has been the case for some decades now, another important aspect of the wider context which Siddiquee and Zafarullah had pointed out to be relevant in trying to explain the failure of MACC in dealing squarely against cases of grand corruption over the years is concerned with the so called “norms of political and social life” in the country covering “the government-business nexus, nepotism, cronyism and extensive patronage networks.” As they put it (Siddiquee and Zafarullah, 2022, pp. 12-13):

... the UMNO which dominated the political landscape for over six decades is traditionally known as a patronage-based party. UMNO leaders have always used government resources and patronage to secure political support and to enrich themselves and their cronies. They developed strong ties with businesses and used their positions to advance their interests and those of their supporters. Such ties were based on symbiotic relationships where the ruling elite provided patronage, government contracts, and relatively easy access to capital to the owners of big businesses. These businesses then reciprocated favours with valuable monetary benefits, campaign finance, bribes and jobs for relatives of the ruling elites. While this is judged beneficial on both sides, the downside is that it leads to a moral hazard, making it difficult for the government to discipline those whose support is critical for maintaining the status quo. Therefore, it is not hard to understand why the government has often turned a blind eye to many corrupt practices and irregularities. The leadership was either unable or unwilling to confront them who were critical allies of the ruling coalition. (Emphasis added.)

In relation to the 1MDB case, there was of course patronage practiced by the concerned prime minister then. As they stated (Siddiquee and Zafarullah, 2022, p. 14):

Perhaps more revealing was how PM Razak had resorted to patronage to stay in power personally. As his authority came under challenge following the revelation of the 1MDB scandal, he stepped up patronage distribution as a significant strategy to secure his position. Faced with discontent within the UMNO hierarchy, he targeted the key actors and won their loyalty by increasing the ‘monthly payments’ made to the so-called ‘UMNO warlords’. He broadened UMNO’s patronage network and opportunities for vote-buying by creating a new patron-client relationship within rural voters. Similarly, he used political patronage in the form of bonus for public servants and special payments for the farmers and pensioners, thereby sealing his relationship with support groups.

All in all, there are some invaluable lessons which can be learned from Siddiquee and Zafarullah (2022). And in their concluding section they have put it all together exceedingly well (Siddiquee and Zafarullah, 2022, p. 15):

If the number of institutions, laws and policies were to become a benchmark of an anticorruption campaign, Malaysia would be among the leaders. Ironically, institutional mechanisms and policy measures have failed to have desired impacts, especially in curbing political and grand corruption... *Institutions and laws by themselves are insufficient for successful anti-corruption programs. They are unlikely to make much headway if the wider context remains unchanged and if they are not supported by a strong mandate and committed leadership from above.* (Emphasis added.)

Therefore, to fight corruption and be successful at it, it is important to have the right leaders in place. Also, it is crucial that the fight does not dwell on typical factors such as “institutional weaknesses, weak enforcement of laws and misaligned bureaucratic incentives” – instead, it gives focus on deep-rooted cultural factors that have maintained and reproduced corruption in the form of “politics-business connections, cronyism, patronage networks and money politics that define the political economy of modern Malaysia”. Unfortunately, thus far, as they noted it, Malaysia has problems. One when it concerns the policy makers. And the other concerns the scholars.

When it concerns the former, they wrote (Siddiquee and Zafarullah, 2022, p. 15): “Anti-corruption policies have failed to appreciate the corrosive effects of such cultures and practices. This is manifested by the absence of any significant drive specifically to address these defects of the socio-political system.” As for the latter which they mentioned it very early on in their paper (Siddiquee and Zafarullah, 2022, p. 2):

The dearth of scholarly literature on corruption in Malaysia means that very little is known about the politics of corruption and the roles of key actors involved. *Existing studies present a broad overview of anti-corruption mechanisms highlighting institutional weaknesses and inadequate enforcement of laws. Rarely, the analysis is broadened to include the political context and cultural factors that have helped perpetuate corrupt practices.* Also, there is hardly any literature on the most recent developments and corruption cases. (Emphasis added.)

With that profound remark, it signifies the end of the review done to all the selected journal papers which give focus on the causes for the 1MDB scandal. Next is the discussion over a report on the 1MDB scandal issued in early May 2017 by the C4 Centre, an independent Malaysian nonprofit organization that promotes government transparency.

C4 Center (2017)

In the introduction section of the report, the following is mentioned (C4 Center, 2017, p. 7):

This paper is a case study of 1MDB and how the state-owned corporation was misused to raise money for others by improper and questionable financing procedures and the subsequent transfer out of loan proceeds by outright siphoning out of money disguised to look like legitimate payments. The issue of political donations is examined as are the available news on the money trails. It looks at the reasons for why 1MDB took place, with particular emphasis on the collapse of governance measures and the interference of the executive in what is supposed to be

independent investigation and prosecution. It concludes that 1MDB could not have happened without the collusion and complicity of the top leadership. (Emphasis in the original.)

Later in the section Concluding Remarks, the following has among others been raised too (C4 Center, 2017, p. 28):

5. **1MDB would not have happened if...** basic principles of corporate and government governance had been adhered to and if a system of checks of balances had been set in place. In the event, 1MDB was blatantly exempted from all the control procedures introduced for government-linked companies (GLCs), especially those introduced by the Putrajaya Committee on GLC high performance, spearheaded by Khazanah Nasional. It was not only completely exempted, nothing was done to take corrective measures despite repeated signs of abuse. Until today, billions of ringgit are being put at risk by the refusal to launch investigations. Although some board members tried to instruct management not to go into some deals, these orders were disobeyed and not all directors played their role in trying to stop the misdeeds at 1MDB. (Emphasis in the original.)

6. **1MDB is a deliberate scheme to steal billions from Malaysia.** At the end of the day, all evidence points to 1MDB being deliberately set up and manipulated to make tens of billions of ringgit (money lost one way or another can amount to as much as RM40 billion or more) with complicity from the very top. If there was no such complicity, 1MDB's losses would not have happened. It is the largest such theft in the world and is a shameless and audacious transfer of bond proceeds out of 1MDB and into the hands of criminal conspirators on top of other misdeeds earlier such as bond mispricing and overpayment for assets. (Emphasis in the original.)

7. **The global financial system allowed the crime to take place.** The crime could not have taken place without the global financial system through international banks allowing the movement of stolen funds, hence facilitating money-laundering exercises. It is no secret that big banks have engaged in such exercises for a long time. While no individuals are generally charged for offences, big banks routinely pay billions of US dollars in settlement for money-laundering offences. (Emphasis in the original.)

And it should be worth pointing out too what it has said for the very last item number 10 (C4 Center, 2017, p. 29):

10. **Shell companies in tax havens, multiple accounts and lawyers used.** Shell companies in multiple tax havens such as Cayman Islands, British Virgin Islands and Seychelles - used by those who want to hide their identities - were conduits for the movement of funds in some cases. Multiple accounts were used and lawyers colluded in the transfer of monies into their accounts for purchases of assets. (Emphasis in the original.)

Right after this item number 10, the report without mincing its words has this to say (C4 Center, 2017, p. 29):

At the end of the day 1MDB represents unprecedented levels of domestic corruption for Malaysia, demonstrated through the stolen billions. Widespread international complicity was also detected, as large amounts of funds were transferred across international borders with complete impunity. It was nothing less than organised crime perpetrated by a conspiracy of people. It also represented a classic cover up and suppression of information by direct

interference in the operations of enforcement and policing agencies, stopping them from acting against crimes by changing those in charge and intimidating others into submission. This makes Malaysia yet another developing country where the political leadership conspired with crooks to steal billions from the country.

It should be interesting to note what the report has to say within the last few paragraphs of the very same section in regard to the manner that the country is dealing with the scandal (C4 Center, 2017, p. 29-30):

To bring a change in the way Malaysia handles the theft of billions from 1MDB, nothing less than a change in leadership is required because it has been shown that the prime minister himself is involved and a beneficiary of the looting that took place at 1MDB. ... If and when a leadership change takes place, then there is a lot of self-examination that Malaysia has to do and make changes. The collapse of governance, the implicit and unbridled condoning of corruption from the top layers of political leadership and agencies entrusted with the enforcement of law and order are factors that have to be deeply considered. The need to respect and institutionalise separation of powers and independence of the executive, legislature and judiciary has to be looked at anew and measures imposed.

All in all, this very report by the C4 Center provides the fitting end to this section of the present work. It points out almost everything which one would think to be significant to know about the scandal. But its discussion of the 1MDB causes seems limited as what has been pointed out earlier by Siddiquee and Zafarullah (2022) the very last journal paper probed regarding the failure of scholarly works to go deep in their work when talking about causes for fraud and corruption – though there appears to be the saving grace from the remark made in that very last quotation that begins with the pointing out for “a lot of self-examination that Malaysia has to do...” to the end of the quotation which point to the direction that there are some deep seated reasons for all the damages brought to the fore with the 1MDB scandal and that those reasons will need to be looked into.

Discussion and Conclusions

Two decades ago, in a simple direct to the point paper, Anwar Shah, the lead economist and program leader in public sector governance in the World Bank Institute, and Mark Schacter, who is a consultant to the World Bank, had pointed out some excellent points in fighting against corruption. Dividing corruption into three categories comprising of petty administrative or bureaucratic corruption, grand corruption and state capture/influence peddling, they had early on argued (Shah and Schacter, 2004, p. 41):

Corruption is also country-specific; thus, approaches that apply common policies and tools (that is, one-size-fits-all approaches) to countries in which acts of corruption and the quality of governance vary widely are likely to fail. One needs to understand the local circumstances that encourage or permit public and private actors to be corrupt. And if corruption is about governance and governance is about the exercise of state power, then efforts to combat corruption demand strong local leadership and ownership if they are to be successful and sustainable.

Subsequently, they talked about the need to fight corruption starting from its root causes. As to why this is important, they claimed (Shah and Schacter, 2004, pp. 41-42):

To understand why, it is helpful to look at a model that divides developing countries into three broad categories—"high," "medium," and "low"—reflecting the incidence of corruption. The model also assumes that countries with "high" corruption have a "low" quality of governance, those with "medium" corruption have "fair" governance, and those with "low" corruption have "good" governance."

Next, they pointed out that in high corruption countries with the low quality of governance it is not appropriate for the anticorruption strategy to be comprised of programs supporting anticorruption agencies and public awareness campaigns (Shah and Schacter, 2004, p. 42). Instead, in "environments where corruption is rampant and the governance environment deeply flawed", as they put it (Shah and Schacter, 2004, p. 42): "... it makes more sense to focus on the underlying drivers of malfeasance in the public sector - for example, by building the rule of law and strengthening institutions of accountability. Indeed, a lack of democratic institutions (a key component of accountability) has been shown to be one of the most important determinants of corruption." All in all, what they are saying regarding the model is (Shah and Schacter, 2004, p. 42): "... because corruption is itself a symptom of fundamental governance failure, the higher the incidence of corruption, the less an anticorruption strategy should include tactics that are narrowly targeted at corrupt behavior and the more it should focus on the broad underlying features of the governance environment."

Now, earlier in the four page article, Shah and Shacter (2004, p. 41) had talked about a World Bank's six country case studies to examine the root causes of corruption and evaluate the World Bank's efforts to reduce corruption in each country. It identified *four* key corruption drivers which include "institutions of accountability are ineffective". This is how they described it (Shah and Schacter, 2004, p. 41):

In societies where the level of public sector corruption is relatively low, one normally finds strong institutions of accountability that control abuses of power by public officials. These institutions are either created by the state itself (for example, auditors-general, the judiciary, the legislature) or arise outside of formal state structures (for example, the news media and organized civic groups). *There are glaring weaknesses in institutions of accountability in highly corrupt countries.* (Emphasis added.)

Looking at Malaysia for over sixty years governed by one single political party that formed the federal government, there had been the case of accountability of institutions going down over time which in the last decade or so culminated with the worst case of kleptocracy the 1MDB scandal. And if comparison is made with the rest of the so called key corruption drivers - which a bit earlier in the article they had been identified as the underlying country-specific causes or drivers of dysfunctional governance - there would be no escaping the realization that Malaysia had got them too. And those others are:

- "The legitimacy of the state as the guardian of the "public interest" is contested." – How would one know that this is the case? As pointed out by Shah and Schacter (2004, p. 41): "Widespread corruption endures in the public sector when national authorities are either unwilling or unable to address it forcefully. In societies where public sector corruption is endemic, it is reasonable to suspect that it touches the highest levels of government, and that many senior office holders will not be motivated to work against it."

- “The rule of law is weakly embedded.” – How is this possible? As Shah and Schacter (2004, p. 41) had it explained: “Public sector corruption thrives where laws apply to some but not to others, and where enforcement of the law is often used as a device for furthering private interests rather than protecting the public interest.”
- “The commitment of national leaders to combating corruption is weak.” – Why? As stated by Shah and Schacter (2004, p. 41): “In highly corrupt countries, there is little public acceptance of the notion that the role of the state is to rise above private interests to protect the broader public interest. Clientelism... shapes the public landscape and creates conditions ripe for corruption. The line between what is "public" and what is "private" is blurred so that abuse of public office for private gain is a routine occurrence.”

It may be safe to say that all those key corruption drivers and more have been raised earlier by the seven journal papers plus an NGO's 1MDB report reviewed. So, there should not be any surprises that Malaysia has ended up with not a simple everyday case of corruption or a straight out case of the so called kleptocracy. Instead, it is to be more exact a case of *grand* corruption reaching the status of a *global* kleptocracy! 1MDB had had to happen with Malaysia for decades experiencing dysfunctional public governance.

The paper to come out next gives a review of some reputable works that say so. Unlike those works reviewed above, those mentioned in that paper do not touch on the subject matter of the 1MDB causes. Some have failed to mention the 1MDB even once. But all should bring forth the understanding as to what Malaysia had been the case leading to the occurrence of the 1MDB and all that which it has entailed. Granted, none of the works touches on the presence of a crucial international factor in the form of banking and other entities from overseas working together with the culprits from within Malaysia. That missing part however is filled in with what is raised in another paper.

Indeed, after having done the probing over seven research papers plus one report, it may be concluded that the 1MDB causes raised in Part I and the present Part II do not differ at all except in how some of the causes are identified as. There appears to be similarities too in treating some of the causes which are probably symptoms as the main or primary causes. Also, many are concerned with similar causes to the neglect of other possible causes. To summarize, the causes revealed by a total of eight research items are:

- Jones (2022): two main or primary causes which in turn have led to the emergence of the other three secondary causes. The primary causes come in the form of political and business culture based on money politics and decadent leadership at the highest level with the former had led to the weak enforcement and political interference in the investigation and prosecution of corruption cases and the latter the limited impact of anti-corruption measures and bodies. It is notable that when it concerns the two primary causes for widespread corruption, the crooked political leadership reinforces money politics as the basis for the political and business culture.
- Jones (2020): six causes whereby a couple - defective corporate governance and political control over the watchdog and investigative agencies - may be considered the symptoms while the rest the root causes. The latter are: decades old mind-set from both public and private sectors viewing corruption as acceptable; hegemonic nature of the country's democratic system by the Barisan Nasional coalition; the lack of political will at the highest level; rules against money laundering in banks in Malaysia and elsewhere not adhered to.

- Gabriel (2018): deficient global financial system and decadent leadership at the highest level.
- Chen (2019): debilitating political and business culture marked by concentrated corporate ownership structures and the dominance of controlling shareholders over corporate management, the politics-business nexus and cultural norms that had led to regulators and judiciary failing to play their role effectively.
- Quah (2022): a culture of money politics and the corrupt top leadership.
- Chen (2020): the nation's political economy where the interest of political and economic elite continues to be protected no matter what to the detriment of other parties.
- Siddiquee and Zafarullah (2022): horrible top leadership and corrupt cultural factors whereby the former is defined by excessive concentration of power in the hands of the PM and the lack of institutional restraints on such domination which meant that he was hardly accountable to anyone and the latter in the form of politics-business connections, cronyism, patronage networks and money politics. Also, the former is made worse by a political system which is lacking in conditions of good governance such as civil liberties, access to information, independent judiciary and a free and robust media.
- C4 Center (2017): bad top leadership and the collapse of corporate and public governance; there was also the global financial system together with other international parties operating with little integrity.

All in all, it may be concluded that the materials covered in Part I and Part II of the series on 1MDB causes appear to say that the 1MDB and all the evil that it has entailed to Malaysia and for that matter the rest of the world are due to the following combination of four main or primary causes:

- the decadent leadership at the very top
- the unhealthy political and social culture
- the debilitating public governance
- the deficient global financial system plus the lacking in integrity of the so called facilitators working at the international arena

It may also be concluded that there is a possibility for another root cause that came in the form of the style of followership within a political party (Quah, 2022) or level of submissiveness within the civil service (Chen, 2020) or for that matter the kind of citizenry found within the country (Quah, 2021, p. 136). It is notable that Quah (2022) and Chen (2020) had failed to identify this very phenomenon as such. But a close reading of what is written and looking at the experience of Malaysia in the last few years with the fall of a political party which had been in power for over six decades following the general elections in May 2018 should support the idea that the top leadership, the elites and their cronies were not entirely responsible to the exclusion of the people from below for the 1MDB scandal!

Now, recall that at the end of Part 1, there are two questions raised to be answered in Part II. The first "Are there additional 1MDB causes identified?" And the answer is yes in the form of the kind of support and subservience coming from those below in the Malaysian society for their abhorrent leaders. As for the second question concerning the possibility of new details emerging in Part II which has not been seen in Part I previously, the paper by Chen (2020) and the one by Siddiquee and Zafarullah (2022) may be claimed to have mentioned some things which fail to be mentioned by others.

For the former, these would include the remark on illusory change, law's social embeddedness and all that which are detailed out on the then top leader's insincere conduct for law reformation following the Asian Financial Crisis 1997-98 which was later matched by the underlings' lackadaisical moves for change – both on paper and practices! As for Siddiquee and Zafarullah (2022), it concerned what was said on the wider context and top leadership for anti-corruption programs to be successful and the fact that research studies on corruption need to expand their focus beyond the subject matters of "institutional weaknesses and inadequate enforcement of laws" to include the political context and cultural factors.

By and large, with a total of nine expert views presented in Part I and eight separate sets of 1MDB causes from scholars laid out in Part II, a total of five root causes has been identified. Four of the five have been specifically raised as the main causes by various parties or works. The fifth is deduced from what is described in some research papers and the experience on the ground taking place in Malaysia since May 2018 the general elections. It is of course concerned with the power held by those previously identified as having little influence regarding whatever that is going on in the country. All the while previously the people below were just to listen and act accordingly following instructions coming from the political and economic elites. Those days are now no more leaving little possibility for cases like the 1MDB to recur assuming changes to the better shall also take place in the rest of the root causes.

So, with the root causes identified, it is time for the efforts in identifying the solutions to be embarked upon. As mentioned above, there are already two papers to work on. One to state the answer to the following question: what was/is Malaysia? The other is on the certain goings on in the international arena covering both issues and answers for the subject matter of global kleptocracy. It is after these two works are completed that the paper to discuss the solutions to the 1MDB sad and sick saga may be produced. Stay tuned!

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