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# MDB: The Causes! Part I

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## Abstract

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 this first part of a series of writing on the causes for the 1MDB scandal. Sites where the nine 1MDB causes are raised include local news portals or freely accessible foreign based websites and these are in contrast to later parts of the series whereupon the causes are found to be elaborated upon in materials such as research papers. In rounding out the discussion of the various causes leading to the delineation of a total of five points that should be worth considering, China's Belt and Road Initiative (BRI), public procurement process and the state of poverty in today's Malaysia are looked into.

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*Index terms*— 1MDB, causes, governance, BRI, public procurement, poverty.

## 1 I. Introduction

Following several written pieces published over a number of years on the first series of writing on the 1MDB (Azham, 2015a; Azham, 2015b; Azham, 2016a; Azham, 2016b; Azham, 2018; Azham, 2019), and although that series of 1MDB writings which try to give answers to questions that begin with the word "What" could still be expanded with a number of other similar works and such works could be embarked upon again in the future, now is perhaps the right time to try to answer some other 1MDB questions that begin with the word "Why" or "How". Thus, the present piece of work is Part I of a second series of writing on 1MDB that is concerned with the answers that some parties have put forward in trying to answer the question why or how the 1MDB problems had come about.

To identify the 1MDB causes is important not just for curiosity's sake since with those answers it might be possible to move on to the next stage which is to identify the much needed measures to try to minimize the possibility of 1MDB kind of thing to recur in the future. Indeed, following the completion of the present series of writing on the causes of the 1MDB's problems that this very piece of work is part of, the subsequent third series should dwell upon possible solutions which interested parties may want to consider for implementation.

To know exactly the debilitating goes on, to identify the causes, to decide on the solutions and finally to choose the right solution for implementation are all the steps which need to take place if one is focused on dealing appropriately with the 1MDB scandal and its kind. Without such systematic approach, it is afraid that whatever solution chosen to be implemented at the end of the process would not be the right one leading to the possibility that there shall be no end to the suffering that all must bear with the possible emergence of 1MDB 2.0, 1MDB 3.0 and so on and so forth.

Indeed, it can never be emphasized enough the destruction that has come about to present and future Malaysia and Malaysians with the perpetration of fraud using the 1MDB as the vehicle. The co-founder, president and chief executive officer of the NGO Better Markets Dennis M. Kelleher whose excellent piece of writing is quoted extensively in the next section of this work had depicted it quite well. Note what he wrote in the very last section of his excellent piece of work that was published in May 2019 at the Harvard Law School Forum on Corporate Governance (Kelleher, 2019):

1MDB was ostensibly set up to "improve Malaysians daily lives." Not only didn't that happen, but those very same Malaysians are now on the hook to repay more than \$6.5 billion in bonds and apparently billions more in other 1MDB borrowings, even though more than half of that was reportedly looted and will never benefit anyone

## 1 I. INTRODUCTION

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46 in Malaysia. Thus, the Malaysian people have been doubly victimized and will continue to be so for many years,  
47 if not decades, to come. That is wrong.

48 Earlier in the section that comes with the heading "Goldman's \$6.5 Billion Role in Looting 1MDB and  
49 Reelecting a Corrupt Prime Minister", Kelleher first made it crystal clear as to who were the plundering  
50 perpetrators:

51 With numerous red flags suggesting fraud if not criminal conduct, Goldman pocketed the exorbitant amount  
52 of \$600 million for placing \$6.5 billion in three no-bid bond offerings over ten months in 2012-2013 for 1MDB.  
53 Two "former top [Goldman] partners said the amount of money Goldman Sachs made from relatively plain bond  
54 deals [alone] should have been a bright warning to its highest executives." After Goldman's take (more than  
55 "two hundred times the typical fee" according to some), the then-prime minister of Malaysia and his mostly  
56 inexperienced, youthful co-conspirators allegedly looted "over half" of the remaining funds virtually immediately  
57 and, with the assistance of Goldman Sachs' partners, engaged in other crimes. That was done under the noses of  
58 "more than 30 Goldman Sachs executives," including the then-CEO, the then-COO and later President, the then  
59 co-head of investment banking and now current CEO, the then-Vice Chairman and many others, and reportedly  
60 after a rigorous review by no less than five internal Goldman committees.

61 As for the most harrowing wickednesses suffered by the people of Malaysia as a result, Kelleher had noted  
62 right after that very quotation the following: Most importantly, just two months after Goldman's third and  
63 largest 1MDB bond offering for \$3 billion, the then-prime minister "won re-election by clinging to power with  
64 the most slender of margins," as detailed in the explosive book Billion Dollar Whale. That appears to have only  
65 been possible due to "hundreds of millions of dollars" from the Goldman offering being immediately diverted  
66 "to the prime minister's allies across the country" for bribes and other election-related fraud. Goldman's 1MDB  
67 bond offerings also funded an alleged corrupt, anti-democratic kleptocratic prime minister and enabled him to  
68 hold onto power. Goldman enriching itself at the expense of a very poor country is bad enough (apparently as  
69 part of a business line set up by Goldman's then-President Gary Cohn referred to as "monetizing the state").  
70 However, Goldman's 1MDB bond offerings also funded an allegedly corrupt, anti-democratic kleptocratic prime  
71 minister and enabled him to hold onto power for five additional years, during which time the prime minister's  
72 opponents were imprisoned and killed. (Emphasis in the original.) And finally in the very last paragraph of that  
73 very section, Kelleher who has held several senior staff positions in the United States Senate had noted among  
74 others: Thus, 1MDB isn't just one of the biggest financial crimes of the century; it is a crime against an entire  
75 country and a catastrophic human, social and political tragedy." (Emphasis added.) Very strong words! And  
76 sadly it is the truth. But truth aside, what could have caused the 1MDB to lead to such devastating outcomes?

77 In trying to find the answers to that question, the present Part I is the first in a series of writing on the 1MDB  
78 causes to try to bring together what some parties have pointed out over the years. While the Part II in the series  
79 of writing shall be focusing on articles from widely available research journals, books and the like, this Part I  
80 gives focus to materials appearing in some freely accessible websites and news portals. The criterion used to  
81 decide whether a written piece to be included in either Part I or Part II of the series is whether it has undergone  
82 refereeing process or not before it goes for publication. If it has not, it will go to Part I. But if it has undergone  
83 such process, it will be included in Part II.

84 That said, this is in no way to cast aspersions on the quality of concerned written pieces or the credibility of  
85 parties whose quoted remarks are found in the present work. To be certain several of the written pieces are based  
86 upon works that came with rigorous research while so many of those whose remarks were quoted or whose works  
87 were referred to are prominent in their fields. Therefore, in perhaps just about every single case a reader can be  
88 rest assured of the concerned parties knowing very well what they were talking about -even if one may disagree  
89 for one reason or another with the views expressed! Finally, it is notable that there have been more than a few  
90 causes for the 1MDB scandal being bandied around. These are pointed out inside the very lengthy next section  
91 to be followed right after with a discussion and conclusions section. Note that the laying out of the 1MDB causes  
92 in the next section is done in a straightforward manner with no intention whatsoever in showing preference to  
93 any of them. Perhaps that is the right move to take since whatever final conclusions to be made should only  
94 take place after Part II for the 1MDB causes' series has been completed. Such move befits what 1MDB is all  
95 about: it is not at all a simple everyday case of corruption or a straight out case of the so called kleptocracy.  
96 Instead, it is to be more exact a case of grand corruption reaching the status of a global kleptocracy! II. Causes  
97 Abound! It seems that as soon as the 1MDB scandal entered into public knowledge in 2015 there have been  
98 much deliberations over the topic of what had caused it to take place. And it also seems that there are numerous  
99 causes put forward by the different parties over the years. It ranges from power concentration in the hands of  
100 a certain individual in the country to political interference in the way that businesses are being governed to the  
101 close relationship between politics and business field to? In total, there are nine possible causes laid out in this  
102 Part I. And it has to be admitted too that some of the causes appear to be ones and the same when one looks  
103 closely at them! The difference appears to come about when different terms are being used by different speakers  
104 or writers or in the different ways that the causes are being presented. The good examples at hand may be those  
105 causes discussed under the following headings: Political interference?, Corporate governance going haywire and  
106 Where public and regulatory governance affecting the corporate governance? The first is discussed as the second  
107 cause, the second as the fourth cause and the last as the very last cause.

108 But at this point for the Part 1 of the present series of writing on 1MDB causes the existence of much similarity

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109 over this and that is perhaps not important enough for consideration for what should be significant is having  
110 everything coming from diverse parties in one place so that later on with regard to the process of nailing down  
111 the causes it can take place more efficiently to lead to the identification of solution(s) for possible implementation  
112 by interested parties. All in all, in this current Part I there is in total nine possible causes leading to the  
113 1MDB scandal laid out. The first cause discussed next is power concentration coming from the whistle blower  
114 and independent journalist Clare Rewcastle Brown who has been well identified as the person breaking out the  
115 1MDB debilitating story to the world and in the process saving Malaysia from further ruins!

## 116 **2 a) Concentration of power versus the lack of power and all** 117 **that?**

118 In mid March 2015 in addressing a 1,000-plus audience at a forum via an online video conference on Skype,  
119 Clare Rewcastle Brown, the editor of a United Kingdom-based whistleblower site, Sarawak Report, said over-  
120 concentration of power in Malaysia, weak public institutions, the muzzled mainstream media and lack of  
121 transparency had allowed businessman Low Taek Jho to allegedly siphon billions of ringgit from 1MDB (Anisah,  
122 2015). Specifically, she claimed that "all these factors had prevented anyone from revealing more info on Jho  
123 Low, as he is better known, and his 1MDB dealings earlier on, despite the fact that he was just a '30-something  
124 businessman".

125 In regard to the first factor over-concentration of power, she claimed that in the country there was much  
126 concentration of power with the then 1MDB protagonist Najib controlled two of the most important portfolios  
127 in the government. As a result, as she was quoted to say:

128 The checks and balances are eroded to the extent that the prime minister is the finance minister. I mean, why  
129 do you think there are two positions? Why is it a good idea that the same person should occupy both? ...There  
130 seems to be an attitude that a strong government is a good thing, and that's why you have over-concentration of  
131 power and weak institutions. But I think it's a recipe for disaster. And that's what 1MDB is, a very big disaster  
132 for Malaysia.

133 And as far as the rest of the factors are concerned, the news report had this to say early on: "She added  
134 that there was a lack of robustness in Malaysia's institutions, despite the huge pool of talent and manpower the  
135 country has." Related to this she was quoted to say: "In a more open, strong, check-and-balance set up, he [Low  
136 Taek Jho] would have been flushed out, sorted and put in his place a long time previously." Next, in regard to  
137 the mainstream media, the news report mentioned: "she said that the "muzzled media" was overly obedient  
138 and Malaysians could only rely on blogs and online news portals to objectively discuss politicians' actions?" It  
139 also claimed that "[s]he said it would take just a 'half-decent investigation' by authorities to discover 1MDB's  
140 financial irregularities and Low's role in it..."

141 Finally, when transparency in particular is the concern, she was quoted to say: "The other thing that struck  
142 me is the lack of transparency. Politicians like Tony Pua, Rafizi Ramli and Umno's Tun Dr Mahathir Mohamad  
143 have asked valid questions and those answers should be available in public paperwork." Next, the news report  
144 had this to say: "Instead, she said, the questions remained unanswered and anyone who digs deeper were treated  
145 as traitors."

146 In another news report on the same event the next day published by another news portal, it is worth noting  
147 what was mentioned regarding the subject matter of power concentration (Fernandez, 2015):

148 Power, or the lack of it, was the thrust of a public forum on Sunday which explored the 1MDB scandal. It was  
149 not so much about what happened? but rather why the scandal happened. Rewcastle? pointed out that there  
150 was over-concentration of power in Malaysia to the extent that the same person was Prime Minister and Finance  
151 Minister. ? "The same person being both Prime Minister and Finance Minister indicates the extent to which  
152 checks-and-balances -inherent in a Federation -had been eroded," said the Sarawak-born Rewcastle? The over-  
153 concentration of power, agreed Rewcastle, allowed Penangite Jho Low to not only siphon out monies from 1MDB,  
154 it prevented more information from being made public. "He's just a thirty-something businessman. In a more  
155 open system, it would have not happened, and if it did, he would have been flushed out and put in place a long  
156 time ago." And perhaps more to the point is what comes next: There appears to be a misconception that a strong  
157 government -in the manner it has developed in Malaysia -is a good thing, said Rewcastle, reiterating the fact that  
158 Najib Abdul Razak was both Prime Minister and Finance Minister, two full time jobs. ? "Over-concentration  
159 of power -too much powergoes with the weak (lack of power) national institutions." The misconception, thinks  
160 Rewcastle, is why the over-concentration of power situation has developed to the extent that national institutions  
161 have been weakened.

162 All of this coming from independent journalist Claire Rewcastle Brown is worth taken seriously since it was  
163 she who first uncovers the illegal money trail at 1MDB (while going after the then Sarawak kleptocratic Chief  
164 Minister Taib Mahmud). She who is born in Sarawak is a sister-in-law of former British Prime Minister Gordon  
165 Brown and had an eye on 1MDB since 2010 (Fernandez, 2015). Later, in 2015, Xavier Justo, a whistleblower  
166 and former employee of PetroSaudi, gave her more than 90 gigabytes of data from PetroSaudi which included  
167 227,000 emails related to the joint venture between PetroSaudi and 1MDB (Mui and Thye, 2019). She had  
168 subsequently published these 1MDB findings, and many others, in her online publication the Sarawak Report.

169 In 2016 alone Rewcastle Brown published 199 articles in the Sarawak Report and brought her findings to major  
170 global newspapers.

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171  
172 It was about a couple of months later in late May 2015, following all that coming from Rewcastle Brown as  
173 detailed out above, that the Malaysiakini journalist P. Gunasegaram (who was the author of the very first book  
174 explaining the 1MDB scandal) had come out with an incisive analysis explaining the 1MDB debacle. In his  
175 piece entitled "Why things like 1MDB happen", he started out talking about the Bumiputra Malaysia Finance  
176 (BMF) scandal in the late 1970s and early 1980s which revolved upon Bank Bumiputra's wholly-owned Hong  
177 Kong subsidiary the BMF, loaning money to George Tan's Carrian group, eventually amounting to RM2.5 billion  
178 in all (Gunasegaram, 2015).

179 And in the last few concluding lines regarding the BMF scandal, he had this to say: This was at that time, the  
180 largest banking scandal in the world and the interest in it spiked further when a Bank Bumiputra senior officer  
181 sent to Hong Kong to investigate was murdered and his body dumped in a banana plantation. The end-result  
182 of the entire hugely complicated affair was that few people were brought to account? BMF's then chairperson  
183 spent a long time fighting extradition to Hong Kong from the UK. Eventually he pleaded guilty in Hong Kong,  
184 but in an interview with Malaysia's The Sun in a pub in London, he disavowed any wrong-doing in 2008, saying  
185 he was the fall guy. According to Lorrain, Bank Bumiputra was getting deposits of RM50 million a month from  
186 national oil corporation Petronas and had nowhere to put it to use. Hence Hong Kong and the Carrian loans.

187 In linking that scandal to the 1MDB scandal, P. Gunasegaram wrote: "Much like 1MDB, it looks like a  
188 money-making scheme gone wrong. The underlying problem was a total lack of proper governance at the bank  
189 and the movement of money out of it. Was it a desire to make money for the bank and hence for the country or  
190 was it a plot to siphon out money for the benefit of individuals?" Next, revealingly, he pointed out the similarity  
191 that can be found involving a number of scandals that the country had to suffer from following the BMF scandal:

192 There have been many other scandals since -too many to go into detail in this article. Bank Bumiputra's  
193 rescue several times in the billions of ringgit, Maminco, Perwaja Steel, Malaysia Airlines' sales and repurchase,  
194 the Renong debacle, the huge forex losses at Bank Negara Malaysia (BNM) in 1992/93 -they all held one thing in  
195 common, the breakdown of corporate governance due to political interference. (Emphasis added.) Following all  
196 this, in the next part of his writing, he elaborated on that very last scandal he mentioned in the quotation above  
197 which is the so called BNM scandal where he claimed "[w]hile official accounts put it at around RM10 billion,  
198 other estimates place it at around RM30 billion, the actual figure masked by adjustments to reserves, accounting  
199 tricks and even the alleged depreciation of the ringgit to improve BNM's reserve position in ringgit terms."

200 Next, he talked about the interfering hand of the then prime minister in the central bank operations: "In  
201 BNM's case, it was a political decision -Mahathir gave the go ahead for BNM to take positions -speculate in  
202 other words -on the foreign exchange market, to obtain gains for the country. That's unheard of for a central  
203 bank, and BNM is probably the first and only central bank to have engaged in such activities on such a scale  
204 among the central banks of the world..?"

205 With Mahathir leaving the post just a decade after what happened, P. Gunasegaram mentioned the following  
206 with regard to his successor: "Mahathir's successor Abdullah Ahmad Badawi had few such large scandals but  
207 there were many allegations of patronage made with respect to his son, son-in-law and brother, and also references  
208 made to the so-called fourth floor boys -a coterie of close advisers who were supposed to have great influence in  
209 decision-making."

210 Still, Abdullah, as he argued it, had made one quite positive action. As he put it: But to Abdullah's credit,  
211 it was under his tenure that the government-linked companies (GLCs) transformation programme was started,  
212 an ambitious attempt to reform GLCs many of which were being managed badly with former civil servants at  
213 the top. Khazanah Nasional, which is wholly-owned by the government, under Azman Mokhtar and which held  
214 many of the GLCs under its umbrella spearheaded the transformation, by bringing in professional managers as  
215 well as setting KPI targets, standards and rulebooks, amongst others.

216 Unfortunately, when Abdullah left the scene with Najib Abdul Razak taking over the prime minister post, the  
217 so called GLCs transformation programme was left in tatters as far as the 1MDB was concerned. As he put it:

218 But his successor Najib Abdul Razak negated a huge part of the transformation when along came 1MDB, first  
219 formed as Terengganu Investment Authority or TIA, which in a space of five years had assets, many of them  
220 dubious and unverifiable, of RM51 billion and liabilities of RM48 billion. It was built on a towering edifice of  
221 debt never before seen in Malaysia, much of it guaranteed by the federal government.

222 To be more exact, and as he explained next, the governance failure found in the 1MDB came about in  
223 the following forms: "1MDB is wholly-owned by the Minister of Finance Inc and is not subject at all to all  
224 the governance procedures required of other GLCs. It operates rather covertly, makes no public reports like  
225 Khazanah does yearly beyond what is required by statute and gives very little information of its operations."

226 Next, in concluding his delineation of the few scandals over the years, P. Gunasegaram had mentioned the  
227 following penetrating and most interesting question: "As we saw this is not the first time such a lack of governance  
228 has happened in Malaysia. The question is why does it continue to happen." And so in the very last part of his  
229 most useful analysis and under the heading "the root causes", he mentioned: One root cause is the continued  
230 abuse of the bumiputera agenda. Such was the case with Bank Bumiputra where others took advantage of

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231 the bank, set up to help bumiputeras gain access to funding, to channel funds into Hong Kong for their own  
232 purposes leading to massive losses of money. In subsequent years, Bank Bumiputra continued to lend money to  
233 well-connected bumiputra owners many of whom never repaid their loans, eventually making the bank bankrupt.  
234 ? In the guise of helping bumiputeras, much money was siphoned off out of financial institutions but very few  
235 people were brought to book. Such practices were accepted as part of the ordinary course of business.  
236 Next, in the form of another root cause, P.

#### 237 **4 Gunasegaram said:**

238 Other reasons for such covert operations are to raise political slush funds which could be used during elections,  
239 although many suspect a huge part of these funds go into individual pockets where they are tacitly accepted as a  
240 part of patronage politics. Such reasoning and the channelling of funds into the pockets of party bigwigs around  
241 the country muffles criticism of the practices from within Umno.

242 And the very same political purposes could be detected taking place in some other debilitating practices  
243 conducted by the concerned parties. As he put it: "Also much of the public funds are wasted and lucrative  
244 contracts and concessions are awarded to privileged businessmen who contribute to party funds. Often, these  
245 businesses inflate construction prices to cream off profits while the inflated figures allow them to charge more for  
246 services they provide."

247 Finally, in the second last paragraph of his writing, he mentioned the power concentration factor that Rewcastle  
248 Brown earlier had pointed out. Apparently it is one of three factors forming a foundation of a system where  
249 1MDB and other similar cases before and after originated from! As he put it: "The underlying problem is  
250 the system -as long as there is money politics and excessive powers vested in the hands of the executive it will  
251 continue to happen over and over again. As long as no one is brought to account for past transgressions, it will  
252 encourage more people to cheat; after all what do they have to lose?" But P. Gunasegaram was kind enough to  
253 do a bit more too compared to Rewcastle Brown: he spelt out the two alternative solutions moving forward. As  
254 he put it: "We simply need a commitment to cut corruption and patronage from the top downwards if things like  
255 1MDB are not to happen again. If that's not forthcoming from the current government despite all the pressure  
256 put on it, the public needs to exercise its democratic rights."

#### 257 **5 c) Politics & business -the twain shall never ever meet!**

258 On the very same date in May 2015 that the above lengthy explanation by P. Gunasegaram had come out, JD  
259 Lovrenciar who is a regular contributor to the letter section for the news portal the Malaysiakini had his too  
260 with the title "The 1MDB lessons for all" where he began with the following scathing remarks (Lovrenciar,  
261 2015): Whichever way you look at it the 1MDB -whether it is going to sink, stay adrift for a longer indefinite  
262 period or rise and sail the high waves of objections and allegations and succeed as a miracle investment of the  
263 century -there are two key lessons for Malaysia. The learning opportunity that should not be squandered or  
264 muffled and buried or worse, taken for granted is that governments -and especially elected politicians in power,  
265 should not dabble in business. They have no business to do business except the business of governing a nation.  
266 (Emphasis added.)

267 In the next breath, he pointed out on the government's role in a society: Their focus and priority must always  
268 be operating as the vanguards of national welfare, be it politics, economics, social or the environmental well-being  
269 of Malaysia. There are enough engines of growth in the country that can venture into businesses and ensure  
270 healthy returns on investment. ? The political leaders' job is to govern. Think policy. Walk the talk of good  
271 governance. Work hard at peace, democracy and justice. Their vocation must uphold the highest standards of  
272 ethics.

273 With all that to be the first lesson that all should learn from the 1MDB scandal, his writing moves on to the  
274 next lesson which Rewcastle Brown earlier had pointed out. As he put it:

275 The second lesson is, the government of the day must make immediate corrective and long term effort to ensure  
276 that a prime minister of the country does not also wear the hat of finance minister. This is to ensure best practice  
277 standards in the management of public funds and government spending. Much of the current prime minister of  
278 Malaysia's woes somehow stems from the fact that he also has his fingers, palms and hands in the honey jar of  
279 the nation. That puts him in an extremely vulnerable position. Likewise, as a prime minister heading national  
280 or state investment arms adds to his perils and also compromises the country's ability to fight potential graft  
281 at an arm's length. Apparently those two lessons as far as Lovrenciar was concerned were specifically for the  
282 politicians in power to learn. This is because at the end of his piece he had this to say:

283 Meanwhile, citizens too have to learn from this 1MDB scandal of the century. They must either get their  
284 leaders to learn fast these two lessons and stick to them like leeches or they must initiate change in the best  
285 interest of nation-building. Either way, the price has to be paid. Now Malaysians must choose before they are  
286 left with the ultimate and only choice of a failed nation.

287 The following year in early August, Teck Chi Wong wrote a piece which was published in the website East  
288 Asia Forum with a title that says it all very clearly (Wong, 2016): "After 1MDB, Malaysia must reform state's  
289 role in business." All in all, he had written out quite a good deliberation of the first of the two lessons that JD  
290 Lovrenciar mentioned earlier! Early on in his first paragraph, Wong pointed out among others the following:

291 "The 1Malaysia Development Berhad (1MDB) scandal in Malaysia? highlights the problems with state-ownership  
292 in the Malaysian economy. To prevent such scandals from recurring in the future, Malaysia must define the role  
293 of the government in business and develop adequate institutional arrangements to counter potential abuse by  
294 politicians." Next he claimed: "Research into state ownership has long argued that GLCs are vulnerable to the  
295 problems of politicisation, corruption and rent-seeking, which can cause them to be inefficient and mired in  
296 scandal. In Malaysia, GLCs have been used as a tool for politicians to direct benefits to their political supporters  
297 or even themselves. The case of 1MDB illustrates the problem."

298 To put the state's extensive influence in business into context, Wong had pointed out the following:

299 Underlying the 1MDB scandal is the problem of excessive state influence in business. It is estimated that  
300 GLCs account for approximately 36 per cent of the market capitalisation of Bursa Malaysia and 54 per cent of  
301 the benchmark Kuala Lumpur Composite Index. GLCs do not only participate in natural monopolies or strategic  
302 industries, but compete with the private sector in highly lucrative businesses such as retail, construction and  
303 property development.

304 When these facts and figures come together with the understanding that "[s]ix decades of rule by the  
305 United Malays National Organisation (UMNO), the main ruling party in Malaysia, has undermined Malaysia's  
306 democratic institutions" resulting with a situation where "[t]here are now no effective institutional checks and  
307 balances on the handling of GLCs by the state and politicians", it can be surmised that Malaysia certainly has  
308 quite a huge problem to deal with! In looking back at what had taken place over the years, Wong had pointed out  
309 the following: "Although the government embarked on a GLC transformation program in 2004 and committed to  
310 divest their non-core holdings and non-competitive assets in 2010, its influence in Malaysian business has never  
311 really faded. On the contrary, as argued by Malaysian economist Edmund Terence Gomez, there is increasingly  
312 an 'extreme concentration of powers by the executive'?"

313 But it seems that hope springs eternal! Next, Wong argued: "To prevent future scandals, Malaysia should  
314 curb the excessive role of the state in business and put in place institutional mechanisms that subject politicians  
315 to proper checks and balances." And it seems the way forward as far as he was concerned involves importing  
316 ideas from the Organisation for Economic Co-operation and Development (OECD) regarding the institutional  
317 governance frameworks that can best regulate the state in its handling of GLCs while also improving their  
318 performance and accountability. He wrote:

319 Malaysia should consider adopting the OECD guidelines on corporate governance of state-owned enterprises  
320 to benchmark itself against the world's best practices. The guidelines recommend a clear separation between the  
321 state's ownership function and regulatory function, which is currently lacking, particularly in the 1MDB case  
322 where the prime minister is the ultimate decision-maker. He furthered argued that both the state and GLCs  
323 must observe a high level of transparency together with the presence of a clear and consistent ownership policy  
324 to define the overall objective of state ownership and the state's role in corporate governance.

325 Whatever all that means and having said all that, Teck Chi Wong who was then a masters student at the  
326 Crawford School of Public Policy at the Australian National University (ANU) was quite clear in one thing which  
327 should be considered a set of prime prerequisites to all that which he mentioned as the way forward. As he put  
328 it:

329 This move must also be complemented by wider reform in Malaysia's democratic system. The problem  
330 goes beyond the current prime minister. Lasting reform will require ensuring free and fair elections and a  
331 true separation of powers between executive, legislative and judiciary branches as well as strengthening the  
332 independence of key institutions, including the central bank and the attorney general's office.

333 And next in the two very last lines of his write up, knowing Malaysia, he seemed to know how difficult it would  
334 be to achieve all those prerequisites! He wrote: "Comprehensive institutional reform is necessary to restore public  
335 confidence. But this process is expected to be difficult given the deep influence that the ruling party holds within  
336 the different branches of government."

337 Approximately two years later another person who was also associated with the ANU had published another  
338 piece of fine work in the East Asia Forum. Jayant Menon, who was both the adjunct fellow of the University's  
339 Arndt-Corden Department of Economics and the lead economist in the Economic Research and Regional  
340 Cooperation Department at the Asian Development Bank, in a piece with the title "Taming Malaysia's GLC  
341 'Monster'" had this to say early on (Menon, 2018): About a month before Malaysia's parliamentary election in  
342 May, then-opposition leader Mahathir Mohamad raised concerns over the role that government-linked companies  
343 (GLCs) were playing in the economy, being 'huge and rich' enough to be considered 'monsters'. Data support his  
344 description -GLCs account for about half of the benchmark Kuala Lumpur Composite Index, and they constitute  
345 seven out of the top-10 listed firms in 2018. They are present in almost every sector, sometimes in a towering  
346 way. Globally, Malaysia ranks fifth-highest in terms of GLC influence on the economy.

347 Next, Menon mentioned that following the defeat of the UMNO-BN political party in the 14 th General  
348 Election after having been in power for over six decades, reports had come out that the previous government had  
349 been using Malaysia's central bank and Khazanah (a sovereign wealth fund) to service the debt obligations of  
350 the 1MDB! He also mentioned that over the years there had been a series of massive bailouts of GLCs that could  
351 go as high as RM85 billion (US\$21 billion). But beyond all this tragic stories, there is one more debilitating  
352 outcome. This was how he put it:

353 In Malaysia, GLCs were uniquely tasked to assist in the government's affirmative action program to improve

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354 the absolute and relative position of ethnic Malays and other indigenous people (Bumiputera). The intention  
355 was to help create a new class of Bumiputera entrepreneurs -first through the GLCs themselves and then through  
356 a process of divestment. Given the amounts of money involved and the cost of the distortions introduced, the  
357 benefits to Bumiputera were unjustifiably small and unequally distributed. The approach of using GLCs as  
358 instruments of affirmative action failed because it led to a rise in crony capitalism, state dependence, regulatory  
359 capture and grand corruption.

360 And for sure there had been other devastating series of outcome. He mentioned two of them: one (which  
361 he claimed was supported by empirical evidence) in the form of GLCs crowding out private investment and  
362 another in the form of huge debt amounts accumulated but hidden from public views. In regard to the latter,  
363 he disclosed: Additionally, recent revelations show Malaysia's debt position may be more precarious than first  
364 thought. The new government has correctly highlighted the need to include certain off-balance-sheet items  
365 and contingent liabilities such as government guarantees and public-private partnership lease payments in any  
366 complete assessment of debt outstanding, as the use of offshoot companies and special purpose vehicles in the  
367 deliberate reconfiguration of certain obligations mean that traditional debt calculations underestimate Malaysia's  
368 actual debt.

369 In the rest of his writing it is notable that Menon gave emphasis to the need for the new government following  
370 the defeat of UMNO-BN in the 14 th General Election to consider divestment moving forward. And it is also  
371 noticeable that just before his dwelling on that very topic, as far as the government-linked investment companies  
372 (GLICs) -not the GLCs -in particular are concerned, this was what he said: "Some experts have proposed the  
373 formation of an independent body with operational oversight for GLICs after institutional autonomy is established  
374 and internal managerial reforms are introduced. Unlike most GLCs, GLICs are not publicly listed and face little  
375 scrutiny. The same applies to the various funds at the constituent state level."

376 It seems such idea would gain much approval from the then academic from the University of Malaya Professor  
377 Terence Gomez. He who is the author of among others Politics in Business: Umno's Corporate Investments and  
378 Malaysia's Political Economy: Politics, Patronage and Profits had published in the Kinibiz as early as July 2015  
379 a piece with remarks pointing towards corporate governance going haywire as a result of political interference to  
380 be the reason for the 1MDB scandal. This is laid out next.

## 381 6 d) Corporate Governance Going Haywire

382 In Kinibiz in July 2015, Professor Terence Gomez had this to say early on (Gomez, 2015):

383 As the core issues surrounding the 1Malaysia Development Bhd (1MDB) controversy came to the fore over the  
384 past months, a fundamental point became extremely clear. Inadequate reforms following previous controversies  
385 of a similar nature have contributed to the 1MDB crisis. One example was the Asian currency crisis of 1997 which  
386 drew attention to a key matter: the mode of corporate governance. Following this crisis, a slew of reforms were  
387 introduced to enhance corporate governance, primarily to determine how members of the boards of directors of  
388 public-listed companies and governmentlinked companies (GLCs) implemented their duties. These remedies, we  
389 then suspected but now know for certain from the 1MDB controversy, were ineffective, demanding major political  
390 reforms.

391 And so under a section with the heading "Learning from 1MDB" in the writing, he had suggested a couple of  
392 governance measures. The first was the following:

393 ? there is sufficient concern to insist on an arm's-length relationship between politicians in power and GLCs.  
394 Immediate reforms have to be instituted to ensure that all GLCs and their holding companies are led by an  
395 autonomous board of directors. These reforms include ensuring that these directors are accountable to an  
396 independent body, for example the legislature, but definitely not to the executive. The issue of the chain of  
397 command between GLCs and the government has to be reviewed to ensure decisions are taken in the interest  
398 of the company and the shareholders, in this case all Malaysians. Note that he said so right after saying the  
399 following:

400 When the 1MDB controversy broke, a key question that emerged was why its directors had allowed the  
401 company to land itself in a situation where it was left having to service a huge volume of loans. If the reports on  
402 this controversy are accurate, 1MDB's directors may not have had full control over decision making about these  
403 loans, having had to take the cue from those who had appointed them to the board. 1MDB is directly controlled  
404 by the Finance Ministry, headed also by Prime Minister Najib Abdul Razak.

405 And also note that right after making that very first suggestion mentioned above involving the presence of the  
406 so called arm's-length relationship between politicians in power and GLCs, Gomez had revealingly mentioned:  
407 Such reforms are imperative because one key allegation that has emerged from the 1MDB controversy is that  
408 funds from this enterprise have been used to finance election campaigns, including during the last general election,  
409 a serious matter as this raises concerns about the legitimacy of the electoral results. Similar allegations of GLCs  
410 and public-listed companies channelling funds into politics, particularly during party, federal, and state elections,  
411 have been prevalent in political discourse for over a long period of time.

412 As for the second suggestion, Gomez had written: "Another issue emerging from the 1MDB controversy has  
413 to be noted and addressed: the directors of GLCs have to be free of allegations of corporate malpractices. And,  
414 if allegations of financial impropriety are made against them, they have to relinquish their board appointments  
415 until a decision has been reached following an investigation."

## 6 D) CORPORATE GOVERNANCE GOING HAYWIRE

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416 Next, he disclosed the fact that in the 1MDB case, Lodin Kamaruddin, the chairman for the company's board  
417 of directors, had been implicated in another major scandal, involving the purchase of defence equipment from  
418 abroad. And when it concerns the 1MDB board of advisors' appointment, there was also an issue involving  
419 "[o]ne advisor, Nor Mohamed Yakcop, [who] was formerly a key figure at the central bank, Bank Negara. In that  
420 capacity, he was implicated in a currency speculation controversy that had resulted in a major financial loss for  
421 the government."

422 With all these ideas for governance improvement that Gomez had put forward, what did he himself think  
423 about putting them into practice? The following was what he mentioned:

424 Will genuine reforms be instituted where such issues will be considered when decisions about directorships in  
425 GLCs are being made? This is unlikely, but we have to insist on this. There won't be much political will to  
426 introduce meaningful reforms as this would entail the need to devolve power to independent oversight agencies.  
427 Former prime minister Dr Mahathir Mohamad voiced a similar call for reforms when he made an astonishing  
428 admission. According to Mahathir, too much power is concentrated in the office of the prime minister, a factor  
429 he claims that contributed to the problems now prevailing in 1MDB. (Emphasis added.)

430 And yet knowing the stark and debilitating realities of political interference over companies' governance at two  
431 different points in time which he himself had accounted for in this write up of his, Professor Gomez appeared to  
432 have insisted that the government had no other choices. As he put it: "As reluctant as Umno may be to institute  
433 meaningful corporate governance reforms, this is now imperative if the government hopes to renew confidence in  
434 public governance of GLCs."

435 Anyway and for the sake of making it clear what sorts of political interference over companies' governance at  
436 two different points in time that Gomez had raised in his writing, note that the first one that he mentioned took  
437 place following the Asian Financial Crisis 1997-98: "The outbreak of the 1997 crisis necessitated bailouts of some  
438 well-connected publiclisted companies that were heavily burdened with loans, including from foreign financial  
439 institutions. The listed companies that were then taken over by GLCs included the Renong group, under the  
440 majority ownership of Halim Saad, and Malaysia Airlines, similarly owned by Tajudin Ramli."

441 Right after saying that, he mentioned that both Halim and Tajudin had alleged that their companies were  
442 mired in trouble due to the fact that previously they were not quite in control of these entities. He wrote: "They  
443 had to take instructions from their political masters while running these companies." He next disclosed that  
444 subsequent to the 1997-98 crisis, the government then had introduced "major corporate governance reforms"  
445 such as company directors undergoing training programmes to ensure that they were fully informed of their  
446 fiduciary duties to their shareholders -but none that was concerned with "political interference" which is the "?"  
447 one major reason why these companies were in a financial mess?". And this very failure was "?" a factor that left  
448 the door open for a controversy such as 1MDB to emerge."

449 As for the second case of political interference over companies' governance, Gomez wrote what had essentially  
450 provided the evidence that old habits die hard. He said: "Indeed, controversies of a similar nature have occurred  
451 in the recent past, where members of the boards of directors have played little or no role in checking misuse of  
452 company funds. One case when this was said to have occurred involved the National Feedlot Corp controversy  
453 which also implicated a sitting senior federal minister."

454 Professor Terence Gomez is not alone in seeing the 1MDB scandal was due to the corporate governance gone  
455 haywire. There are at least two other parties who have insisted on the same thing. And their ideas appear to  
456 be based upon some scholarly pursuits too -just like that of the Professor Terence Gomez. Nonetheless, one  
457 appeared to say that the so called external governance was working as expected while the other did not seem to  
458 think so. The former is described next while the latter comes right after.

459 In the case of the work with the title "Lessons from 1MDB", Grace P. Mui and Huat Lye Thye in March/April  
460 2019 began their explanation over the 1MDB scandal by saying: "Members of the board of 1MDBa Malaysian  
461 federal strategic investment fund -and top Malaysian government officials plus private citizens allegedly illegally  
462 syphoned and laundered billions from the fund. Here's how they escaped controls and lined their pockets." From  
463 the outset it seemed the 1MDB had an iron clad corporate governance, but as they had pointed out (Mui and  
464 Thye, 2019):

465 1MDB was structured like a typical Malaysian publicly listed company with a board of directors and was  
466 subject to domestic regulators such as the central bank and the securities commission. However, 1MDB wasn't  
467 a typical Malaysian publicly listed company. As a company wholly owned by the Ministry of Finance it was  
468 required to have a board of advisors chaired by the finance minister. Despite having more corporate governance  
469 mechanisms than publicly listed companies, the breakdown of these mechanisms contributed to executive fraud  
470 at 1MDB. (Emphasis added.)

471 Executive fraud, they say? Really? Anyway, in what way that such "breakdown" of the "corporate governance  
472 mechanism" had taken place? Pray tell? Well, this is how they put it at first: This article studies the 1MDB  
473 scandal from the perspective of the "Crime Triangle of Routine Activity Theory" -an environmental criminology  
474 theoryand focuses on its board of directors and board of advisors plus Malaysian regulators and law enforcement  
475 agencies. The underlying rationale of environmental criminology is that the immediate environment is a key  
476 determinant of human behavior. As such, each crime is a result of the interaction between people and the  
477 situations they're in. And to be more exact, as they put it next:

478 The central premise of the Crime Triangle of Routine Activity Theory is that a crime event occurs when a



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479 motivated perpetrator makes contact at a given time and place with a suitable target when a capable controller  
480 isn't present. The controller has an indirect influence on the crime occurrence and hence has the potential to  
481 prevent the crime. ? A crime can occur when one or more controllers shirk their duties and fail in their roles.  
482 To ensure that controllers fulfill their roles, super controllers are needed to regulate the conduct of controllers.

483 And as far as the 1MDB was concerned, Mui and Thye claimed that the internal super controllers that came  
484 in the form of the board of directors playing the role of handler to prevent executives from perpetrating fraud  
485 had among them two who in the early days opposed executives' misconducts and who later resigned from their  
486 position. But none among the rest of the directors had later followed suit. And this, as they put it, "? could  
487 reflect that the revised board had no known objections to executive decisions. Over time, 1MDB executives  
488 engaged in riskier and more elaborate financial schemes." Next, they concluded with the following: "The board  
489 had shirked its duties, and hence failed in both its roles as the handler over the executives (perpetrator) and as  
490 super controller."

491 The same was also said regarding the other internal super controller: the board of advisors. As they mentioned  
492 it:

493 As a company wholly owned by the Ministry of Finance, 1MDB had a board of advisors that was supposed  
494 to be an added internal corporate governance mechanism. This board would've been the super controller over  
495 the 1MDB executives and its board of directors. It could've minimized the potential for executive fraud, but it  
496 shirked its duties and failed in its oversight role.

497 In particular, note what they wrote right after they said all that: "The chair of the board of advisors was the  
498 then finance minister, Najib Razak, who at that time was also the prime minister. ? In his three roles prime  
499 minister, finance minister and chair of 1MDB's board of advisors -Najib should've had knowledge of 1MDB's  
500 dealings." Next, Mui and Thye had pointed out a number of arrangements which their readers may rightly think  
501 as strange as far as the board of advisors and related matters were concerned: "The effectiveness of the 1MDB  
502 board of advisors in curbing executive fraud is questionable because the board of advisors had never met? the  
503 1MDB board of directors didn't seek advice from the board of advisors. Also, another member of this board  
504 resigned after 1MDB ignored his repeated requests over six months for details on 1MDB's state of affairs."

505 While the super controllers from the inside in the form of the board of directors and the board of advisors  
506 were total failures, it was the total opposite for the super controllers from the outside -as far as Mui and Thye  
507 were concerned! This was how they put it: "In contrast to the failure of 1MDB's internal super controllers to  
508 prevent executive fraud, its external super controllers i.e. Malaysian regulators and law enforcement agencies  
509 -didn't shirk their duties but carried out their roles despite obstacles. Their collective efforts in raising red flags  
510 played a critical role in exposing the 1MDB fraud." And in the next few paragraphs they provided some details  
511 to support their claim.

512 At the end of their writing under the heading "Lessons from governance" that came before a section on what  
513 is titled "Epilogue", Mui and Thye delineated three lessons to be learned as far as the field of governance was  
514 concerned. They wrote:

515 The primary lessons on governance from the 1MDB case relate to its board of directors and board of advisors.  
516 First, the chair of the board of advisors was a politically exposed person (PEP) who at that time held both the  
517 finance minister and prime minister portfolios. A PEP represents a greater risk of involvement in bribery and  
518 corruption. ? Second, the resignation of individual members of both boards at different times were red flags,  
519 especially when these board members had raised concerns over 1MDB's dealings. Comparatively, the revised  
520 boards didn't seem to respond to the riskier and more elaborate schemes the executives engaged in over time.  
521 When board members shirk their duties to exercise oversight over executives, executive fraud will be easier to  
522 perpetrate, cover and hide. ? Finally, external super controllers [in the form of "regulators and law enforcement  
523 agencies"] ensured that 1MDB adhered to relevant laws and regulations and penalized 1MDB when it failed to  
524 do so.

## 525 **7 Now, though what was attempted by Mui and**

526 Thye with their use of the so called Crime Triangle of Routine Activity Theory to understand the 1MDB scandal  
527 seemed encouraging at first glance, deeper look into their efforts in looking at crime as "? the result of the  
528 interaction between people and the situations they're in" can easily tear down the reasonableness of some of the  
529 things that they put forward. First, as far as what they claimed regarding the company's executives. Second,  
530 when it concerns their claim of the successful roles played by the so called "regulators and law enforcement  
531 agencies".

532 In regard to the latter, as far as the success met by the so called "regulators and law enforcement agencies"  
533 in playing their roles, surely whatever accomplishments to date was nothing to be shout about in comparison to  
534 those of their counterparts in countries such as the United States, Switzerland and Singapore! Furthermore, it  
535 should be to everyone's notice that whatever success tasted by those "regulators and law enforcement agencies"  
536 owed much to the defeat faced by the Umno-BN government in the 14 th General Election! In other words, if  
537 the very same political party were to continue to be in control of the federal government, hardly anything at all  
538 could be expected "? in exposing the 1MDB fraud." And such was proven to be the case during those few years  
539 prior to the 14 th General Election that took place in May 2018 (see section 3.2 Obstruction of Justice is the  
540 Answer! in Azham, 2018).

541 As for what they alleged against the company executives, specifically the issue of concern is the outright  
542 blame that Mui and Thye had placed on them. On the basis of what they wrote they appeared to have relied  
543 solely on the audit report issued by the Office of the Auditor General in 2016 on the 1MDB leading to their  
544 mentioning at one point the following: "The audit report highlighted that 1MDB executives acted without board  
545 approval, misled the board with incomplete or inaccurate information, and didn't adhere to board decisions or  
546 acted contrary to board decisions." But by the time Mui and Thye had published their work and the fact that as  
547 time passes by more and more confirming facts are known about the scandal than ever before, surely they had  
548 come to know that there existed biggermuch, much bigger -culprits than the company executives? In other words,  
549 even if the 1MDB executives had profited from the scandal, the amount would be nothing compared to what  
550 these other parties had gained! And so how on earth the scandal could be described as down right executives'  
551 fraud in the first place?

552 All that said, Mui and Thye seemed to have got it right: to understand or draw lessons from the 1MDB  
553 scandal, there is a need to focus on both people and situation and the interactions between the two. It is just  
554 that it is not quite how they defined it! And how they had laid it all out seems to say that here is a case (never  
555 ever to be used as a model by readers!) where data was used to fit in with the theory! Surely that is not a smart  
556 thing to do? The denial of the truth is especially perplexing when at one point they themselves appeared to be  
557 aware that the theory could not easily be made applicable the way that it was being made use of and at another  
558 point even the dumbest could easily see that the opposite of what is stated is probably is the truth.

559 The former took place at the beginning of the writing where they mentioned: "1Malaysia Development Berhad  
560 (1MDB), the Malaysian sovereign wealth fund described by then-U.S. Attorney General Jeff Sessions in December  
561 2017, as "kleptocracy at its worst,"?" With kleptocracy the word mentioned, surely to say the company executives  
562 (and not "some other more powerful figures") to be the protagonists just a little too far fetched?

563 In case all that which is laid out in the previous few paragraphs are still not enough to support the idea  
564 opposite of what Mui and Thye had claimed as far as the 1MDB's executives (main culprits) and the nation's  
565 "regulators and law enforcement agencies" (successfully fulfilling their roles) were concerned, news report related  
566 to the former which came out in mid 2022 just before this very writing is sent out for publication was quite  
567 revealing (Singh, 2022): Former 1Malaysia Development Berhad (1MDB) chief executive Datuk Shahrol Azral  
568 Ibrahim Halmi, described as a criminal who conspired with fugitive financier Low Taek Jho @ Jho Low to defraud  
569 the wealth fund, had taken instructions from Datuk Seri Najib Razak. Former finance minister II Datuk Seri  
570 Ahmad Husni Hanadzlah said this at his former boss' trial involving the abuse of RM2.28 billion of 1MDB funds.  
571 Najib's defence has all this while argued that it was Shahrol who had worked in cahoots with Jho Low to rip  
572 off 1MDB and causing it to be in the pit it is in now. However, when questioned about the matter today by  
573 lead prosecutor Datuk Seri Gopal Sri Ram, Husni defended the former 1MDB CEO and said Shahrol had merely  
574 followed Najib's instructions.

575 As for the negation on the nation's "regulators and law enforcement agencies" successfully playing the role,  
576 a long time opposition MP Lim Kit Siang also in mid 2022 had made it all clear as far as the then Attorney  
577 General was concerned (Siang, 2022):

578 It is a week since the 100-page judgement of Justice Azimah Omar in Apandi's defamation suit against me  
579 was made public last Thursday, and Apandi has failed to answer the four questions highlighted by the Azimah  
580 judgment at the defamation hearing. In fact, Apandi failed to answer these questions for the last two months  
581 since the judgement was announced on 23rd May 2022. The four questions which Apandi failed to explain, as  
582 highlighted by the Azimah judgement, were his failure to explain why; ? he (Apandi, when he was Attorney-  
583 General) absolved and exonerated Najib Razak in the 1MDB scandal; ? he accepted the "fantastical" donation  
584 narrative without evidence; ? he closed investigations on the 1MDB scandal against advice of MACC and his own  
585 internal task force; ? he refused either to accept or offer mutual legal assistance from the Swiss Attorney-General  
586 and the US Department of Justice to investigate the 1MDB scandal. When Apandi was the Attorney-General  
587 for 33 months from the Night of Long Knives in July 2015 when Gani Patail was sacked as Attorney-General  
588 because he wanted to charge Najib Razak for the 1MDB scandal, to the political miracle of the 14th General  
589 Election on 9th May 2018, Apandi played a critical role to cover up the 1MDB scandal. During 2016 and 2017,  
590 the United States Department of Justice (DoJ) commenced thirty related civil forfeiture cases against a wide  
591 variety of real and personal property derived from the billions of dollars of ill-gotten gains of 1MDB scandal,  
592 but Apandi did nothing. Can Apandi explain why? ? But it is not only the Attorney-General who must answer  
593 for his role in covering up the 1MDB scandal, the 13th Parliament was prevented from exposing the 1MDB  
594 scandal and became a party to the "cover-up" of the "kleptocracy at its worst" scandal because of a very biased  
595 Speaker. Parliament should hold public hearings to determine how the 13th Parliament was prevented from  
596 exposing the 1MDB financial scandal -the "kleptocracy at its worst" scandal -and the role of the Speaker of the  
597 13th Parliament, Pandikar Mulia Amin, and to ensure that Parliament will never be abused again to cover up  
598 financial scandals in Malaysia.

599 And if what is clearly reported or written by a journalist (Singh) and a politician are not good enough, check  
600 out the penetrating observations coming from a university lecturer. Indeed, while Mui and Thye seem to be quite  
601 happy to say that the company executives at the 1MDB were the culprits for the scandal and that Malaysia's  
602 "regulators and law enforcement agencies" had played their role successfully, another party in the form of Dr.

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603 Vivien Chen appears to have thought otherwise (“How Malaysian corporate laws can recover after corruption”,  
604 2018). Chen certainly had more to say too in regard to some other related matters. The writing Year 2022 ( )

## 605 8 B

606 As for the latter, it is mentioned at the end of the work: “When board members shirk their duties to exercise  
607 oversight over executives, executive fraud will be easier to perpetrate, cover and hide. Then the question arises as  
608 to whether board members, individually or collectively, benefited from executive decisions that were fraudulent  
609 in nature.” With big names taking the seats on either one of the two boards of the 1MDB and where for the board  
610 of advisors in particular Mui and Thye had in fact identified almost all of them, surely no one in his or her right  
611 mind can say that the largely unheard of company executives had those boards’ members on the take? of concern  
612 was published in November 2018 (just a few short months prior to the one authored by Mui and Thye described  
613 above) at a website associated with the Monash University and it had begun with the following remarks:

614 For several years, Dr Vivien Chen worked as a solicitor in a law firm in Malaysia, drafting documents for  
615 corporate deals. It was a time of political unrest. Protestors were taking to the streets to demonstrate against  
616 the arrest of Dr Mahathir’s former close ally and later his staunch critic, Anwar Ibrahim. At the same time,  
617 corporate scandals involving politically well-connected companies were the talk of the town. Many Malaysians  
618 wondered how these companies got away with transactions that benefitted the elite while ordinary investors  
619 lost out. Even so, when evidence emerged around 1Malaysia Development Berhad (1MDB), a state-owned  
620 corporation, it deeply shocked Malaysians, particularly because the nation’s fortunes had been on the decline in  
621 recent years.

622 Right after saying all that, the piece had pointed out first on quite a large amount of money flowed into the  
623 then prime minister of Malaysia’s local bank account and his failure to explain how was that possible and second  
624 on the police raids at his residence had uncovered “an extraordinary trove of luxury items and cash” valued at  
625 several hundred millions in Australian dollars. Next, just before the piece moved on to the next section of the  
626 writing that comes with the heading “Malaysian Corporate Law”, it comes out with the following interesting  
627 remark related to the 1MDB: “Questions remain as to how a company, governed by seemingly strong laws, could  
628 be a vehicle for criminal activity of such proportions.”

629 And the answer can be found from what it said within the next few lines: Dr Chen, from the Department  
630 of Business Law and Taxation at Monash Business School, does not take her research lightly. Her work as an  
631 academic examining shareholder protection law offers a critique of the effectiveness of the regulatory framework  
632 and examines underlying systemic weaknesses. ? Dr Chen’s research explores the comprehensiveness and strength  
633 of Malaysian laws which are aimed at safeguarding the company from managerial misconduct, measuring it against  
634 benchmarks of international standards. ? It further reveals how corporate fraud may be camouflaged by systems  
635 of governance beneath the veneer of impressive laws that approximate benchmarks of international standards.  
636 ? Malaysia has laws that resemble Anglo-Australian corporate law founded on English common law principles  
637 of equity. ? On the face of it, Malaysian law looks similar to Australian corporate law but the political and  
638 economic environment in Malaysia operates in a very different way -there is a strong nexus between politics  
639 and business. (Emphasis added.) Related to all that, and this would be most relevant in evaluating certain  
640 remarks earlier coming from Mui and Thye, she was quoted to say the following: I highlight the law’s lack of  
641 effectiveness from a range of perspectives and how particular features of Malaysia’s political economy lead to  
642 the law’s lack of substantive effect. ? It challenges assumptions which the World Bank has used as a basis for  
643 law reform in developing countries and is, therefore, relevant to law reformers and policymakers. ? Those laws,  
644 specifying directors’ duties and shareholder rights, are designed to protect investors and punish self-dealing or  
645 corrupt conduct. But in practice, enforcement is weak.

646 Later under the section that comes with the heading “Systemic Weaknesses” there is more devastating writing  
647 on the despicable goings on! Dr Chen’s doctorate, awarded earlier this year, examined shareholder protection  
648 law in Malaysia, the efficacy of those protections, and the economic, political and cultural influences that come  
649 to bear on those laws. When compared internationally, Malaysia’s shareholder protection laws are strong. If  
650 effectively enforced, they should safeguard shareholders from misappropriation of corporate assets by those who  
651 control companies. However, in practice, both private and public enforcement of these laws are significantly less  
652 robust compared with Australia.

653 And with the 1MDB scandal was of concern, the piece had this to say next:

654 The lack of transparency surrounding the governance of 1MDB and the absence of accountability with the  
655 public funds that 1MDB purported to manage are also significant. The lack of investigation and enforcement of  
656 Malaysia’s existing laws have been highlighted by the 1MDB scandal, and it has cost the nation dearly, both in  
657 real-dollar terms and in terms of investor confidence. Dr Chen notes foreign direct investment has been a big  
658 part of the Malaysian economy for decades, but the rorting of 1MDB “made a mockery of the laws”. (Emphasis  
659 added.) It should be worth noting too what she was quoted to say as found in the very same section of the  
660 writing.

661 There are systemic issues that underpin the lack of effective enforcement. Corporate regulators need to take  
662 an active role in enforcing laws, such as directors’ duties, that protect shareholders from embezzlement. The  
663 regulators must be independent of political influence. The rule of law and an independent judiciary need to be  
664 restored. Weak checks and balances, and suppression of civil Year 2022 ( )B

665 liberties and freedom of speech have contributed to the abuse of power epitomised in the 1MDB debacle. ? I  
 666 hope some of the people that are looking into it will try to address the systemic problems and really deal with  
 667 them, and maybe foreigners will regain confidence to invest again. It is notable that the very same piece had  
 668 disclosed that at the end of April 2019 Chen published a journal paper with the title Enforcement of Directors'  
 669 Duties in Malaysia and Australia: The Implications of Context comparing Malaysia's corporate law and its  
 670 enforcement with those in Australia. Right after, it mentioned the following:

671 Her study highlights the extent to which business and politics are inextricably related and how this affects  
 672 enforcement. These are reflected in the ownership of companies and control over enforcement mechanisms. Her  
 673 paper? also highlights the reticence of Malaysia's enforcement agencies over many years to either investigate  
 674 corporate wrongdoing or prosecute it. She cites various sources indicating the nation's corporate regulators are  
 675 more focused on enforcing rules on filing documents than they are about routing criminal wrongdoing by the  
 676 people who control companies.

677 In the rest of the piece, some other interesting remarks can also be found comparing the regulators from  
 678 Malaysia and Australia. These include the following:

679 The Australian Securities and Investments Commission (ASIC) -despite its flaws -is far more independent,  
 680 more willing to investigate wrongdoing, and better resourced than Malaysian regulators. Those laws, specifying  
 681 directors' duties and shareholder rights, are designed to protect investors and punish self-dealing or corrupt  
 682 conduct... ASIC's policy of bringing enforcement proceedings against directors of high-profile public companies  
 683 contrasts with the Malaysian corporate regulators who have been conspicuously silent on scandals involving high  
 684 profile, politically well-connected companies. (Emphasis added.)

685 And with the regulatory situation in Malaysia was far from being encouraging, perhaps it was to be expected  
 686 what Chen had to say concerning the welfare of the so called minority shareholders: "At the same time, Dr  
 687 Chen notes how minority shareholders in Malaysia face considerable challenges in enforcing their rights at  
 688 general meetings, which are often dominated by controlling shareholders, and in getting courts to allow them  
 689 to proceed with derivative actions (in which they seek leave of a court to sue errant directors)." And such was  
 690 in contrast to what was found in Australia. As she put it: "Australian courts are more pragmatic in granting  
 691 minority shareholders leave to proceed with derivative actions. Shareholding is less concentrated in Australia  
 692 and mechanisms, such as the two-strikes rule, allow shareholders to have a say on pay at general meetings."

693 In the final analysis, would it be safe to say that in Malaysia what appear so beautifully in some official  
 694 documents which of course are more often than not are imported from some developed western countries has no  
 695 resemblance to the daily practice? In regard to the subject matter of Chen's PhD thesis which is the shareholder  
 696 protection laws, she had made it quite clear that their lackadaisical enforcement is due to a surrounding marked  
 697 by the existence of "a strong nexus between politics and business". But for some other subject matters such  
 698 as the corporate governance and corporate financial reporting, could it still be the relevant factor? Or perhaps  
 699 there is around some other factor(s) bringing the same negative quality of impact? For some parties it seems the  
 700 answer to these questions is not much in doubt and is related to what is known as kleptocracy. See next.

701 It was a decade ago in late December 2012 that in his well written write up published in The Edge Weekly  
 702 where he made comparison between democracy and kleptocracy that Syed Farid Alatas the then head of the  
 703 Department of Malay Studies, National University of Singapore mentioned (The Editor, 2013a): "As we move  
 704 forward as a nation, the greatest threat to the development of democracy in Malaysia is kleptocracy. The term is  
 705 derived from the words "klepto" (thief) and "cracy" (rule) and refers to a government filled with those who use  
 706 their office to seek status and personal gain at the expense of the governed." A few lines later, he had mentioned  
 707 the following too:

708 The question for Malaysians is, are we a country in which corruption is the dominant means of doing business  
 709 and can be referred to as the fifth factor of production? To the extent that kleptocratic rule develops and  
 710 expands, whatever genuine democratic forces there are will recede into the background. This is because the kind  
 711 of democracy that is based on good governance and accountability to the people is antithetical to the interests  
 712 of the kleptocrats. At most, a formal and limited form of democracy will survive. (Emphasis added.)

713 In the same write up he also mentioned that it was just in the previous month at a forum entitled "Eradicating  
 714 Grand Corruption: How Successful Have We Been?" that was organised by the Institute for Democracy and  
 715 Economic Affairs (IDEAS) and hosted by the Malaysian Anti-Corruption Commission (MACC) that he made  
 716 the suggestion " that Malaysia may descend into kleptocratic rule if steps are not taken to minimise the level  
 717 of corruption in the country." The reason leading him to say so was simply that "[i]n Year 2022 ( ) B

718 e) It is a Kleptocracy! Malaysia, corruption is not a random or occasional occurrence but tends to be systemic  
 719 and cuts across authoritarian and democratic regimes. Kleptocrats are usually not merely mid-level officials who  
 720 extort money or receive bribes as a means to make ends meet, but high-ranking officials and top-level politicians  
 721 who engage in corrupt acts to do business and accumulate wealth." In short, what he was saying was that in  
 722 Malaysia there was what is known as the grand corruption instead of the mere petty corruption! On grand  
 723 corruption, note the following coming some years later from an advocate and solicitor Hakimi Abdul Jabar in  
 724 the news portal the Free Malaysia Today (Hakimi, 2017):

725 Grand corruption is the abuse of high-level power that benefits the few at the expense of the many and causes  
 726 serious and widespread harm to individuals and society. It often goes unpunished. ? Grand corruption is a crime  
 727 that violates human rights and deserves adjudication and punishment accordingly. This ranges from stealing

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728 from public budgets used to build hospitals and schools, to constructing dangerous facilities as the result of  
729 underfunding caused by corrupt actors.

730 It is notable that Hakimi had proposed the involvement of international community and civil parties in  
731 combating grand corruption. In relation to the former, he wrote early on the following: "Domestic authorities  
732 are often unable or unwilling to bring the grand corrupt to justice. In these cases, the international community  
733 has an obligation to act, collectively and through action by individual states." Later, he mentioned:

734 With its serious and often global effects, combatting grand corruption must be the responsibility of the  
735 international community. This is because grand corruption is a major obstacle to the achievement of sustainable  
736 development. It also undermines and distorts sound financial practice and clean business, both domestically and  
737 internationally. Furthermore, grand corruption deepens poverty, inequality and also increases exclusion. On a  
738 wider scale, grand corruption results in violations of human rights, and such a link is recognised by the United  
739 Nations High Commissioner for Human Rights. (Emphasis added.)

740 As for the involvement of the so called civil parties in confronting grand corruption, Hakimi had first stated  
741 out:

742 Grand corruption used to carry on unseen, with little publicity. Today, thanks to new possibilities opened up  
743 by globalisation, global communications and investigative reporting, the enablers of grand corruption are in the  
744 headlines every day. So too, is the inability of current laws to tackle this trans-national network of thievery and  
745 worse. This needs to change.

746 People have had enough. There should be no impunity for the corrupt.

747 Next, in the very last line of his quite instructive piece, he mentioned: "Civil parties have major roles in  
748 criminal procedures under a grand corruption statute. In such legal systems, anti-corruption NGOs can take  
749 part in criminal procedures and represent a broad range of victims." But honestly to what extent that cases on  
750 grand corruption brought to courts in Malaysia (as opposed to those overseas or at the international level) could  
751 actually bring justice to the people? The reason that this is raised is concerned with the kind of democracy found  
752 in the country. In this regard, it was none other than the earlier mentioned academic Syed Farid himself early  
753 on in the very same write up referred to earlier who had pointed out about the kind of democracy found in the  
754 country. He wrote (The Editor, 2013a):

755 Formally speaking, a democratic political system generally refers to one in which the posts of the executive  
756 branch are elective and members of political parties are elected to representative bodies such as Parliament.  
757 Furthermore, in a democratic system, there is a separation of powers, such that the executive branch itself is  
758 subject to the law. Perhaps a central feature of a democracy is the prominence of interest and pressure groups  
759 that seek to influence public policy by way of working closely with and on legislators. In a democratic state, it  
760 should be possible for the majority of the people to change their government should they so desire.

## 761 **9 Next he pointed out:**

762 The formal features of a democracy should be distinguished from its cultural dimension, which refers to the  
763 intellectual maturity of the population as far as understanding and believing in the values of democracy are  
764 concerned. Democracy in the formal sense of the term has been in place in Malaysia since independence from  
765 the British in 1957.

## 766 **10 Some have referred to the political system in Malaysia as a 767 quasi or semi-democracy because of the presence of certain 768 anti-democratic elements such as the abolition of local-level 769 polls and the Internal Security Act (ISA). (Emphasis added.) 770 And not long later, he had also argued:**

771 A complete transition to genuine democracy, a system that is founded not just on the formal trappings of the  
772 democratic system such as regular elections, but one based on a culture that values and respects diversity and  
773 the rules of democratic procedures, is difficult to imagine for Malaysia. This would require fundamental changes  
774 in the political culture, economy and politics of the country. What we have witnessed thus far are tendencies  
775 that create enclaves of democracy within the country, which may help men and women live in a society that is  
776 more tolerant of differences and will, therefore, be freer. (Emphasis added.)

777 A few short years later, after the 1MDB scandal had become widely reported, Syed Farid in two separate  
778 articles published by The Edge Weekly had made some interesting remarks linking the 1MDB and the subject  
779 matter of Malaysia as a kleptocracy. For one of the two published in the late September/early October 2016,  
780 he (who now "teaches at the National University of Singapore's Department of Sociology" as stated out in the  
781 piece's byline) began with the following remark (Syed Farid, 2016):

782 The US Department of Justice's Kleptocracy Asset Recovery Initiative was tasked with identifying and  
783 recovering foreign assets held by corrupt foreign leaders and their accomplices in the US. An example of this is  
784 the US government's plan to seize more than US\$1 billion in assets purchased with money that wellconnected  
785 Malaysians are alleged to have illegally acquired from the strategic investment fund, 1Malaysia Development

## 10 SOME HAVE REFERRED TO THE POLITICAL SYSTEM IN MALAYSIA AS A QUASI OR SEMI-DEMOCRACY BECAUSE OF THE PRESENCE OF CERTAIN ANTI-DEMOCRATIC ELEMENTS SUCH AS THE ABOLITION OF LOCAL-LEVEL POLLS AND THE INTERNAL SECURITY ACT (ISA)

786 And right after saying that, he wrote: Many observers around the world would come to believe, should  
787 (EMPHASIS ADDED.) MALAYSIA IS NOT LONG LATER, HE HAD ALSO ARGUED  
788 a "scheme whose tentacles reached around the world". More and more Malaysians have come around to the view  
789 that not only is corruption rampant in the country but also we are becoming a kleptocracy.

790 A few months later in the second piece published in late February/early March 2017, Syed Farid (whose byline  
791 now says he is the head of the Department of Malay Studies and an associate professor in the Department of  
792 Sociology at the National University of Singapore) gave quite an elaboration over the topic of kleptocracy. He  
793 began by saying (Syed Farid, 2017):

794 The state or government refers to those institutions that rule over a society. The modern state comprises  
795 institutions that are responsible for making and codifying law -the legislature; the executive -which is responsible  
796 for the effective implementation of the laws and policies passed by the legislature; and the judiciary -which is  
797 responsible for adjudication in the event that laws are violated. He next moved into the discussion of state  
798 legitimacy where he among others said: Legitimacy refers to the acceptance and right of the authority of a  
799 government. When an authority is said to be legitimate, it means that it is seen to have the right to exercise  
800 power. Legitimacy is a basic requirement for smooth and efficient governance. Indeed, the lack of political  
801 legitimacy would mean that the government would have to resort to force and coercion. ? A ruler who relies  
802 on authority generally uses his qualities of leadership and his ability to persuade and influence others. It is on  
803 that basis that he has authority. If the ruler lacks legitimacy, he would have to rely instead on the application of  
804 coercion, force and power.

805 In comparing the political developments in the advanced industrialized West to those in many Third World  
806 countries, Syed Farid mentioned that in the case of the former the states were widely seen to be legitimate  
807 and able to exercise legitimate authority whereas such could not be said for the latter. As he put it: "But,  
808 the conduct of the state in many Third World countries is not such that there is widespread perception on the  
809 part of the citizens that the state is legitimate. Such states often resort to coercion and force rather than rule  
810 through leadership, persuasion and influence." As to why that the states in "many Third World countries" had  
811 the opposing experience, he wrote: "The lack of legitimacy is often due to the fact and perception that the state  
812 is involved in criminal activities. An example is the kleptocratic state." As for what exactly is meant by the  
813 latter, Syed Farid, without mincing his words, had next pointed out:

814 In his pioneering work, *The African Predicament*, published in 1968, sociologist Stanislaw Andreski describes  
815 how corruption was so pervasive in African states such that "politics becomes a strictly moneymaking activity".  
816 Politics was basically the only game in town. Politicians and bureaucrats were the main accumulators of capital  
817 rather than the private sector. They accumulated capital through corrupt practices involving bribery, extortion  
818 and nepotism. Such a polity was defined by Andreski as a kleptocracy. Kleptocracy is a system of government  
819 defined by corruption. (Emphasis added.)

820 In the last few paragraphs of his fine write up, Syed Farid talked about the field of criminology and how it  
821 was the way forward in doing research over an array of state crimes. He wrote:

822 Criminology is the scientific study of crime, including its nature, causes, consequences and methods of  
823 prevention. It looks at criminal behaviour at both the individual and societal levels. The field of criminology  
824 recognises the state or government as a criminal actor. ? The field of criminology is very useful for the study of the  
825 kleptocratic or other kinds of criminal states. Criminological theories would help us to understand various facets  
826 of the kleptocratic state. ? To the extent that such criminal activities dominate and define our governments,  
827 it is vital that scholars study the state from the perspective of criminology in order to not just understand the  
828 criminal state but also to create public awareness and outrage. (Emphasis added.) And just like the other piece  
829 published in late September/early October 2016 which was referred to earlier, Syed Farid raised the matter of  
830 1MDB right after his discussion on kleptocracy and just before he moved on to the topic of criminology. He  
831 wrote:

832 Although Andreski wrote decades ago about kleptocracy, it is only more recently that this type of polity has  
833 received serious attention. Of note is the US Department of Justice's Kleptocracy Asset Recovery Initiative.  
834 This is tasked with identifying and seizing foreign assets held by corrupt foreign leaders in the US. Last year,  
835 the DoJ filed a civil forfeiture complaint against assets that it alleged had been bought with money stolen from  
836 the sovereign wealth fund, 1Malaysia Development Bhd. The DoJ claimed that more than US\$3.5 billion was  
837 misappropriated from the fund. It filed the 144-page complaint in federal court in Los Angeles targeting about  
838 US\$1 billion in assets located in the US, the UK and Switzerland. The assets include mansions and penthouses,  
839 a US\$35 million executive jet and artwork. The DoJ claimed the assets are "traceable to an international  
840 conspiracy to launder money misappropriated from 1MDB". This is said to be the biggest forfeiture action since  
841 the Kleptocracy Asset Recovery Initiative was set up by the DoJ in 2010.

842 Finally, a few years later in November 2020 in the news portal the Free Malaysia Today, Syed Farid for what  
843 appears to be quite a straight forward piece of writing on kleptocracy started out talking about the differences  
844 in meaning for the term "states". He who as stated out in the piece's byline was now a professor at the National  
845 University of Singapore's Department of Sociology had early on mentioned (Syed Farid, 2020): "Negara mempunyai  
846 makna dan peranan yang berbeza, berdasarkan pendekatan pengkaji dan pemerhati politik." (States have different  
847 meanings and functions on the basis of the approach taken up by the researcher and political observers.) And  
848 in the next several lines he pointed out as to what this would entail as far as the western context is concerned.

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849 Subsequently, he pointed that in the context of developing countries there is something else altogether that is found  
850 as far as the meaning of states is concerned! Pada pihak lain, di dunia sedang membangun kita dapati negara  
851 terlibat secara langsung dalam proses pengumpulan modal. Kepentingan peribadi elit-elit dan pegawai-pegawai  
852 negara dimajukan dengan menggunakan jawatan awam. Ini membawa kita kepada persoalan bahaya negara.  
853 Bidang sosiologi politik dan sains politik mempunyai kecenderungan menegaskan keabsahan negara sehingga  
854 mengetepikan pertimbangan tentang bahaya yang disebabkan oleh wujudnya anasir jenayah yang seringkali  
855 menghinggapi negara. Sepanjang yang menyangkut tingkah laku jenayah, yang sepatutnya diperhatikan adalah  
856 rasuah. (On the other hand, in the developing world the states are directly involved in the process of capital  
857 accumulation. The personal interest of the elites and civil servants is enhanced using the government posts.  
858 This leads us to the issue of countries going rogue. The field of political sociology and political science has the  
859 tendency to stress on state legitimacy to the point of putting aside the consideration over danger caused by  
860 criminal elements who often attached themselves to the states. As far as it involves criminal conducts, what is  
861 supposed to be noteworthy is corruption.) Later, without mincing his words, he wrote:

862 Terdapat kelaziman klientelisme dan nepotisme yang menyaksikan kepentingan peribadi diutamakan melalui  
863 rasuah, iaitu, dengan memperalatkan institusi-institusi negara. Rasuah terdapat di semua negara tetapi bukan  
864 semuanya negara dikuasai oleh daya rasuah sehingga kehidupan sehari penduduknya dipengaruhi secara negatif.  
865 Jenis negara dalam mana rasuah merupakan cara utama modal dikumpulkan digelar sebagai kleptokrasi  
866 (kleptomani bermaksud mempunyai tabiat suka mencuri). Dalam kleptokrasi, ramai pegawai negara berfungsi  
867 sebagai kleptokrat yang melibatkan diri mereka dalam pelbagai kegiatan penyusunan dan nepotisme. Apabila  
868 negara itu dihindangi rasuah sehingga gejala itu menjadi alat pengumpulan modal utama, ini mengisyaratkan  
869 kemunculan negara kleptokratis. Ini membawa kita kepada gagasan bahawa negara itu tidak semestinya menjadi  
870 sesuatu yang sah dan mendatangkan manfaat. (It is common for clientalism and nepotism to have one's personal  
871 interests being given the priority through making use of the country's institutions. Corruption exists in all  
872 countries but not all countries are being controlled by corruption to the point that the people's daily lives are  
873 being affected in a negative manner. The kind of countries where corruption is the primary manner of capital  
874 accumulation is called kleptocracy (kleptomani means possessing the habit of being fond of stealing). In a  
875 kleptocracy, there are many government officers functioning as kleptocrats who involve themselves in varied  
876 forms of bribery and nepotism. When a country is affected with corruption to the point that it becomes the  
877 primary form of capital accumulation, it signals the emergence of a kleptocratic country. This brings us to the  
878 idea that a country is not necessarily legitimate and shall bring forth benefits.) And with all that mentioned, Syed  
879 Farid in the last few lines of his crystal clear write up has pointed out quite interestingly the direction to take as  
880 far as the discussion and analysis of "states" located in the Third World and Islamic countries are concerned. He  
881 wrote: Di kebanyakan ekonomi politik Asia Tenggara, bentuk kapitalisme yang wujud merupakan kapitalisme  
882 semu.

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886 Istilah semu itu membawa sama makna dengan "palsu", "tidak tulen" dan "tidak sejati". Kita dapat memahami  
887 kapitalisme semu sebagai kapitalisme yang tidak berasaskan kepada sifat keusahawanan. Seorang usahawan  
888 merupakan pemodal yang bukan hanya melabur kembali untung mereka, tetapi melihat dan mencari peluang  
889 seperti cara pengeluaran, pemasaran keluaran, dan sumber penawaran yang baru. Dalam kapitalisme semu,  
890 kelas pemodal bergantung pada negara untuk pelbagai bentuk bantuan seperti pemberian insentif, perlesenan,  
891 perlindungan, pembekalan dana bank kerajaan, dan usaha dengan perusahaan negara. Pemodal pemodal  
892 seumpama ini menjadi klien kepada penaung negara. Hubungan antara penaung dan kliennya seringkali  
893 merupakan hubungan antara kleptokrat dan penerima bantuan atau pemburu rent. Bidang sosiologi politik dan  
894 ilmu politik bercirikan suatu kecenderungan terhadap menegaskan keabsahan negara sehingga pertimbangan sifat  
895 bahayanya disebabkan wujudnya anasir jenayah disingkatkan. Tetapi, dalam kes kebanyakan negara di Dunia  
896 Ketiga dan dunia Islam, bidang yang lebih sesuai untuk membincangkan dan menghuraikan negara adalah  
897 kriminologi dan bukan sosiologi atau ilmu politik. (In most of the South East Asia's political economy, the kind  
898 of capitalism found is ersatz capitalism. The term ersatz means "false", "not genuine" and "not real". We can  
899 understand ersatz capitalism as the kind of capitalism which is not based upon the elements of entrepreneurship.  
900 An entrepreneur is a capitalist who not only putting back his or her profit into the business, but also looking  
901 around for opportunities in regard to the mode of production, the marketing of products and the new source of  
902 supplies. But in the case of ersatz kapitalisme, the capitalist group depends on the government itself for a variety  
903 of assistance such as the giving of incentives, licensing, protection, funding from government-owned banks and  
904 customers. This kind of capitalists is clients for the state which act as their patron. The relationship between  
905 a patron and clients is often that of kleptocrat and beneficiary or rent seekers. The field of political sociology  
906 and that of political science characterised by the inclination in affirming states' legitimacy has led to the removal  
907 of the consideration on state going rogue due to criminal elements. But, in the case of most Third World and

### 13 III. THE INTERNATIONAL DIMENSION

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908 Islamic countries, the field more appropriate to discuss and analyse states is criminology and not sociology or  
909 political science.)

910 For sure this latter 2020 write up by Professor Syed Farid is very much similar to that of his in 2017 raised  
911 earlier. But the difference that come in the inclusion of certain terms and their related interpretations which  
912 did not appear in the 2017 piece should make it worthy for inclusion in the present work. As for those terms of  
913 interest, there are of course nations going rogue and the so called ersatz capitalisme.

914 Now, with kleptocracy proposed by some to be the leading factor leading to the 1MDB scandal which without  
915 a doubt is not at all the case of everyday corruption but instead that of a grand corruption, the same expanding  
916 line of thought may perhaps be used in saying the scandal is not a run-of-the-mill kleptocracy for it is to be more  
917 exact a global kleptocracy. The fact that the latter is pretty much the case is evidenced by numerous write ups  
918 including the one referred to next which is concerned with a leading global investment banking, securities, and  
919 investment management firm founded in 1869 in New York City the Goldman Sachs.

### 920 13 III. The International Dimension

921 In May 2019 Dennis M. Kelleher, who was referred to quite early on in this writing, had written early on in  
922 a damning piece of the Goldman Sachs' role in the 1MDB scandal the following (Kelleher, 2019): 1Malaysia  
923 Development Berhad (1MDB) was a Malaysian government owned and controlled investment fund created in  
924 2009 by former Prime Minister Najib Razak. The professed purpose of 1MDB was to attract foreign investment  
925 and development in Malaysia to benefit all the people of Malaysia. Instead, it has been referred to as "kleptocracy  
926 at its worst" and potentially "one of the greatest financial heists in history," with possibly more than \$10 billion  
927 looted. Worst of all, hundreds of millions of those looted dollars were allegedly used to steal an election and  
928 keep the corrupt prime minister in power for five additional years, when his opponents were crushed and at least  
929 one prosecutor was brutally murdered, suffering "a horrific death." ? Much of that appears to have only been  
930 made possible by 1MDB's banker, Goldman Sachs, which was involved with 1MDB from 2009 until late 2014.  
931 In particular, in addition to advising 1MDB, Goldman managed three no-bid, privately placed bond issues from  
932 May 2012-March 2013 that raised about \$6.5 billion from investors around the world. However, more than half  
933 of that was reportedly looted by the prime minister and his cronies. Goldman's take for the three offerings alone  
934 was reportedly an astonishing \$600 million. (Emphasis added.)

935 But do not just take his words for it, for there are others saying the same thing that without the involvement  
936 of Goldman, the world probably would not get the chance to see the case of both a grand corruption and a global  
937 kleptocracy which the 1MDB scandal had depicted to a T! This is as Kelleher himself had noted right after all that  
938 above: As reporter Matt Taibbi (who famously referred to Goldman as "a great vampire squid wrapped around  
939 the face of humanity, relentlessly jamming its blood funnel into anything that smells like money") observed,  
940 while there is nothing new about corrupt politicians plundering their country for their personal benefit, that is  
941 usually done by exploiting the tangible assets of the country. Taibbi points out that Najib was different. He  
942 allegedly stole the money raised by Goldman's debt offerings and other borrowings. He did not and could not  
943 do that alone. As John Pang, a former policy adviser to the prime minister's office in Malaysia and advisor on  
944 the bond offerings reportedly said, "This is something completely new. And he couldn't have done it without  
945 a bank the size of Goldman." In fact, Mr. Pang went so far as to say "All [Najib] needed was a signature and  
946 a couple of Goldman bankers." (Emphasis added.) Indeed, for anyone to claim that the bank as a whole had  
947 played little role in the fraud perpetration with the 1MDB as the vehicle would clash with what was found to  
948 have happened on the ground as evidenced by the so called "public records". Related to this, note what Kelleher  
949 wrote regarding how he was able to come out with that very work of his: "This report is, of course, based solely  
950 on what is in the public record, including in particular from court filings, some fantastic investigative reporting  
951 and the terrific book Billion Dollar Whale." And when it concerns the so called red flags in particular that those  
952 in the investment bank were indifferent to, note the following that he mentioned early on in his incisive work:

953 The highlights of the publicly reported story of Goldman's critical involvement with 1MDB are presented  
954 in this report. It also presents many of the reported red flags and warning signs about 1MDB, which makes  
955 Goldman's defense -that this was done by a rogue Goldman partner who has already pleaded guilty to criminal  
956 charges -implausible. Indeed, even many Goldman "veterans are disturbed that the firm allegedly ignored or  
957 missed red flags."

958 It is notable that in the section of his work that comes with the heading "The Rogue is Goldman", Kelleher  
959 had pointed out a total of nine red flags that the bank seemed to have chosen to ignore and which may be used  
960 to back up the argument that just about every part of the bank was very much working together in ensuring  
961 the 1MDB used as the vehicle for embezzlement and other forms of malevolent acts by parties coming from  
962 the various parts of the world. The first three of the total of nine red flags are laid out verbatim next: First,  
963 1MDB itself was a huge red flag. Just a few examples (detailed in Billion Dollar Whale and elsewhere): there  
964 was significant staff and executive turnover; those working there had little or no experience; the Chairman of  
965 the Board of Directors resigned abruptly as did another director just weeks later; its first auditors, Ernst &  
966 Young, resigned as did its second auditors KPMG and its third auditors, Deloitte, was just fined by Malaysian  
967 authorities (although Deloitte is contesting that). Second, the primary conspirator, Jho Low, was actually caught  
968 by Goldman's compliance system (known as the "business intelligence group") not once, but at least twice. He  
969 was rejected as a client of the private bank because the origin of his wealth couldn't be determined (a huge red



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970 flag, as stated above) and "a few years later" was rejected as a direct client on a deal involving the Abu Dhabi  
971 state energy investment company IPIC in 2013. ? Third, after Goldman's compliance department "repeatedly"  
972 flagged Jho Low as so much of a risk that they refused to let him become a client of the bank's private client  
973 group, he nonetheless had a personal private audience with then-CEO Blankfein? This was reportedly a "one-  
974 on-one sit-down" with Goldman's CEO, a rare and extremely difficult audience to get and presumably only after  
975 the person is subject to the most rigorous background checks and due diligence. Even if all the other red flags  
976 were somehow missed, it's inconceivable that the information in Goldman's own compliance system would not  
977 have been known. (Emphasis in the original.)

978 And the more harrowing red flags than those three come later and it begins in the form of the fourth red flag:  
979 Fourth, Leissner and the other criminals just weren't that smart and there were red flags waving all over the  
980 Malaysia relationship and Goldman's 1MDB offerings, which caught the attention of senior Goldman officers.  
981 For example, "David Ryan, President of Goldman in Asia [and Mr. Leissner's superior in Asia], was among those  
982 urging caution. He had visited 1MDB's staff in Malaysia and came away with concerns over its plans to take on so  
983 much debt, and the inexperience of its management, none of whom seemed to have overseen multi-billion-dollar  
984 investments before." He also "voiced concerns" about the unusual and incredibly lucrative no-bid contracts, which  
985 "struck" him "and other Goldman executives as possibly too good to be true." He went so far as to argue that  
986 "Goldman should reassess, and potentially end, its relationship with 1MDB." Those concerns were rejected by  
987 the very senior people and committees that reviewed and approved the 1MDB offerings (including reportedly  
988 some of Goldman's most senior officers). Mr. Ryan, a Goldman partner, was first "effectively sidelined" when  
989 another Goldman executive (a "proponent of the 1MDB business") was installed senior to him and then he left  
990 in 2014 "partly because he was frustrated that his concerns about the 1MDB deals were not heeded." Just as  
991 harrowing are the sixth and seventh red flags:

992 Sixth, Goldman asked the investment banking firm Lazard to value the power plants that 1MDB was supposed  
993 to purchase with the proceeds from one of the offerings but it refused because it "believed the whole deal smelled  
994 of political corruption." Apparently lacking the same sense of smell, Goldman then assumed the additional role  
995 as an advisor to 1MDB and reportedly valued the power plants at a sufficiently high price to justify the purchase  
996 price. ? Seventh, 1MDB used a "struggling Swiss bank called BSI," which Low picked because it "was a small  
997 bank, one that would be dependent on his business and took compliance even less seriously than Wall Street  
998 behemoths." As reported in Billion Dollar Whale, "BSI had thrived for generations in a similar fashion to all  
999 Swiss banks: aiding wealthy Europeans and Americans who wanted to hide their cash in private accounts and  
1000 evade the payment of taxes at home." ? Yet, for the largest of the three bond offerings (for \$3 billion in March  
1001 2013 just before Malaysia's elections), 1MDB wanted Goldman to deposit the entire amount into its Swiss bank  
1002 account at BSI. Seeing the red flags waving, even Goldman's lawyers in Singapore "pointed out in an email that  
1003 it was unusual to use such a small private bank for a \$3 billion deposit." However, "Goldman shrugged off" those  
1004 concerns: "Only days later Goldman deposited the proceeds from the \$3 billion bond with BSI, and \$1.2 billion  
1005 immediately was purloined," with \$681 million reportedly moving into the prime minister's account. It would  
1006 seem that much of this would have been discoverable with even minimal diligence. This is the money that enabled  
1007 the then-prime minister to reportedly steal the election and remain in power for five more years? But the most  
1008 damaging of all are perhaps the last two red flags: the eight and the ninth. The eight red flag:

1009 Eighth, Leissner, Goldman's former Chairman of Southeast Asia, stated when pleading guilty: "During the  
1010 course of the conspiracy, I conspired with other employees and agents of Goldman Sachs very much in line  
1011 with the culture of Goldman Sachs to conceal facts from certain compliance and legal employees?" The criminal  
1012 allegations include that Goldman's "system of internal accounting controls could be easily circumvented" and  
1013 that the "business culture, particularly in southeast Asia, was highly focused on consummating deals, at times  
1014 prioritized this goal ahead of the proper operation of its compliance functions." ? It remains an open question  
1015 whether these controls were evadable by design so that the bank could point to the appearance of compliance as  
1016 a defense in the circumstances presented by the 1MDB case, even if in reality they lacked substance.

1017 As for the ninth red flag:

1018 Finally, an advisor on the 1MDB offerings who worked for the former prime minister was quoted as saying  
1019 there were red flags for anyone looking: "This fund was dodgy from the beginning. There is no excuse for not  
1020 knowing this fund had to do with [the former Prime Minister's] political patronage and his election plans.

1021 This was an open secret." In fact, Lazard apparently quickly discovered this when it refused Goldman's requests  
1022 for it to participate in 1MDB deals, not once, but twice. Additionally, the real-life criminal portrayed in the  
1023 movie "Wolf of Wall Street" (about brazen Wall Street fraud that itself was allegedly financed with money stolen  
1024 from the 1MDB bond offerings), Jordan Belfort, quickly saw in 2011 before a single bond offering that that "these  
1025 guys are f-king criminals? It was so obvious." But, Goldman Sachs, the leading global bank that sells itself to  
1026 clients, customers and governments worldwide as having unparalleled intelligence and due diligence capabilities,  
1027 either didn't know this "open secret" or chose to ignore it, along with the many other red flags. Indeed, aside  
1028 from the section that comes with the heading "The Rogue is Goldman" which is concerned with red flags, the  
1029 involvement of so many from just about every part of the international bank is also captured quite well in some  
1030 other sections of the writing. And this is especially true as far as those from the very top of the banks were  
1031 concerned. For example, in a section that comes with the heading "Goldman's Partners Are Criminally Charged  
1032 for Looting \$4+ Billion from 1MDB", Kelleher had mentioned among others the following:

## 15 AND PERHAPS MORE TO THE POINT IS WHAT KELLEHER WROTE RIGHT AFTER:

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1033 The seriousness of the crimes alleged and committed here cannot be overstated. Two former Goldman  
1034 executives, who were the primary bankers on the 1MDB deals, have been criminally charged by the Department  
1035 of Justice and a third even more senior executive has been placed on leave after being identified as an unindicted  
1036 co-conspirator. All three people were or are Goldman partners. ? It is not a surprise that the involvement of  
1037 these three partners, however, is only the tip of the iceberg of Goldman staff, executives, officers and partners  
1038 involved in Goldman's relationship with Malaysia and the 1MDB deals. Indeed, then-CEO Lloyd Blankfein  
1039 "personally helped forge ties with the country and 1MDB years before Goldman ever arranged the bond deals  
1040 at the heart of the probes. Blankfein attended a 2009 meeting with the former Malaysian prime minister that  
1041 laid the groundwork for the relationship between the two entities," Bloomberg reported. ? In addition, proving  
1042 how extensive and important the relationship was, Goldman's then-CEO reportedly arranged a special private  
1043 meeting of some of Goldman's top clients for the Prime Minister (and Jho Low?) to pitch:

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1045 Volume XXII Issue VI Version I Year 2022 ( ) B "he gave a pitch about Malaysia to a high-powered client meeting  
1046 put together by Blankfein. Malaysia was so important for Goldman that Blankfein had roped in some of the  
1047 biggest names in U.S. finance to attend," including John Paulson and David Bonderman.

1048 And in the section with heading "Goldman's "Four Monkeys" and Rogue Defenses" that comes just before the  
1049 section where Kelleher laid out all the nine red flags including those quoted above, he had first pointed out:

1050 As the extent and details of the outlandish, multibillion-dollar alleged crimes have come to light, including  
1051 Goldman's far-reaching involvement with 1MDB, what has been Goldman's response? It's what we call Goldman's  
1052 "Four Monkeys" defense: see no evil, hear no evil, speak no evil and keep all the money. The firm thus far is  
1053 using the standard Wall Street playbook to deny all wrongdoing and proclaim total innocence, if not shamelessly  
1054 suggesting that they are victims themselves. ? The "we was wronged by a rogue employee" is a common defense.  
1055 However, most rogue employee cases involve one or at most two usually low-to-mid level employees. That's why  
1056 "rogue" is singular: it's a one-off individual who engages in an outsized financial crime, like Nick Leeson at  
1057 Barings, Jerome Kerviel at Societe Generale, or Kweku Adoboli at UBS. (Emphasis in the original.) And right  
1058 after, Kelleher went for the kill:

1059 Here, however, Goldman is trying to force-fit multiple, longtime, senior officers who were or are partners (plus  
1060 whoever else might be behind all the redactions in the transcript of the hearing for Leissner's plea agreement)  
1061 into the "rogue" category. In addition, there were dozens of Goldman Sachs top bankers, partners and executives,  
1062 including the then-CEO (Blankfein), the then-COO/later President (Gary Cohn), and the then-co-head of  
1063 investment banking/now-CEO (Solomon), presumably flyspecking the 1MDB relationship, the bond offerings and  
1064 the other deals. (And, don't forget that all these senior executives undoubtedly personally pocketed substantial  
1065 bonuses from the \$600 million or so Goldman made from the 1MDB offerings.) Nevertheless, Goldman wants the  
1066 world to believe that no one at Goldman was smart enough to get a hint of one of the biggest frauds in the world  
1067 happening right under their noses in a multiyear, multi-deal relationship that stretched from junior bankers to  
1068 the most senior executives at the bank. (Emphasis in the original.)

1069 Finally for what seems to be the most important point of the whole work signifying the collusion among many  
1070 from inside the bank to look the other way so that both they and others from outside the bank were able to profit  
1071 from the horrendous act perpetrated against Malaysia and its people present and future through the 1MDB, is  
1072 the following which appears at the latter part of the very same section of the work: Yet, Goldman's position is  
1073 that a "rogue" banker lied and fooled all of the smartest, highest paid bankers in the world, all of Goldman's  
1074 risk, compliance, legal and audit systems and controls, and all of Goldman's management. That is exactly what  
1075 Goldman is peddling and wants everyone to believe, as the New York Times reported: "Goldman executives and  
1076 their lawyers have depicted Tim Leissner, a former top investment banker, as a master con man, someone so  
1077 sneaky that even the retired military intelligence officers who work for the bank couldn't sniff him out." Doesn't  
1078 Goldman brag about having the worlds' state-of-the-art, high-tech, comprehensive systems and multiple, robust  
1079 layers of compliance, risk, legal, audit and management designed to ensure that something like this could never  
1080 happen, even at fractions of the size of this fraud and these fraudulent activities? Aren't they supposed to be  
1081 experts at due diligence? (Emphasis in the original.)

## 1082 15 And perhaps more to the point is what Kelleher wrote right 1083 after:

1084 Given that Leissner was only one of many Goldman partners involved with 1MDB and not even the only one  
1085 criminally charged so far, the bank's defense appears absurd. Moreover, neither Leissner nor his co-conspirators  
1086 were "master con m[e]n." As detailed in Billion Dollar Whale and other impressive reporting, this was a brazen,  
1087 crude and massive fraud orchestrated by a bunch of youthful, inexperienced amateurs who were sloppy, careless  
1088 and obvious in many ways. None of this required Sherlock Holmes or even a business degree to uncover; scratch  
1089 almost any surface with the most basic questions and the fraud seemingly would have been visible for anyone  
1090 to see and quickly unravel. (Emphasis added.) If all of that is not plain enough in directing one's attention  
1091 to the investment bank's undeniable complicity in the scandal, note what Kelleher wrote within the last two  
1092 sections of his writing. From the penultimate section of this superb work: While it remains unclear exactly how

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1093 much money 1MDB still has and how much money 1MDB will ultimately cost the people of Malaysia (60% of  
1094 whom live on "less than \$1,600 a month"), it reportedly amassed around \$13 billion in debt as of April of 2016  
1095 from the Goldman bond offerings and other borrowings. Thus, Malaysia's criminal and civil proceedings seeking  
1096 \$7.5 billion from Goldman seems potentially reasonable? The key question remains: "How could so much money  
1097 -originally meant to lift up a nation and improve the lives of its people -have been laundered and embezzled under  
1098 everyone's noses?" After all, what else is Goldman's compliance division for? According to Goldman's website,  
1099 "the global compliance division is dedicated to protecting the reputation of the firm and managing risk across  
1100 all business areas." The compliance division is supposed to "ensure compliance with regulatory requirements and  
1101 determine how the firm can appropriately pursue global market opportunities." ? This report is, of course, based  
1102 solely on what is in the public record? Nevertheless, this public reporting raises a key question: if it wasn't just  
1103 a rogue employee, but at least partly the fault of the bank itself, should the bank itself be held liable for any  
1104 of the crimes committed by its executives and others as well as the systemic breakdown of what it claims was a  
1105 compliance system? (Emphasis added.)

1106 As for what may be found in the final section:

1107 There appears little room for doubt that certain Goldman officers and partners committed crimes -Leissner  
1108 at a minimum; allegedly Ng; and potentially the unindicted co-conspirator -and whoever or how many others  
1109 there may be should suffer the full weight of the criminal law. There's also little room for doubt that, however  
1110 many criminals there are, they lied to and misled lots of people, including at Goldman. That may have made it  
1111 somewhat more difficult to uncover their criminal conduct, but despite Goldman's current posture, that didn't  
1112 make it impossible. Any fairminded review of the publicly known facts suggests that it shouldn't even have been  
1113 that difficult. More importantly, it simply cannot be an excuse for every level of Goldman's management and  
1114 every one of Goldman's systems of checks and balances to fail. At a minimum, "Goldman's internal committees,  
1115 set up to catch fraud, had failed at their jobs." (Emphasis in the original.) But in signifying that the blame  
1116 for the 1MDB scandal can be placed squarely on Goldman Sachs as a whole in the sense that it was primarily  
1117 due to the varied role played by the international bank that the evil that is the 1MDB scandal had come about,  
1118 perhaps nothing can beat what Kelleher himself had succinctly raised as the very last paragraph for the section  
1119 that comes with the heading "Goldman's \$6.5 Billion Role in Looting 1MDB and Reelecting a Corrupt Prime  
1120 Minister" (where parts of it were quoted earlier at the beginning of this work): "1MDB isn't just one of the  
1121 biggest financial crimes of the century; it is a crime against an entire country and a catastrophic human, social  
1122 and political tragedy. While there's plenty of blame to go around and plenty of criminals and enablers involved,  
1123 including many much worse than Goldman, it is difficult to see, based on the public record, how this tragedy  
1124 would have been possible without Goldman's instrumental role in raising \$6.5 billion for 1MDB, advising on  
1125 other deals, and providing 1MDB with the credibility that comes from having Goldman Sachs as your banker.  
1126 (Emphasis added.)

1127 With that remark and the various evidence laid out earlier showing that the cause of the 1MDB scandal has  
1128 a crucial international dimension, it is time to dive into something more straight forward that so many would  
1129 not have any problem to comprehend. And it concerns the matter of the hearts where everything or almost  
1130 everything originates from! It seems there are those who are the true believers of this through and through. But  
1131 then as what is perhaps to be expected there are also those who do not look at things that way. And one of  
1132 them whose brilliant write up is also referred to next gives importance not just to individuals but also to what  
1133 he calls the system.

#### 1134 IV. Human Governance Versus the "System"!

1135 In January 2017 in The Edge Weekly, an associate editor at The Edge Malaysia R. B. Bhattacharjee wrote  
1136 early on the following (Bhattacharjee, 2017):

1137 The high-profile arrests of a string of senior government officials and top executives of government-linked  
1138 companies in recent months have undoubtedly created a major blot on the image of the civil service. Such  
1139 exposés of corruption, involving hundreds of millions of ringgit in some cases, naturally trigger a gamut of  
1140 questions about how pervasive the scourge has become in Malaysian society. They certainly provide much food  
1141 for thought about the direction in which the country is heading.

1142 Next, he noted: "Various statements by the Malaysian Anti-Corruption Commission chief, his deputy and  
1143 government leaders about civil servants, particularly high-ranking ones, who lead lavish lifestyles and associate  
1144 with contractors and suppliers on overseas trips and golfing holidays, only confirm the perception that ethical  
1145 conduct may be at risk in not a few situations." But, as he had argued over the next so many lines, the  
1146 smorgasboard of remedial actions and whatnot taken thus far had failed to rectify the growing problems of  
1147 corruption in the country which encompassed the 1MDB scandal. And the reason that that was the case as he  
1148 put it: "In these measures, it is common to see an overemphasis on rule-based solutions rather than attempts  
1149 to nurture ethical values, and this may be among the reasons why the desired transformation in society has  
1150 not taken place." Next, he asserted: "As always, pervasive transformational change boils down to individual  
1151 choices at a personal level. It is self-evident that people who are highly motivated to live by an ethical code of  
1152 conduct, regardless of the methods that lead to the internalisation of those values, are less likely to break that  
1153 code than those who do not put a premium on them." Therefore, with the strong belief that ethical individuals  
1154 can make the difference, in the last few lines of his piece, he belaboured on the subject matter of motivation.  
1155 Among others, he mentioned that "all actions have at least three dimensions -they affect the subject, object

## 15 AND PERHAPS MORE TO THE POINT IS WHAT KELLEHER WROTE RIGHT AFTER:

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1156 and the environment in which that action is taken.” And with the “environment” understood to be the societal  
1157 impact taken into consideration by the would-be wrong doers, they who were earlier tempted to be corrupt would  
1158 not go ahead perpetrating the corrupt acts. As he put it: “From the street-level corruption of bribery among  
1159 enforcement officers all the way up to abuse of power in high office, the realisation that not just are the bribe-giver  
1160 and bribe-taker falling into error, but are also contributing to the decay of their society, can become a powerful  
1161 motivational impulse if those involved tune in to their moral compass.” Eventually when so many Malaysians  
1162 have their societal concerns to be upmost in their minds, the country can reach the graft-free status! In this  
1163 regard, he wrote: Applied to our own conduct in society, we have all the motivation we potentially need in this  
1164 ethical principle to create a nation that is not only free of corruption, but one that is disciplined, productive,  
1165 just and caring. If we can remember this idea whenever we are tempted to bend the rules, choose the path of  
1166 least resistance, or cut corners when we think no one is looking, there is no doubt that we could soon become a  
1167 society that is quite graft-free, and perhaps even exemplary.

1168 Such views seem to find parallel with the views upheld by the former prime minister Tun Dr. Mahathir  
1169 Mohamed. In late October 2021 in the Malaysian Insight news portal, the following was reported early on  
1170 (Alfian, 2021): Working with Anwar Ibrahim was better than choosing to side with Najib Razak who had caused  
1171 the country severe damage, Dr Mahathir Mohamad said in a television interview today. He acknowledged the  
1172 problems he had with Anwar who was his deputy before he was sacked in 1998, but said overthrowing Najib’s  
1173 government in the 14th general election was a greater priority. As such, Dr Mahathir chose to back opposition  
1174 bloc Pakatan Harapan (PH), which meant working with Anwar.

1175 In this regard, he was quoted to say:

1176 We need to know our priority -which comes first in our effort to correct the things in our country. Najib had  
1177 done so many bad things and at the same time, I had problems with Anwar who was in jail at that time. But  
1178 I chose Anwar because Najib was the greater evil. To bring him down, I needed to work with Anwar and the  
1179 opposition and if I didn’t, it would be impossible to fight Najib because he had money and power.

1180 And most interestingly at the end of the short but quite interesting news report, the following was mentioned:  
1181 “Dr Mahathir also said a country’s stability and progress is determined by its leader and not the system. He  
1182 explained that if the leader fails to steer the country to progress, the country’s political and economic system  
1183 will also fail.” Related to this, he was quoted to say: “It is not the system that fails, it is the leader. If the leader  
1184 fails, the system will fail. The problem is with the person in charge, not the system.” (Emphasis added.)

1185 This view of Tun Dr. Mahathir Mohamed does not seem to be in consonant with that coming from a  
1186 Malaysiakini columnist Steve Oh in his piece published on Christmas Day 2019. For what seems to be quite a  
1187 critical overview of Malaysia over the years where he touched a lot on “the [debilitating] system” found in the  
1188 country, Oh had stated early on (Oh, 2019):

1189 Nation-building was a word in vogue, a good word when I was growing up in the 60s. Today it is hardly  
1190 uttered. Development the nation-building concept has diminished and development projects connote a feeding  
1191 trough for corrupt politicians with long snouts and unbridled appetite to corrupt the system. ? Malaysia risks  
1192 sliding down the slippery slope. It became “a den of thieving leaders” because the voters foolishly or naively  
1193 supported the dishonest politicians who hid behind race and religion to cheat them and the nation. Every nation  
1194 has corrupt politicians, often acting individually but in Malaysia the system spawns politicians who collude so  
1195 there is collective corruption in government. (Emphasis added.) And later under the section with the heading  
1196 “Najib not the only alleged kleptocrat”, he pointed out: ? nation-building became a euphemism for corrupt  
1197 politicians and their cronies to amass fortunes by cheating the government in all sorts of jacked-up infrastructure  
1198 and other mega-projects. The politicians in power began wheeling and dealing and made fortunes by hook or by  
1199 crook. ? The New Economic Policy introduced after May 13? became a poisoned chalice. Easy money destroyed  
1200 many enjoying political largesse. This sickness is still prevalent because the system where the winner takes all  
1201 and dishes out projects perpetuates it. The Broken Bridge project, for example. The system creates dictators  
1202 supported by dirty money. It’s “bastardisation” as Nazir Razak, the brother of former premier Najib Abdul  
1203 Razak, described the problem, saw many unaccounted public scandals, which culminated in the infamous 1MDB  
1204 mother of scandals. The government itself, not just the NEP, was bastardised, sodomised, terrorised and the  
1205 nation as a cash cow was milked by those in power for their personal profit. While many poor lived without  
1206 the basics, without decent roads and infrastructure, the corrupt, greedy and heartless politicians luxuriated on  
1207 public account. They fed on the sufferings of the rakyat. Najib is not the only alleged and charged kleptocrat  
1208 or leader with a record of lost public money. (Emphasis added.) Also, within the second half of the very same  
1209 section of his write up, Oh had given further details on the debilitating system found in the country. He wrote:

1210 The root of the Malaysian malaise is the cancer in the system which allows the government, in particular,  
1211 the supreme leader, to get away with anything, even murder, because he controls the police, media and public  
1212 institutions. A politician, a nobody, can acquire political power and act as the overlord of the nation. He alone  
1213 can destroy a nation as the late Tunku warned. This rise of a dictator is, of course, utter nonsense in a democracy  
1214 and a reflection of how far behind the nation has lagged in its political and democratic development. ? Had  
1215 democracy thrived, the 1MDB scandal might have been stopped. The government gave Najib the rope to hang  
1216 himself. A nation where politicians become rulers and act like feudal lords without public restraint is a seriously  
1217 flawed nation. Make politicians your overlords at your peril. Give them the power to rule over you as they like  
1218 is the sure route to eventual national implosion. (Emphasis added.) As for the final example of the significance

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1219 role played by systems as far as Oh was concerned, it may be found within the very last section of the writing  
1220 whereby Oh without mincing his words had pointed out:

1221 The system of governance needs a major overhaul. No leader in government should hold so much power that he  
1222 can hold the truth and justice to ransom. No leader should be allowed to bury scandals like what has happened for  
1223 so long. The system has perpetuated a culture of dishonesty that is translated into acts of murder, kleptocracy,  
1224 corruption and cover-up. ? Until Malaysians reject the system that has resulted in Najib facing a barrage of  
1225 charges and accusations from kleptocracy to alleged link to Altantuya's murder, Malaysia will stay vulnerable  
1226 and pre-eminence of the rule of law across the board will be a big challenge and a pipedream. (Emphasis added.)  
1227 But if truth be told, Oh in his write up had appeared to have given much emphasis too on the role played by  
1228 individuals! Related to this, it is quite early on in the piece that Oh had actually began talking about a certain  
1229 type of leaders that the country had been stucked with and which could at the end lead to national ruins. As he  
1230 stated it: Adolph Hitler rose to power because the German people supported him. They allowed themselves to  
1231 be mesmerised, deceived and destroyed by a mentally sick and evil man. Germany became corrupt and exported  
1232 the Nazi death culture. Is there a lesson for Malaysia in the wake of revived misplaced nationalism? ? Besides  
1233 corruption, the threat exists for Malaysia to be destroyed by modern-day "Nazis".

1234 Not long after saying all that and in fact in several other places in the rest of his piece Oh had faulted the  
1235 person Tun Dr. Mahathir Mohamed over the debilitating goings on in the country over so many decades! At the  
1236 beginning of his piece, for example, right after his raising the matter of Hitler, Nazi, etc., he wrote:

1237 The Harapan government remains the best means of thwarting the slide. They can do it by not interfering  
1238 with the judiciary and bastardising Parliament. With a vibrant civil society and independent media together  
1239 they remain the safeguard against a return of the flawed, defeated and futile BN regime. ? Today the Pakatan  
1240 Harapan government under Prime Minister Dr Mahathir Mohammed sends out mixed and confusing signals. It  
1241 is the Jekyll and Hyde problem again, no thanks to the man at the helm. ? Disillusionment may yet sink the  
1242 Harapan government if it does not change course and retire a rather enigmatic, trying and uninspiring skipper.  
1243 ? How do you dignify or justify anyone who breaks promises and plays foul? Promise-breakers should be held to  
1244 account for their betrayal. They discourage and disappoint the nation who trusted them. There is no dignity in  
1245 letting down the nation with a play of words instead of keeping one's word.

1246 Later, for another fine example, Oh had this to say too: "As a national leader Mahathir has failed to further  
1247 the interests of all communities. Within months he has looked after the dignity of the Malays and the unity of  
1248 Muslims. What about other races?" And still for one and final example, check out the following which appears  
1249 at the end of the section that comes with the title "Najib not the only alleged kleptocrat": "The Harapan  
1250 government has yet to make radical changes because it lacks a solid nation-builder leader like the late [prime  
1251 minister] Lee Kuan Yew [in the case of Singapore]. Mahathir complained about the "police state" not long ago  
1252 when Najib was ensconced untouchable in the high seat of power. Has it changed?" And, at the end, in the final  
1253 section of his write up, Oh had made it crystal clear of the need for another person to replace Tun Dr. Mahathir  
1254 Mohamed. In this regard, he wrote: "There is hope for Malaysia but the need for a solid, inspiring and honest  
1255 leader, is critical. ? Mahathir should call it a day and let another take over in leading the country out of the  
1256 confusion and conflict his leadership has caused." With all that in the background, it is surely not surprising to  
1257 find that in some places of his write up, Oh seemed to say that the intermingling of persons and systems appeared  
1258 to be both the cause and the solution of the country's problems! In the final section of his write up, in regard  
1259 to the latter, he wrote: "Mahathir is an integral part of the system and will find it impossible to be the solution  
1260 unless he makes some radical changes. I doubt he has the volition to rise to the challenge. ? A new leader, a  
1261 new system, a nation of shared destiny, this is what Malaysia badly needs." As for the intermingling of persons  
1262 and systems apparently being the cause, he had pointed out the following early on in his write up:

1263 Developing the nation was the thought that preoccupied our minds in the fledgling years of nationhood. Then  
1264 the government spoke of practicable development plans during a time when the country's infrastructure was basic  
1265 and lacking. People trusted the government and wholesale corruption by politicians was non-existent unlike in  
1266 recent times since the Mahathir era. There was a strong expectation in the country, both for the government  
1267 to lead and the people to do their part in advancing their newly independent nation. And later in the following  
1268 section, he had also mentioned:

1269 In the 80s and 90s, development reached dizzying heights. New roads and shopping malls -just about everything  
1270 not seen before -cropped up all over the country but noticeably in Kuala Lumpur and major cities. Malaysia was  
1271 on a roll with full employment. So were some other countries in the region. But the public coffers were leaking  
1272 and the politicians and their cronies stole money meant for development. ? Malaysia became a graveyard for  
1273 scandals as the politically powerful perpetrators buried each new scandal exposed. Now, before moving on to  
1274 what others say on the 1MDB's causes, it may be important to note what Oh had stated out on the kind of  
1275 democracy found in the country and what it had all entailed giving out the picture that in case at the end of  
1276 the series on identifying the causes of the 1MDB scandal the form of Malaysia's democracy is found to be one of  
1277 them, it should be a tremendous challenge to go about deciding the correct set of solutions to be implemented  
1278 to ensure the very minimal possibility of 1MDB kind to recur! As Oh had written:

1279 The different arms of government exist in a democracy to provide a check and balance on one another. Not in  
1280 Malaysia though. The executive has twisted those arms until they are dysfunctional. Rule of law became selective  
1281 because despite Mahathir's proud reference to it some allegedly "big fish" are still untroubled by the MACC.

## 16 A) WHERE PUBLIC AND REGULATORY GOVERNANCE AFFECTING THE CORPORATE GOVERNANCE?

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1282 Justice is not seen to be done. When I see all, not just a select few, of the super-rich politicians investigated,  
1283 then I will believe Mahathir's rule of law.

1284 Until every politician who got super-rich while holding office is investigated, the MACC's job is not done, even  
1285 after Najib is jailed. Malaysia is not only a graveyard of scandals but a breeding ground for racketeering and  
1286 dubious, dirty politics. ? Malaysia is fast becoming the new South Africa with its brand of apartheid and the  
1287 hidden deep state may yet become the visible state because the government is not building a nation for all but  
1288 perpetuates a "they and us" national mindset. (Emphasis added.)

1289 All in all, as to whether systems or persons or the intermingling of both, doesn't it seem that the answer to  
1290 the question of what had caused the 1MDB scandal become murkier and murkier?? And thus is it really possible  
1291 to provide a definitive answer one way or another that just about anyone can agree with?

1292 Perhaps there is no need to answer those questions for now -one should at least wait until he or she has gone  
1293 through the next discussion of a possible 1MDB cause which also happens to be the very last one. It should be  
1294 quite an eye opening and perhaps capable in clearing out some confusion, for unlike those causes discussed up  
1295 to this point, the next one uncompromisingly links two levels of governance to explain how the 1MDB scandal  
1296 had come about. Or perhaps another way of looking at that discussion is that the situation facing the so called  
1297 governance at the level of corporation in the country is put within the broader context! And that context is none  
1298 other than what may be called the country's public and regulatory governance or in short the national context.

### 1299 16 a) Where Public and Regulatory Governance Affecting the 1300 Corporate Governance?

1301 It was in early May 2019 in a keynote address by the then finance minister Lim Guan Eng from the PH (as  
1302 opposed to the UMNO-BN federal government that he seemed to point out the close connection between corporate  
1303 governance and public and regulatory governance (Eng, 2019): I commend the SC for their commitment and  
1304 relentless efforts in promoting corporate governance in order to build an environment of trust, transparency and  
1305 accountability in the capital market? In order to ensure that the financial market continues to serve the real  
1306 economy in terms of access to long term capital and investments, corporate governance must be complemented  
1307 by good public governance. (Emphasis added.) Next, he claimed:

1308 Public governance provides rules and stability needed for planning investment and facilitates a smooth and  
1309 productive interaction between the Government and the general public. The new dawn in Malaysia after 9 May  
1310 2018 is an inflexion point, which brings good governance, key institutional, political and economic reforms to the  
1311 fore to transform the nation, and take it forward.

1312 And when it concerned the outrageous goings on in or through the 1MDB, this was what he said:

1313 There can be no better case study of public and corporate governance than the very scandal -1MDB, which  
1314 brought down a ruling government which has been in power for more than 60 years. The outrageous abuse of  
1315 power by the then Finance and Prime Minister, the scale of embezzlement and misappropriation which took place  
1316 involving tens of billions of ringgit have inflicted a heavy toll to the nation, making Malaysia the global capital  
1317 of kleptocracy. (Emphasis added.) Such strong remarks were followed right after with the following resolve:

1318 Hence, the new Government's top agenda is to restore credibility and trust in the Government and public  
1319 institutions by upholding integrity and fighting corruption. We must ensure that there will be no opportunity for  
1320 another 1MDB to rear its ugly head in this country, whether by the current leadership or any future leadership  
1321 who become corrupt with power. To quote the Prime Minister Tun Dr Mahathir Mohamad himself, "never  
1322 again".

1323 And so the rest of the speech filled with the delineation of various efforts undertaken by the then federal  
1324 government, the parliament and the securities commission to translate that resolve into action! With such to be  
1325 the case, the speech had the following stated out in its second last paragraph:

1326 Upholding the rule of law, applying the principles of transparency, accountability, integrity and good  
1327 governance is critical to ensure this nation prospers peacefully and harmoniously. I commend the companies,  
1328 which make no compromises on business integrity and good governance -and those with gaps to bridge should  
1329 do so urgently as good governance is not a nice-to-have but a must-have.

1330 All that and more which could be gathered from the speech are not at all surprising! After all it was some  
1331 years earlier in June 2015 at what seemed to be the very height of world wide reporting on the 1MDB that  
1332 a much stronger speech was delivered by the very same personality who at that time was the chief minister  
1333 of the Penang state. And the very gist of his speech was that there was nothing much regarding the nation's  
1334 corporate governance that could be expected from the then federal government. The hard hitting speech that  
1335 was delivered at the 7 th Annual Corporate Governance Summit began with remarks on a couple of scandals in  
1336 the United States (Enron and Bernie Madoff's Ponzi Scheme) and another two in Malaysia (Pan El and Sime  
1337 Darby) and which ended with the following admittedly fine delineation of their similarities cutting across three  
1338 levels of governance: individual, corporate and national (Eng, 2015):

1339 Whether in Malaysia or in the United States, these examples of corporate fraud and malfeasance have a few  
1340 common threads running through them. Firstly, unscrupulous individuals took advantage of poor or inadequate  
1341 legislation to exploit existing loopholes in the system. ? Secondly, there were often poor internal governance  
1342 structures where the presence of checks and balances were very weak or altogether not present. The phenomenon

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1343 of board of directors being beholden to the chairman or CEO for their appointments, which is quite commonplace  
1344 in the United States, calls into question the ability of the BoD to perform its internal governance role. Separately,  
1345 the presence of many of the same individuals in the board of directors in various GLCs and sovereign wealth  
1346 funds in Malaysia also raises questions about possible conflicts of interest. Thirdly, there is often poor external  
1347 oversight. This could be in the form auditors who are complicit in covering the tracks of unscrupulous CEOs  
1348 or the management team who book non-existing revenues or inflate sales or hide ballooning losses. Or it could  
1349 be poor enforcement by external agencies such as the central bank, the securities commission, the companies'  
1350 commission or other regulatory agencies.

1351 Next, Lim Guan Eng had torn into what had happened in or as a result of the debilitating goings on in the  
1352 1MDB in several devastating paragraphs covering over the next one and a half page of his speech! This part of  
1353 the speech started out with among others the following remark: I do not want to delve into how public listed  
1354 companies can improve its corporate governance structure and in doing so improve investor confidence in the  
1355 Malaysian market. ? I do, however, want to raise certain questions about better corporate governance within  
1356 the government and especially within government owned companies. ? And nowhere do we see the failure of  
1357 corporate governance demonstrated on a massive scale within a government owned company than what we have  
1358 seen within 1MDB. The rot started right from the beginning in terms of corporate governance.

1359 And after so many paragraphs that very part of the speech was ended with the following summary:

1360 Of course, there is much more about 1MDB which I could go into but I think that many of you are already up  
1361 to speed with the news which seem to capture the headlines one day after another. But the point of highlighting  
1362 these details is to show that there was a systemic absence of proper corporate governance in 1MDB from regulatory  
1363 oversight, to internal governance procedures and processes, to proper audit procedures, to the lack of scrutiny  
1364 and possible conflict of interest among the board of directors, to the possible involvement or non-involvement  
1365 of the Prime Minister himself? This only shows how the lack of proper corporate governance can create an  
1366 environment where all things which can go wrong does go wrong? and in the case of 1MDB, going wrong in a  
1367 spectacular fashion. (Emphasis added.)

1368 As perhaps to be expected, that remark of his was followed by several paragraphs delineating the excellent  
1369 story of financial management coming out of the Penang state government. For that part of his speech, Lim  
1370 Guan Eng had started out as follows:

1371 Our record in Penang in terms of financial management has been acknowledged by many including the Auditor  
1372 General. In stark contrast to the usually abysmal findings in the audit of federal ministries and other states,  
1373 Penang has maintained a stellar record. Commendations have been accorded to the state government for its clean,  
1374 efficient and transparent governance -and not only by the Auditor-General's Report but also by international  
1375 watchdogs such as Transparency International. We are proud to be lauded as amongst the best managed and  
1376 most efficient state administrators in Malaysia yearly since 2008.

1377 In case anyone could have missed what he intended to do in his speech which was simply to lay down the need  
1378 for voters to go for a new federal government which shall ensure the emergence of strong corporate governance  
1379 in government companies, Lim Guan Eng had made that crystal clear in the last two paragraphs of his speech:

1380 The question which Malaysians must ask ourselves is this: Do we think that we can improve corporate  
1381 governance in this country by slowly reforming existing practices under the current federal government or do  
1382 we think that meaningful reform can only take place with a change in government? For those who believe  
1383 in the internal reform process, I would urge caution and even skepticism. The past record does not give us  
1384 confidence that significant reforms will come under the present federal government. We have had strings of  
1385 financial scandals in government owned and government linked companies including Perwaja, Renong, PKFZ  
1386 and many others. 1MDB took this to a whole new level. It is more likely than not that more corporate  
1387 governance best practices will be broken in the process of trying to 'fix' the 1MDB problem. With this in mind,  
1388 how do we expect corporate governance to improve in this country under the present government? In contrast,  
1389 the state governments in Penang as well as Selangor have shown that we can manage our resources much more  
1390 transparently and efficiently. Of course, there is still a lot more room to improve but I think we have shown  
1391 definite proof that a new government can usher in better corporate governance practices and build a sustainable  
1392 environment for investors. To me, this is a no brainer. I hope I have convinced you that it is a no brainer as  
1393 well. The harder challenge is to convince the larger public but it is a challenge which we must accept with open  
1394 arms. (Emphasis added.)

1395 And yet lo and behold it was not even a full year had passed after the federal government had safely changed  
1396 hands from the political party Barisan Nasional to that of Pakatan Harapan that the debilitating past in regard  
1397 to the public and regulatory governance appeared to have continued to take place! This was made crystal clear  
1398 by the late Mudajaya Group Bhd's non-executive chairman Datuk Yusli Mohamed Yusoff (may God bless his  
1399 soul!) who was at that time the president of Malaysia Institute of Corporate Governance (MICG) and formerly  
1400 the Bursa Malaysia Bhd chief executive officer. In the March 2019 scathing news report published in The Edge  
1401 Financial Daily, Tan Xue Ying had this to say early on (Ying, 2019b):

1402 The group's independent non-executive chairman Datuk Yusli Mohamed Yusoff -formerly Bursa Malaysia Bhd  
1403 chief executive officer (CEO) -said the group is aggrieved at the outcome of the case of a former employee Michael  
1404 Chua Khain Keng, who was caught stealing RM72 million from Mudajaya. Chua was arrested and charged under  
1405 Section 403 of the Penal Code for Dishonest Misappropriation of Property amounting to RM800,000 last week.

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1406 He has since been released on bail and the court hearing is set for April 5. Mudajaya's top management and  
1407 the board of directors are puzzled that Chua has been charged with misappropriating only RM800,000 which  
1408 is slightly more than 1% of the stolen sum. The light charge seems to be encouraging, instead of penalising,  
1409 white-collar crimes in Malaysia, said Yusli? (Emphasis added.) Next, the news report had quoted Yusli as saying:

1410 We are pleased that the person was apprehended and brought back to Malaysia to face charges. But we were  
1411 extremely surprised at the charge made by authorities against him, when we compared it to the amount of money  
1412 that we know has been taken from the company, which he himself has admitted. It just does not seem to make  
1413 sense. We are now trying to seek clarification from [the] authorities, and are awaiting their response. If you  
1414 are talking about a system that wants to penalise and deter criminals, I think we are doing the opposite. A  
1415 major crime shouldn't be treated as a petty crime, and at the moment it appears to be something like that.  
1416 (Emphasis added.) Also notable was the revelation mentioned following the quotation: Group managing director  
1417 and CEO James Wong Tet Foh, who was also present at the interview, commented that last week's charge sheet  
1418 had deviated from the first police investigation paper. Wong was told by the police that it was an "open-and-shut  
1419 case", and so the initial paper was working towards a much serious charge that could lead to a 20-year jail term  
1420 under Section 408 of the Penal Code. Chua has been charged with misappropriation of funds from a power plant  
1421 project, in which Mudajaya was the subcontractor for the civil and structural works, last week. The RM720  
1422 million contract was awarded in June 2011. Mudajaya's board smelled the rat when the project started showing  
1423 an alarming profit deterioration. An internal investigation was launched and irregularities in payments and  
1424 contract documents revealed were traced back to Chua. A follow-through forensic audit led by KPMG initiated  
1425 confirmed in June 2015 the breach of duties and obligations and inappropriate conduct, and reports were lodged.  
1426 Chua, who had then resigned after spending nine years with the company, admitted to his acts when confronted  
1427 and agreed to return all monies taken out of the company, said Wong.

1428 Unfortunately, no returning of "all monies taken out of the company" had taken place next. Wrote Ying:  
1429 "However, Mudajaya said it has only been able to recover some RM16 million of the total sum, including cash of  
1430 RM1 million and the transferred titles of Chua's 21 properties in Kota Damansara. The project suffered losses  
1431 amounting to RM99 million, and has taken a toll on the group's financials."

1432 With all this and more in the debilitating background of the case, Ying mentioned at least two very interesting  
1433 results. The first that Mudajaya had written to several authorities, including the Attorney-General's Chambers  
1434 and the Malaysian Anti-Corruption Commission (MACC) on the matter of the downgrading of the charge filed  
1435 against the culprit and the second that Yusli had hoped "that rightful measures can be taken when matters  
1436 are brought to the light of enforcement institutions, especially after the government transition." On the second  
1437 one as far as the so called government transition was concerned it referred to what happened after the May 8 th  
1438 2018 General Election with the Umno-BN federal government replaced by that of the Pakatan Harapan.

1439 Now, what is the most striking of all and is related to a close connection between public and corporate  
1440 governance is found in the last one third of the eye opening news report. Noted Ying as far as Yusli was  
1441 concerned: "He stressed the need for an improved public governance system in Malaysia, for corporate governance  
1442 to be effectively and properly practised at high standards. Both the public and corporate [sectors] will need to  
1443 work hand in hand to fight against a "corrupted system" which is still alive and well, said Yusli." (Emphasis  
1444 added.) And note also the quotation coming from Yusli where he touched on the 1MDB scandal that came right  
1445 after:

1446 There is no point in pretending that the system works, even in all the huge publicity about 1MDB (1Malaysia  
1447 Development Bhd) and all other cases. If this is an example of how our public governance system works, I'm  
1448 not surprised -and no one should be -at how slow these cases are moving. It appears that past practices are still  
1449 continuing. You want to do the right thing, but the system seems to be working against you.

1450 And following that quotation, Ying had written within the last few lines of the news report the following:

1451 Wong [the Mudajaya Group managing director and CEO] concurs that public governance is essential, pointing  
1452 that foreign investors are watching closely at cases, like Mudajaya, as a yardstick to assess the country's legal  
1453 system and protection of business interests. Wong observed many multinational corporations and companies  
1454 in the past suffered similar setbacks as Mudajaya. He said the frustration of these companies stem from the  
1455 extensive amount of time police investigations needed -at an average timeframe of four to five years -and the  
1456 bureaucracy of the judiciary if the matter is taken to court. Having been through the gruelling process, Yusli  
1457 said it bluntly that it raises concerns that the current system is "rotten". (Emphasis added.)

1458 And if all that including the various quotations from Yusli have failed to make it clear enough what Yusli  
1459 and Wong were extremely very concerned about, check out the quotation next coming from the former that  
1460 appeared as the very last thing raised in Ying's penetrating news report: "If the new government is serious about  
1461 implementing the rule of law, it seems that there is a lot of work that needs to be done. We will do our part as a  
1462 corporate citizen, but on our own we can't implement justice. We need the public governance system to work."  
1463 (Emphasis added.)

1464 It is notable that the late Yusli had raised the very same idea sometime earlier. To be more exact it was  
1465 in the early May 2017 close to two years earlier in another news report that came out in The Edge Financial  
1466 Daily that there were quite penetrating observations disclosed on Malaysia's public governance coming from three  
1467 Malaysian personalities -Tan Sri Mohd Sheriff Mohd Kassim, Ho Kay Tat and Datuk Yusli Mohd Yusoff -with  
1468 (the latter) two of the three had also touched on corporate governance (Toh, 2017). To be certain such insights



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1469 as disclosed in the news report came about "in a roundtable discussion on the "Corporate Governance Watch  
1470 2016 -Ecosystems Matter" report released by With regard to the first personality, early on in the news report,  
1471 the journalist Billy Toh had written out the following: "A high level of accountability, freedom and access to  
1472 information "is still very much lacking" in Malaysia compared with countries such as Australia, which has a more  
1473 developed corporate governance regime, said former finance ministry secretary-general and Economic Planning  
1474 Unit director-general Tan Sri Mohd Sheriff Mohd Kassim." Next, he quoted Mohd Sheriff who said: "If [the  
1475 scandal involving] 1Malaysia Development Bhd (1MDB) were to happen in Australia, there will be a full-scale  
1476 inquiry [by now]." And in the next few lines of the news report, Toh mentioned that in the ACGA report, Mohd  
1477 Sheriff had also highlighted the need for Parliament to provide oversight of the functions of the government to  
1478 prevent abuse of power and that there was the issue of the lack of independence that was a threat to public  
1479 governance as seen in the Attorney-General's (AG) Office. Related to the latter, he had Mohd Sheriff quoted as  
1480 follows: "The Attorney-General acts as both the adviser to the government as well as a public prosecutor. But  
1481 how can he be independent if he is the public prosecutor and the adviser to the government?"

1482 As for the second personality Ho Kay Tat who was and still is The Edge Media Group publisher and group  
1483 chief executive officer, he claimed that the issue of governance had emerged following the 1MDB scandal. And to  
1484 be more specific, it concerned the Auditor-General's report on 1MDB which was classified under the OSA since  
1485 its publication in February 2016. In this regard, he was quoted to say: "It's just unacceptable that the board  
1486 (government) has decided to classify a report done by its own Auditor-General under the OSA (Official Secrets Act  
1487 1972) on this big issue. How serious can we take the board of the government then if their own report is classified  
1488 as OSA? I think that's where we have failed [in public governance]." But as far as the corporate governance was  
1489 concerned he appeared to have a sanguine view. Related to this, Toh had him quoted to say: "There's no doubt  
1490 since the 1997 Asian financial crisis, in terms of corporate governance of public listed companies, there has been  
1491 tremendous improvement if not just the regulations and the enforcement by both the SC and Bursa Securities.  
1492 There are still many miles to walk, but definitely there's been improvement."

1493 The late Yusli referred to above who was the third and last personality whose views included in the news report  
1494 seemed to be very much agreed with those views coming from Ho Kay Tat. As mentioned Toh: "Malaysian  
1495 Institute of Corporate Governance president Datuk Yusli Mohd Yusoff said the progress made to strengthen  
1496 corporate governance by regulators has been respectable such as the new Malaysia Code of Corporate Governance  
1497 that was released by the SC and the strong corporate governance requirements by BNM." Next, Toh pointed  
1498 out that Yusli had raised the issue of "the lack of accountability in the government" whereby as revealed in the  
1499 ACGA report the score for the political and regulatory environment in the country had fallen to 48% in 2016  
1500 from 59% in 2014. Related to this, Yusli was quoted to say: "You cannot expect to have a high standard of  
1501 corporate governance if the public governance culture is poor. It's only going to be a matter of time before our  
1502 corporate governance standards will fall down if we don't improve public governance." (Emphasis added.)

1503 Such remarks from Yusli and earlier from Lim Guan Eng have found much support later in a late September  
1504 2021 write up by (the earlier mentioned) Dr. Vivien Chen that comes with the title Kleptocracy Through  
1505 Weak Governance at State-Owned Corporations and which was published at the Columbia Law School's Blog on  
1506 Corporations and the Capital Markets (Chen, 2021).

1507 (On the outset before readers go through the next few paragraphs it is perhaps worth noting that the following  
1508 is found at the end of the piece: "This post comes to us from Vivien Chen, a senior lecturer at Monash Business  
1509 School. It is based on her recent article, "Corporate Law and Political Economy in a Kleptocracy," forthcoming  
1510 in the American Journal of Comparative Law?" Unfortunately, such publication is nowhere to be found in the  
1511 journal mentioned -or for that matter, any other journal. What is found instead is this: the paper with such title  
1512 and author is available at the following address: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3924711](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3924711)  
1513 -and on top of the very first page of the paper just below the paper's title and author's name the following is  
1514 mentioned: "Author's original submission to the American Journal of Comparative Law which was accepted for  
1515 publication in June 2020 following revisions.")

1516 Early in the piece Chen talked about Malaysian corporate law which was modeled "on international standards"  
1517 which however had failed to stop the stealing of billions of dollars over a period of nine years through the  
1518 government-owned company the 1MDB. Next, she raised the question as to how that could be possible. Note  
1519 that as far as the meaning of the so called international standards, although she never seems to define it she had  
1520 this mentioned early on in the piece:

1521 The Doing Business 2020 index ranks Malaysia as second highest in the world for the strength of its protections  
1522 for minority shareholders. Likewise, an empirical measurement based on 60 shareholder protection variables using  
1523 the Leximetric method from 1970 to 2005 found that Malaysian shareholder protection law was comparable in  
1524 strength to that of the U.S. and other Western developed countries and improving.

1525 As for the answer to the question why world class standards were powerless to stop the 1MDB fraud, she  
1526 pointed out first the following: "Evidence indicates that enforcement of these protections is relatively weak,  
1527 and political interference has impeded investigations involving several high-profile politically linked corporations."  
1528 Next, she stated out revealingly: Although Malaysian corporate law has been modeled on Anglo-Australian  
1529 corporate law, Malaysia's corporate ownership structures and political economy are distinctly different. The  
1530 state maintains extensive ownership and control of corporations, estimated at 42 percent of the total market  
1531 capitalization of corporations listed on Bursa Malaysia, and political influence is strengthened through state-

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1532 controlled institutional investors (Gomez et al., 2018). Studies have revealed the inextricable relationship between  
1533 politics and business in Malaysia, where redistribution policies have resulted in widespread political patronage  
1534 ??Brown, 2006). Controlling shareholders frequently depend on political patrons for contracts, licences, and  
1535 other business opportunities and, in return, provide undisclosed benefits to political patrons ??Gomez and Jomo,  
1536 2000).

1537 And with regard to the case of the 1MDB in particular, Chen had made it crystal clear the following:

1538 1MDB was incorporated as an unlisted public company, a legal entity subject to minimal disclosure  
1539 requirements. The company was wholly-owned by the Minister of Finance (Incorporated). As former Prime  
1540 Minister Najib was also the minister of finance, he was able to control the boards of 1MDB and its subsidiary,  
1541 SRC. In the absence of any legal requirements that unlisted companies should publicly disclose their financial  
1542 affairs, there were few external checks on fraudulent transactions. Further, there were no requirements that the  
1543 management of state-owned companies be accountable to Parliament or that their financial affairs be otherwise  
1544 subject to public scrutiny.

1545 And right after all that Chen had pointed out some of the horror that the country had to experience not long  
1546 after the 1MDB fraud had come to public attention sometime in the middle of 2015 -such observation is certainly  
1547 in contrast to the remarks made by Mui and Thye (2019) mentioned above regarding the country's "regulators  
1548 and law enforcement agencies"! She wrote:

1549 The scandal precipitated investigations across several continents and civil and criminal proceedings in various  
1550 countries. Nonetheless, political obstruction of domestic investigations and the use of repressive laws to silence  
1551 critics ensured that the Malaysian authorities did not bring enforcement proceedings in relation to 1MDB until  
1552 the Najib administration fell in the May 2018 general elections. In the preceding years, Najib dismissed the  
1553 attorney-general as he was about to file proceedings, classified as an official secret the initial investigation report  
1554 into 1MDB that the cabinet had requested following allegations of impropriety, and imprisoned an opposition  
1555 leader who attempted to reveal part of the classified report. Public discussion of 1MDB was suppressed through  
1556 legislation that included the Communications and Multimedia Act 1998, Sedition Act 1948, and Anti-Fake News  
1557 Act 2018.

1558 For a short piece of work, it is notable that it is replete with numerous ideas for reformation in its second  
1559 half. And it is also in that part of the work where she had raised the matter of the close relationship between  
1560 the goings on at the corporate level and those at national level -a la that of Lim Guan Eng and the late Yusli  
1561 earlier! She wrote:

1562 The [1MDB] scandal also underscores the importance of strengthening regulatory enforcement and broader  
1563 institutional reforms. These include ensuring that regulatory authorities are independent, free from political  
1564 interference, and able to maintain an active role in enforcement proceedings. Studies reveal the correlation  
1565 between well-governed state-owned corporations in Singapore and Norway and their reputations for "clean  
1566 government and the rule of law" ??Milhaupt and Pargendler, 2017) and "strong law enforcement against graft  
1567 and corruption" ??Chen, 2016). (Emphasis added.) That this is a point worth taking seriously not just by the  
1568 concerned parties inside Malaysia but also by others outside including the so called supranational bodies is made  
1569 perfectly clear with what she wrote next: Concerns over potential corruption through stateowned corporations  
1570 extend beyond Malaysia. Political and economic interests are often intertwined in Asian developmental states  
1571 (Chu, 2016) and state ownership of corporations is found in various countries. In countries where corporations  
1572 law permits such public funds to be managed in secrecy, the risks remain that such corporate entities will provide  
1573 a cover for fraudulent transactions.

1574 Finally, for what appears to be worth noting also by concerned parties the world over, Chen had appeared  
1575 to save the best for last -literally her very last paragraph! But to understand what she was trying to say in  
1576 her very last paragraph, it is perhaps necessary to go over what she points out in three prior paragraphs from  
1577 a total of twelve paragraphs found in the write out. The fourth paragraph from the very top: Before this very  
1578 discussion is brought to an end, it is perhaps important to note that what all that which Chen mentioned and  
1579 which gives support to remarks made earlier by the late Yusli Mohd Yusoff and Lim Guan Eng on the close  
1580 relationship between corporate and the so called public and regulatory governance had been alluded to so many  
1581 years earlier in a write up on internal audit in Malaysia's public sector published in a local accounting practitioner's  
1582 journal Accountants Today (Azham et al., 2008) Both pieces -one from Chen and the other from Azham et al.  
1583 -may be considered significant since both point out the debilitating issues found in the bigger national context  
1584 within which their subject matters of interest -in the case of Chen, Malaysia's state-owned corporations and as  
1585 for Azham et al., internal audit in Malaysia's state and local governmental entities -are found within and which  
1586 could limit any efforts towards rehabilitations. For Chen, she specifically referred to kleptocracy as the bigger  
1587 context (as can be detected from the use of that very word in the heading of the piece although that very word is  
1588 not mentioned even once in the whole write up except in the very first paragraph in quoting the remark coming  
1589 from the then-U.S. Attorney General Jeff Sessions that the 1MDB was the case of "kleptocracy at its worst"!).

1590 As for Azham et al., after saying among others at the beginning of the paper that "[t]here were many problems  
1591 challenging the effective functioning of internal audit within SLoGBs [State and Local Governmental Bodies]",  
1592 at the concluding end they simply wrote:

1593 It is believed that one of the possible ways to improve the internal audit function is to begin by having  
1594 the right kind of organisational heads in the organizations followed by the setting up of audit committees

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1595 in the organisations and forming an internal audit monitoring body at either the state or the federal level.  
1596 Improvement in the audit function may also come about with specific moves coming from the federal government,  
1597 the institutions of higher learning and the internal auditors themselves. For these different moves towards a well  
1598 functioning internal audit department in SLoGBs to materialise, the prerequisite is that Malaysia should possess  
1599 the right kind of social and and political environment -which until perhaps quite recently was still elusive!  
1600 (Emphasis added.)

1601 But do not ever make a mistake about it for even though the word "kleptocracy" is not mentioned at all in the  
1602 extract and also in the previous full versions of the paper, the section 7.1 with the heading "Contextually wrong"  
1603 found in the original paper published in 2007 had given ample instances of kleptocracy in action (signifying  
1604 the presence of the wrong kind of social and political environment hindering the possible emergence of a well  
1605 functioning internal audit in Malaysia's state and local governments)! This and more may be touched on in Part  
1606 II (of the present series of work on the 1MDB causes) when the 2007 paper together with several others (by  
1607 other researchers) that have undergone rigorous refereeing process prior to their publications are looked into in  
1608 determining the causes for the 1MDB scandal.

1609 One There are several interesting points which can be drawn from what various parties have said as the  
1610 causes for the 1MDB scandal. First, from the very first 1MDB cause laid out that comes in the form of power  
1611 concentration to the last one on corporate governance being affected by the bigger context public and regulatory  
1612 governance that it is under, it appears that there is nothing simple and straight forward about what everyone had  
1613 said regarding the 1MDB causes. For instance, instead of some causes stated out to be operating on their own  
1614 separately, there is the emphasis given to the interconnections among a handful of causes. In many cases, a reader  
1615 does not need to read between the lines since those whose remarks or works are quoted have themselves pointed  
1616 out this very thing. Among them is of course the journalist Claire Rewcastle Brown when she was talking about  
1617 power concentration -and who recently in Brown (2021) has written a chapter on the decades-length debilitating  
1618 goings on in her birth place Sarawak signaling that she is a person of credibility to talk about the very topic  
1619 of power concentration in Malaysia. This is perhaps to be expected since what one is dealing with is real life  
1620 which is always complicated and what more when the subject matter of interest is the 1MDB scandal which for  
1621 so many years now has been proclaimed by figures of authority from the world over as one of the worst cases of  
1622 kleptocracy that the world has ever seen.

1623 Following this line of thought, is there perhaps another way of looking at the interconnectedness of causes'  
1624 phenomenon in the sense that maybe some of the causes are not quite the straight out 1MDB causes that one  
1625 may think of them? To be more exact, the so called causes are pretty much the consequences or outcome of some  
1626 other causes which may very well be labeled as the root causes? Also, could there still be another way of looking  
1627 at what is going on regarding

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1629 Volume XXII Issue VI Version I Year 2022 ( ) B some of the 1MDB causes in the sense that that those causes  
1630 represent both (immediate as opposed to root) causes and effects? So, as far as these causes are concerned, there  
1631 is little difference between them and the 1MDB: there are just those things like so many other things which can  
1632 be expected in the Malaysian context as a result of the all encroaching and suffocating root causes (whatever  
1633 those may be at this point?)?

1634 Second, it is notable that some of those who propound the idea of single and (perhaps) separate as opposed  
1635 to the intermingling of causes have made it clear that their ideas of moving forward following their delineation  
1636 of the possible causes would not be workable without the presence of the desperately needed pre requisites. In  
1637 this regard, an excellent example is none other than the ANU graduate student Teck Chi Wong who was talking  
1638 about the need for reform in not just the institutional governance frameworks that can best regulate the state in  
1639 its handling of GLCs but also as far as the Malaysia's democratic system! And in case one does agree with Wong  
1640 and others like him, it would just mean that it is not going to be easy to ensure no more cases as the 1MDB  
1641 from recurring in the future? But then Wong and others like him may have actually underestimated the work  
1642 which needs to be done, for it needs not just the revamping of the whole country for in fact it needs the whole  
1643 civilized world to come together to improve upon the so called international governance??

1644 Third, there are some considered views that are quite exceptional while at the same time quite simple to  
1645 understand by perhaps just about everybody. One of these views is concerned with the relevance of the bigger  
1646 national context surrounding the debilitating goings on in cases such as the 1MDB in searching for a good  
1647 understanding over how such things can take place. In this regard, Dr. Vivien Chen and the late Datuk Yusli  
1648 Mohamed Yusoff have won hands down! Another exceptional but at the same time straightforward view is in  
1649 regard to the close relationship between systems and persons as elaborated about by none other than Steve Oh  
1650 in his brutal but brilliant piece! Since persons need systems to be around to achieve whatever that is intended to  
1651 be and the systems would not (perhaps?) be able to function without the active presence of those to maneuver  
1652 them, it would be be hard to fathom a situation where it can be believed that persons without the systems or  
1653 vice versa can function exclusively and therefore one or the other can be faulted exclusively when something goes  
1654 wrong (unless of course if we are talking about the so called artificial intelligence ?). Surely if such were to exist,  
1655 one needs to look into the possibility that one has been influenced by one's biases or some other selfish reasons?  
1656 But then as far as the case of faulting the person (and never the system or both person and system), one may

1657 truly believe that "man is the measure of all things" or something and thus with the person playing the part of  
1658 setting up a system and later on doing whatever else is necessary as far as the system is concerned, surely much  
1659 or all of the faults can be placed upon that very person instead of the system or a combination of person and  
1660 system when something goes wrong?

1661 Fourth, it concerns the adage that everything has a past! Specifically, what P. Gunasegaram and Steve Oh did  
1662 in their writings talking about the relevant past in order to help others to come to the understanding on how the  
1663 1MDB (and other related matters) had come about is worth adulating! With the past known while the present  
1664 is always in one's considerable view, surely now one can predict what the future may be? And in case it is such  
1665 a bleak future or a future that one does not wish to have, the necessary steps can be taken to chart for a new  
1666 future?

1667 Fifth, the last but certainly not the least point is that there are those whose remarks can never be easily  
1668 rejected even when at first glance they seem to ignore in their discourse the presence of other possible factors  
1669 leading to the 1MDB evils suffered by so many these days and also for so many more years to come. This is  
1670 because those things which they put forward are simply down to earth and known by many deep in their hearts to  
1671 be true. And of course the individuals of concern are the Professor Syed Farid on kleptocracy and the impressive  
1672 Dennis M. Kelleher with the delirious Goldman Sachs' "Four Monkeys" defense: see no evil, hear no evil, speak  
1673 no evil, and keep all the money"! When it concerns the former, it would be today's Malaysians who would very  
1674 much agree with him when they look around as to what has been going on in the country in recent time with  
1675 more than a handful of corruption cases brought to court on a daily basis to the point that one may not be too  
1676 far from the truth to think that the country is currently experiencing a tsunami of corruptions! And when it  
1677 concerns the latter, even those with just a bit of knowledge in investment banking either at local or international  
1678 levels or both can see without much difficulty that if not everything it is just about everything that he claimed  
1679 to be as far as the Goldman Sachs and its 1MDB heinous entanglement was concerned was completely true.

1680 In short, there was bad intention and everything else that was not right that came with it which could be  
1681 sensed coming from the global investment bank just like in the case of its partners in crime the Penang lad and  
1682 other co conspirators from high places from different parts of the world. And such most probably went way, way  
1683 beyond getting Malaysia to be their cash machine with no thoughts whatsoever that Malaysians were to suffer  
1684 the consequences for years and years to come. In other words, to turn Malaysia as their cash cow through the  
1685 1MDB (or any other vehicle in case the 1MDB was not around) is not quite the ultimate goal all along.

1686 Instead, it is just a pre requisite to ensure Malaysia and Malaysians to suffer and suffer tremendously as a  
1687 result of having to carry the 1MDB mountainous debts for decades to come! And with such suffering Malaysia  
1688 would then be brought to its knees to the point of no return allowing their patrons to get their way with the  
1689 country?. In other words, could there be other players here who play the role of patrons who so far have not  
1690 been identified and who are all along stay in the background but certainly conspiring with relish? Is this mere  
1691 speculation?

1692 For certain it is not something unheard of that some parties from overseas with or without the collusion with  
1693 others from inside a country conspiring in achieving their nefarious goals. And as far as the 1MDB scandal is  
1694 concerned, if it is accepted that it is not at all a simple case of money stolen to live the high life to no end, is  
1695 it possible then that it is the case of financial ruins or perhaps economic collapse that some parties (foreigners  
1696 largely?) might have wanted to see to happen to Malaysia? To those parties to do so would be the safest bet  
1697 when other approaches are not practical! Assuming what is postulated here is more than possible, what could  
1698 have precipitated it? In short, what made Malaysia to deserve or be in the position to receive such fate?

1699 One of the tell-tale signs pointing to the existence of quite a wicked plot to do Malaysia in is concerned with  
1700 the fact that even after the 1MDB had amassed around \$13 billion in debt as of April of 2016 from the Goldman  
1701 bond offerings plus other borrowings as noted Kelleher earlier, the culprits were still looking forward to issue  
1702 another bond offering that would have the government-owned company to be saddled with so many more billions  
1703 in dollars of additional debt burden ("Malaysia's 1MDB Said Planning", 2014). It was as if all the billions that  
1704 ones had already stolen were still not enough. And it was as if this very thing they were doing using the 1MDB  
1705 was a sacred mission to be completed no matter what! Granted, Mahatma Gandhi had once said the world is  
1706 enough for everybody but never enough for the greedy ones, but still? Fortunately they did not get to complete  
1707 the deal due to the fact that while they were working on it their lies and whatever else they had concocted for  
1708 years and years had begun to unravel to the utter and complete shock of so many parties from inside and outside  
1709 the country resulting with very little possibility that the fourth bond offering would be a successful one ("1MDB  
1710 Criticised by Lawmakers", 2014; Jahabar & Goh, 2015).

1711 Unfortunately however due to some deals concocted with certain parties from the United Arab Emirates (UAE)  
1712 (The Edge Team, 2017) and the Mainland China (Abdul-Muein, 2022; see also Ahmad-Naqib, 2019; Ying and  
1713 Nazuin Zulaikha, 2019; Tay, 2019; Adam, 2018a & b; Surendran, 2018; "Mahathir Says the ECRL Project", 2018;  
1714 "I am Trying to be'", 2018; and, Yeap and Tat, 2018) the culprits had caused the Malaysian government to be  
1715 saddled with additional billions of dollars of debt still ("1MDB-Tanore Trial", 2019; Adam, 2019; and, Adam and  
1716 Emir, 2018)! And with such, the conspiracy theory is in fact further strengthened??

1717 When it concerns the deals made with the latter party from the North East Asia in particular, note what  
1718 Khairie Hisyam had mentioned in early January 2020 in the early part of his revealing write up (Khairie-Hisyam,  
1719 2020):

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1720 As China sought to assert itself on the global stage in the past decade, Malaysia too was caught up in that  
1721 country's emerging Belt and Road Initiative (BRI). In a nutshell, BRI is how China branded its avalanche of  
1722 investments in various transport and logistics infrastructure projects across Asia, Europe and Africa. By the end  
1723 of the decade, arguably the most significant impact of BRI locally was how it had been subverted for political  
1724 purposes as the 1Malaysia Development Bhd (1MDB) scandal unfolded in the latter half of the decade.

1725 And later in the piece, he had this explained as follows:

1726 And as Malaysia and China marked the 45th anniversary of bilateral relations in 2019, court proceedings over  
1727 corruption charges against former prime minister Datuk Seri Najib Razak revealed, among others, that many of  
1728 the mega projects under BRI in Malaysia were motivated by political survival. ? In September 2019, the courts  
1729 were told that Najib had offered a basket of mega projects to China's state-owned enterprises in 2016, including  
1730 the ECRL, the MPP and TSGP. The aim was to court Chinese funding for the mega projects and secretly use  
1731 some of the money to rescue 1MDB from the debt pit that it had fallen into, according to the testimony of Najib's  
1732 former special officer at the time, Datuk Amhari Efendi Nazaruddin, who was sent to Beijing in 2016 to negotiate  
1733 the matter. Other proposals had included a Bangkok-Kuala Lumpur high-speed rail, a petroleum pipeline from  
1734 Port Klang to Kuala Kedah and the development of federal territory Labuan into an offshore banking and tourism  
1735 hub. (Emphasis added.)

1736 To read further on all that which Khairie had mentioned, check out the following: "1MDB-Tanore Trial" (2019);  
1737 Adam (2019); "Malaysia Probing Whether China" (2019); Wright and Hope (2019); Parameswaran (2019); Adam  
1738 and Emir (2018); "Govt Suspects Najib" (2018); and, "Mahathir Says the ECRL Project" (2018). Also, check  
1739 out the denial made by the concerned parties as reported in Ying (2019a), Reuters (2019), Chua (2019) and  
1740 Murugiah (2018).

1741 All in all, it seems the new additional debts would not have been probably incurred assuming there were no  
1742 1MDB debts to be settled in the first place. In short, directly or indirectly, the 1MDB had caused a

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1744 Volume XXII Issue VI Version I Year 2022 ( ) B huge amount of debt incurrence for Malaysia with nothing good  
1745 whatsoever to be seen by the country and its long suffering people in return. Hands down the 1MDB brings  
1746 misery and more misery for years and years to come for generations of the Malaysian people who among them  
1747 include those who are living in appalling poverty.

## 1748 19 VI. Poverty in Today's Malaysia

1749 It should be quite outrageous that even after having tasted what is called independence more than six decades  
1750 earlier in 1957, in Malaysia today there are still too many designated as the hard core poor while countless others  
1751 struggling on a daily basis to bring enough food to the table and to keep a decent roof over their heads! And  
1752 such is the reality that there should not be any surprise to find that some children living in urban centers have  
1753 been found in 2017 to be more stunted than those in some African countries. As Ho (2018) put it: Despite  
1754 Malaysia's gross domestic product per capita being six times higher than Ghana, the 20.7% level of stunting  
1755 among Malaysian children is higher than Ghana's at 18.8%. The situation is even more alarming when data is  
1756 broken down by state. More children in Kelantan are stunted (34%) compared to those in low income countries  
1757 such as Zimbabwe (27.6%) and Swaziland (25.5%)... ? Worryingly, the rate of stunting among underprivileged  
1758 children in Kuala Lumpur of 22% is even higher than the national average of 20.7% in 2016, which is a concern  
1759 in itself as it has risen from 17% in 2006. On top of that, many children living in low-cost flats in Kuala Lumpur  
1760 are stunted, or shorter than the average of their peers in the city, showed the study.

1761 ? Half of the respondents expressed they did not have enough money to buy food in recent months, with 15%  
1762 experiencing this frequently (Lau, 2018). ? 1 in 3 of the households earn less than RM2,000 per month and 7%  
1763 of households live below the poverty line, which officially is RM1,000. Out of these, Indians are at the greatest  
1764 disadvantage, where 43% of them have a monthly household income below RM2,000, followed by Chinese at 34%  
1765 and Malays at 30% (Jo-Lyn, 2018). ? 77% of the households do not even have savings.

1766 12% have only between RM1-RM999 saved, while 9% have RM5,000 and above. All the money they've earned  
1767 is spent on their children's needs -food and school fees/supplies mostly (Jo-Lyn, 2018).

1768 But more harrowing details regarding poverty in Malaysia as a whole may be found in the more recent report  
1769 issued by the so called United Nation's special rapporteur on extreme poverty and human rights Professor Philip  
1770 Alston following his visit to Malaysia in August 2019 (United Nations Human Rights Council, 2020). But prior  
1771 to the delineation of some parts of that eye revealing report, it should be worth looking into what was mentioned  
1772 in three news reports. The first from a local organization Galen Centre for Health & Social Policy came out on  
1773 the very last day of the special rapporteur's visit (Code Blue, 2019):

1774 A United Nations (UN) human rights expert has refuted Malaysia's claim of all but eradicating poverty, saying  
1775 millions of families are scraping by on very low incomes. Philip Alston, the UN Special Rapporteur on extreme  
1776 poverty and human rights, said at the end of his 11-day visit to Malaysia that the monthly RM980 poverty line  
1777 underpinning Malaysia's official 0.4 per cent national poverty rate, or less than 25,000 households, was a "very  
1778 low and highly unrealistic poverty line". ? He said Malaysia's "extremely low" poverty line was inconsistent with  
1779 the cost of living here. ? He said independent analyses suggested a more realistic poverty rate of 16 to 20 per

1780 cent, rather than the official 2016 rate of 0.4 per cent, and about nine per cent of households survive on less  
1781 than RM2,000 a month. ? Alston also discounted the mainstream narrative that poverty in Malaysia was largely  
1782 confined to small numbers in rural areas and in the indigenous population, pointing out that urban poverty was  
1783 obvious.

1784 And it is also noticeable that related to that very last line, Alston was quoted to say: "In contrast to the official  
1785 2016 poverty rate of 0.0 per cent for the capital Kuala Lumpur, a 2018 Unicef survey of low-income apartments  
1786 in the city found seven per cent of people living below the national poverty line, 85 per cent in relative poverty,  
1787 and 99.7 per cent of children living in relative poverty."

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1790 The study which Ho had referred to was of course the one conducted by UNICEF and DM Analytics between  
1791 20 August and 30 September 2017 and which covered 966 heads of households and 2,142 children from 17 public  
1792 housing flats in Kuala Lumpur and Petaling Jaya (UNICEF Malaysia and DM Analytics, 2018). Aside from  
1793 those mentioned by Ho on stunting, the study had discovered among others the following: ? Almost all children,  
1794 or 99.7 per cent lived in relative poverty while seven per cent lived in absolute poverty (Syed Jamal Zahiid, 2018).  
1795 ? About 15% of the children below the age of five are underweight, almost two times higher compared to the KL  
1796 average (8%), while about 22% of the children are stunted, two times higher than the KL average (Afiq, 2018).  
1797 ? More Than one in 10 children have less than three meals a day, with 97% of households citing high food prices  
1798 as the major issue, preventing them from preparing healthy meals for their children (Lau, 2018).

1799 Now for the second news report that came out on the very day that Alston's report on Malaysia was released  
1800 and which was also the day before it was delivered to the United Nations Human Rights Council on July 7 th ,  
1801 2020 by Alston's successor Professor Olivier De Schutter, Bechtel (2020) from the online news service BenarNews  
1802 which is based in the Washington DC had this to say: A move by Malaysia's new government [following the  
1803 downfall of the Pakatan Harapan federal government in February 2020] to drop the previous administration's  
1804 pledge to correct "misleadingly low" assessments of poverty is worrisome because it will make eradication efforts  
1805 more difficult in the Southeast Asian country, a United Nations expert said Monday. Philip Alston, the outgoing  
1806 U.N. special rapporteur on extreme poverty and human rights, expressed his concerns while releasing his final  
1807 report about poverty in Malaysia that stemmed from his visit to the country last year. ? Following his 11-day  
1808 visit to Malaysia in August 2019, Alston challenged the thengovernment's claims that the poverty rate was 0.4  
1809 percent -saying it could be as much as 20 percent, based on independent analysis. With its population of 31.5  
1810 million people, a poverty rate of 0.4 percent would represent 126,000 people, while a rate of 20 percent would  
1811 represent 6.3 million.

1812 It is also worth nothing that in relation to that very last line, Alston was quoted to say: "The insistence that  
1813 the line is 'derived from internationally accepted standards' is a smokescreen and ignores the blatant mismatch  
1814 between reality and statistics. Pretending that almost no one in the entire country lives in poverty doesn't change  
1815 the reality that millions are poor. Saving face is one thing, but distorting the facts is quite another."

1816 As for the third news report by Corsi (2020) that came out within just over two weeks after Alston's report  
1817 was delivered to the United Nations Human Rights Council, the following was mentioned early on:

1818 In August 2019, the United Nations sent its special rapporteur on extreme poverty and human rights Professor  
1819 Philip Alston to Malaysia to investigate claims by the government that it had virtually eradicated poverty within  
1820 its borders. Alston spent 11 days visiting a variety of areas nationwide, from urban Selangor and Kuala Lumpur  
1821 to rural parts of Kelantan, Sabah and Sarawak. At the end of his visit, while acknowledging that Malaysia had  
1822 made enormous strides towards elevating the net worth of society as a whole, he said the 0.4 percent poverty  
1823 rate -the lowest of any country on Earth by a country milletouted by the government was a fabrication.

1824 It is notable that in the very same write up the following is also mentioned coming from Alston -and this was  
1825 in response to the fact that the new Perikatan Nasional federal government had shown disregard to the positive  
1826 things which its predecessor the so called New Malaysia Pakatan Harapan federal government (which earlier had  
1827 defeated UMNO-BN political party in May 2018 General Election) had decided to do in its reaction to Alston's  
1828 report: He accused the administration of "statistical sleight of hand" in its official poverty rate and noted that  
1829 the new government had backtracked on the promises of its predecessor. Alston pointed to World Bank data  
1830 showing that 30 percent of Malaysian households did not have enough money for food, while 23 percent did not  
1831 have funds to provide adequate shelter. Meanwhile, he found that roughly half of Malaysians did not have the  
1832 means to cope with a sudden financial shock? Furthermore, he attacked the Ministry of Economic Affairs for its  
1833 new multidimensional poverty index of 0.86 percent, a rate that "beggars belief", despite supposedly taking into  
1834 account his initial findings. ? Again, the new government under Prime Minister Muhyiddin Yassin took the tried  
1835 and trusted method of politicians past in Malaysia: deny, deny, deny.

1836 And right after all that, interestingly the following was raised:

1837 Since achieving independence, the government has routinely refused to accept criticism of even the most  
1838 obvious of blunders, while employing a variety of sweeping techniques to discredit and shout down the source. ?  
1839 Such is its disdain that, at parliamentary level -and despite the acknowledgement of the now opposition -there  
1840 has been no attempt whatsoever to table the report for debate, lending more weight to the argument that the

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1841 Malaysian people are governed by self-serving politicians on both sides of Parliament, more interested in their  
1842 own advancement than that of the nation.

1843 So, what exactly that the Alston's report has said about anything? Well, some of the devastating remarks  
1844 include the following (United Nations Human Rights Council, 2020):

1845 ? Malaysia has achieved extraordinary economic growth over many years and made great strides in reducing  
1846 poverty? But its official method of measuring poverty produces a national poverty rate of just 0.4 per cent, the  
1847 lowest in the world, suggesting that less than 25,000 households are in poverty? the Special Rapporteur observed  
1848 that this would make Malaysia the unrivalled world champion in conquering poverty. But he also noted that the  
1849 claim reflected a statistical sleight of hand that has had extremely harmful consequences. report, released today,  
1850 also said that the performance of the programme was not fully achieved because there were participants who did  
1851 not generate income to get above the poverty line and did not benefit from the programme even though approval  
1852 was given, because of the failure of the implementing agency to carry it out. The implementing agency failed to  
1853 carry out repair work that was approved for 113 PPKB participants, in addition to the remaining allocation for  
1854 2016, amounting to RM1.08 million, returned to the Finance Ministry following the housing ministry's failure  
1855 to implement the programme. ? The findings were obtained as a result of the auditing programme for the 11th  
1856 Malaysia Plan (11MP) and 12MP as of Dec 31, 2021. Apart from this, another weakness detected was that as  
1857 many as 22 local authorities had PPKB account balances that were not spent to benefit the target groups. These  
1858 balances ranged from RM11,808. 43 Prior to the coming to the end of the work, there is perhaps a need to  
1859 point out that it may not be quite right to believe that the 1MDB on its own was all that was needed in causing  
1860 the federal government of Malaysia to go ahead in incurring additional debts in the years following the public  
exposure of the 1MDB scandal. But such may have been the impression that <sup>1 2 3 4 5 6 7 8 9 10 11 12 13</sup>



Figure 1:

Figure 2:

? 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 (September 2021)

Common Body of Knowledge (CBOK) 2006 (ISBN: 978-0-89413-619-1) whose publisher is The Institute of Internal Auditors Research Foundation (IIARF). Also note that [www.theiia.org](http://www.theiia.org) as stated in [www.theiia.org](http://www.theiia.org) at [www.theiia.org/bookstore/product/common-body-of-knowledge-2006-a-global-summary-of-the-1163.cfm](http://www.theiia.org/bookstore/product/common-body-of-knowledge-2006-a-global-summary-of-the-1163.cfm) and in later years at [www.amazon.com/Global-Summary-Common-Body-Knowledge/dp/0894136194](http://www.amazon.com/Global-Summary-Common-Body-Knowledge/dp/0894136194), CBOK 2006 "... is the largest and most comprehensive global study ever conducted about the internal auditing profession." It also says that CBOK 2006 "presents a rich database of knowledge that will be exploited over the next few years to shape the internal auditing profession."

#### V. Discussion and Conclusions

As noted at the beginning of this work, the possible causes for the 1MDB scandal are plenty. Those discussed earlier together with their respective



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Government Ministry and involves several initiatives including Urban Community Economic Empowerment Programme (PEKB). The [Auditor-General's Report 2021 Series 1]

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Figure 4:

Figure 5:

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<sup>3</sup>1MDB: The Causes! Part I © 2022 Global Journals  
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<sup>13</sup>1MDB: The Causes! Part I © 2022 Global Journals



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1864 ? Child labour is also a problem in Malaysia, including on palm oil plantations where an oppressive quota system  
1865 drives families to bring their children to work as unpaid labourers. ? Malaysia has registered about 15,000  
1866 marriages involving children over the past decade, with Muslim girls allowed to marry before the age of 16 with  
1867 permission from a syariah (sharia) court judge.

1868 Poverty is a widely recognized driver of child marriage? But it seems there appears to be no end to the poverty  
1869 questions in the country in the foreseeable future. And why that is the case may be found inside the report itself:

1870 ? A national poverty measure should enable a sober, contextualized assessment of the level and nature of  
1871 poverty, but in Malaysia it has become a way for successive Governments to declare victory over poverty without  
1872 having actually achieved it. The national poverty line bears no relationship to the cost of living, household  
1873 incomes, or realities on the ground. It was meaningful in 1970 but real household income has increased fivefold  
1874 since then and Malaysia has gone from being a low-income to an upper-middle-income country in that time.  
1875 Apart from being inconsistent with almost all independent analysis, the artificially low measure has discouraged  
1876 research on poverty and distorted the targeting of existing social support programmes. ? Malaysia stands out  
1877 among its peers for its lack of transparency around publicly held data and other information. Unlike the great  
1878 majority of similarly situated countries, Malaysia does not provide full access to key household survey microdata,  
1879 stifling both governmental and independent research and analysis on poverty and inequality. When asked for  
1880 data, State government officials often indicated they would need to make a request to the central Government.  
1881 Researchers can apply to the Department of Statistics for select sets of data, but several said their requests  
1882 were often not granted. International organizations and even State officials said they too had to make specific  
1883 requests for information and that their access was essentially at the mercy of the Department of Statistics.  
1884 Government officials bluntly contradicted these consistent reports from a variety of sources. A representative  
1885 of the Department of Statistics said that the Department "makes the data available to all", while an official  
1886 of the Ministry of Economic Affairs said the Government provides what it can, but must be careful with data  
1887 owing to privacy concerns. Since many other countries provide anonymized data without compromising privacy,  
1888 the policy seems more likely to be motivated by a desire to conceal from the public information that might not  
1889 be favourable to the Government. In some cases, it appears that important data is not even being collected.  
1890 And in others, existing data cannot be disaggregated to shed light on the situation of vulnerable target groups.  
1891 Officials were consistently unable to provide key figures? The statistics that are available are carefully managed  
1892 and presented in a way that often obscures crucial details. And as perhaps as to be expected, each of those two  
1893 points providing what appears to be the root causes for the various depressing findings on poverty in the country  
1894 (which include those noted earlier) have led to the following immediate outcomes, respectively:

1895 ? Denying the scale of poverty has exacerbated the problem by justifying significant underinvestment in  
1896 poverty reduction, stymying research into and analysis of the drivers of poverty, encouraging a widespread  
1897 misunderstanding of who is poor and allowing a fragmented, poorly targeted and inadequately funded social  
1898 protection system to limp haplessly along.

1899 Non-governmental organizations have stepped in to fill the gap and provide much needed services to low-income  
1900 people, but these admirable efforts are no substitute for official policies and action.

1901 ? The Government should also improve access to data and other information on poverty. Its persistent refusal  
1902 to provide effective access to such information, and in some cases the complete failure to even collect important  
1903 data, significantly hampers research, policymaking and poverty alleviation.

1904 As if all that from the UNICEF and UN Human Rights Council are not depressing and harrowing enough,  
1905 note the following coming from domestic sources -where the first four came out recently in the year 2022 while  
1906 the last one in May 2020:

1907 ? Poverty and absolute poverty continued to haunt us and we now refer to B60s as more fall under the  
1908 poverty line. After more than two years of Covid-19, the poor have seen their income squeezed even further by  
1909 lower/weaker purchasing power, and stagnant wages and to top it all, prices are not coming down despite subsidies.  
1910 To pay billions of dollars of the 1MDB debts may not be the reason or the sole reason why the then government  
1911 of Malaysia seemed to be without any restraint in incurring billions more debts within the few years before it was  
1912 replaced in May 2018. And those reasons are: (1) the Mainland China's Belt and Road Initiative (BRI), formerly  
1913 known as One Belt One Road or OBOR for short, which is a global infrastructure development strategy adopted  
1914 by the Chinese government in 2013 to invest in nearly 70 countries and international organizations leading to the  
1915 accusation of China having countries ensnared into the so called debt trap; (2) Malaysia's public procurement  
1916 process for decades is horribly littered with fraud, waste and abuse (FWA) instances; and (3) the person Jho  
1917 Low. Related to the first two reasons, there are some great references which one may want to peruse.

1918 On BRI (and its impact on Malaysia with or without touching on 1MDB to a limited extent) see for example  
1919 ??im ??019). Also, it may be worthwhile to check West (2018) even when its BRI discussion is devoid in  
1920 mentioning anything related to Malaysia.

1921 As for the second reason that concerns Malaysia's public procurement process and its horror stories, see Lee  
1922 (2021) (It should be worth noting that in the case of two theses -Siti Maryam (2021) for master and Khairul Saidah

(2016) for PhD -there appear to be the corresponding published journal papers on procurements available in the internet. But strenuous efforts in locating them had got nowhere! And that is the reason why they are not included in the paragraph above. In the case of Siti Maryam, it is supposed to be around at <https://doi.org/10.1108/JFRA-05-2021-0132> and the journal concerned is the Journal of Financial Reporting and Accounting. As for Khairul Saidah, it is supposedly to be available at 10.1504/IJPM.2021.100415 19 with the journal concerned is the International Journal of Procurement Management. Also note that for the latter, the abstract among others says: "This paper examines procurement fraud in the Malaysian public sector. The study demonstrates how the institutional arrangements in Malaysia manufacture fraudulent practices within government purchasing. Findings illustrate how public policy and development; state-business relations, and power relations in Malaysia manufacture fraud in public procurement. This paper provides evidence of collaboration in continued corruption and fraud within government purchasing through organised financial crime by Malaysia's ruling elites, politicians, and private capitalists, which is assisted by public officials and regulators." Now, when it concerns Malaysia's debilitating public procurement process and where the subject matter of the 1MDB was mentioned too in the very same piece of work, see the excellent write up by Amarthalingam (2018) and the section entitled lopsided contracts in the second part of an interview given by the then Attorney General Tommy Thomas to The Edge Financial Daily ("I Will Never Charge", 2018). As for the BRI and the 1MDB heavily mentioned in the very same work, see the following: Yeoh (2020), Dezenski (2020), Jones and Hameiri (2020), Malhi (2018), Fong (2017), "Malaysia and China to Meet" (2017), Mung and Fong (2016) and Mung (2016). And of course those are to be added to so many others mentioned in the two places earlier (just before the part that is concerned with the state of poverty in the country these days) -one in the very paragraph where Abdul Muein (2022) was mentioned and the other in the paragraph that comes right after the two quotations coming from Khairie-Hisyam (2020).

With two out of the three reasons for additional new debts incurrence explained, the third and last reason is concerned with one of the protagonists of the 1MDB scandal. In their excellent write up regarding that person's shenanigans over three time periods, Yeap and Tat (2018) had this to say over what took place for the third and last time period of 2017:

When announcing two suspicious "red file" projects totalling RM9.4 billion under MoF's Suria Strategic Energy Resources Sdn Bhd (SSER) on June 5, Finance Minister Lim Guan Eng told reporters there was "strong suspicion" that they were "all part of the 1MDB scandal". Lim described the red files as documents pertaining to 1MDB and other sensitive matters that can be accessed by only former MoF secretary-general Tan Sri Irwan Serigar Abdullah and a few others. Even the auditor-general did not have access to the files. It is believed that Jho Low had a hand in the negotiations of SSER's projects with Chinese companies as well as that of the RM60 billion East Coast Railway Line (ECRL). The cost of both projects is said to be highly inflated in order for money to be siphoned out for 1MDB-related payments as well as for the benefit of Jho Low.

### 1956 .3 (Emphasis added.)

1957 There certainly should not be any surprise whatsoever of what Yeap and Tat had mentioned at the end of that  
 1958 very quotation since the 1MDB and related entities had by a short few years earlier stopped being of much use  
 1959 for that concerned person and had to be replaced by some other rides so that Malaysia as his personal cash cow  
 1960 would continue to do so to support his decadent lifestyle?! All in all, in this Part I of the causes' series for the  
 1961 1MDB, there is the laying out of arguments coming from various parties whose remarks or write ups came out  
 1962 in publications that should be easily accessible and comprehensible to many. And so in the next Part II of the  
 1963 series the journey continues with the laying out of arguments coming from those whose publications have come  
 1964 out in the form of articles in refereed journals and the like. Are there going to be additional 1MDB causes to  
 1965 be considered? And in case more or less the same set of causes is found, are there new details emerging which  
 1966 one has not seen previously? Stay tuned for the answers to these and other questions! Références  
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