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Corruption Prevention in Tsunami Relief: Effective Anti-Corruption Enforcement and Complaint-Handling Mechanisms – the Malaysian Experience

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INTRODUCTION

Natural disasters have no timeframe, know no boundaries, and possess no sense of sympathy. Consequentially when they strike, they not only overtake their victims unexpectedly, they also present tremendous challenges to those that offer and provide aid to the victims. It is also highly probable in the midst of natural disasters that there may exist corrupt elements who, like vultures preying on human misery, will take every opportunity to swoop down on the helpless, innocent and woefully desperate victims in need of aid and assistance.

In this respect, Malaysia has a varied experience of natural disasters. We are no strangers to extensive floods, widespread peat-soil fires, occasional landslides and so on. But the Tsunami disaster was totally unexpected, indeed it was unprecedented and so caught the country completely unaware. The extent of the damage caused called for a swift and expedient response, not just in terms of the identification of damage and resulting needs, but also in terms of speedy procurement and the distribution of financial aid and physical supplies. This led to a concurrent need for preventing corruption and abuse in relief activities, in order to stave off any hungry predatory vultures.

The Tsunami disaster of 26th December 2004 was indeed extensive and unexpected whilst the threat of corruption and abuse was very real. Penang was one of the states in Malaysia hardest hit by the Tsunami. Being aware of the threat of corruption, the ACA Penang took action to head off this threat. It was well contained and attempts at corruption and abuse were detected early and foiled. This is, however, still an ongoing exercise needing much concerted cooperation from other government departments, individuals from the public as well as support from the political leadership. It is still a fight far from over.

SCOPE

This paper sets out the valuable lessons learnt with regard to corruption prevention during the Tsunami disaster, particularly in relation to effective anti-corruption enforcement and complaint-handling mechanism. The emphasis will be given on how proactive and preventive actions are crucial to nipping the problem in the bud.

ANTI-CORRUPTION ENFORCEMENT AND COMPLAINT-HANDLING MECHANISM IN MALAYSIA

It is inconceivable for any government that is serious in combating corruption to do so with half-hearted measures and ill-planned programmes carried out on an ad-hoc basis. It is even more inconceivable to control corruption in the context of a disaster on the magnitude of the Tsunami, without the necessary legal framework, institutional infrastructure and support from the community and political leaders. Malaysia's history of fighting corruption is a story in the making since its independence until today, 48 years later. It is only this relentless and determined effort that stood us in good stead when the Tsunami struck on that fateful day. The Malaysian Government has, from the early days of independence, taken steps in the right direction to combat corruption. When independence was achieved in 1957, one of the earliest acts of the Right Honourable Prime Minister then, Tengku Abdul Rahman Ibni Putra Al-Haj, was to identify an expert on anti-corruption to conduct a special study on the problem of corruption in our newly independent nation. Subsequent to this report, entitled "The Problem of Corruption In The Federation Of Malaya" which was tabled and discussed in the Cabinet, numerous steps were taken to combat corruption, including the setting-up of a special force to investigate corruption cases. Later, an entire Anti-Corruption Agency (ACA) with officers independent of other government departments was formed and tasked with enforcing the Prevention Of Corruption Act, 1961.

CAPACITY BUILDING

Through the ACA Malaysia, further groundwork was laid by the establishment, not only of an Investigation Division (which includes Complaints Processing Branch, Sensitive Records Branch, Special Investigation Areas Branch), but also Divisions for Prevention (which has Community Education Branch and Systems Examination cum Consultation Branch), as well as Intelligence (which has which Intelligence Branch, Surveillance Branch and Technical Services Branch) and other supporting Divisions. The organizational infrastructure was in place and enhanced. Recently, forensics teams was formed and an Academy for Asia-Pacific Regional Cooperation will shortly be established. The ACA has its Headquarter in the Putrajaya Administrative Capital and has branches in each of the 14 states in the Federation. Within the states themselves, many sub-branches have been formed and more are being planned so as to expand the presence of the ACA to more remote areas of the country. The size of the ACA will grow by another 400 officers this year - a 30 % increase in manpower. The

government has empowered the ACA to grow from a tiny agency to one which, today, has extensive reach.

LEGAL FRAMEWORK

The government also laid and continuously strengthened the legal framework underpinning the fight against corruption. Upon review of three previous major laws used against corruption and abuse of power, (the Prevention of Corruption Act 1961, Emergency Ordinance 1971 - Emergency Regulations - and the Criminal Procedure Code 1957), the Prevention of Corruption Act 1997 was passed with approval of the parliament to make it more encompassing and powerful. Among some of the new provisions passed were Section 15 which stipulates that when any civil servants in their official capacity make any decisions or takes any action from which he/she gains either directly or indirectly (it includes proxies, associates and family members down to the third generation); Section 44 (1) (b) which allows for evidence of agent provocateur in trials; and Section 53 which provides protection of informers and information. Alongside these provisions were Sections 10 and Section 11 which penalize both bribe takers and bribe givers. There is also section 17 which deals with those who fails to report cases of bribery. Apart from the punitive sections above, legal provisions were also approved to enable the ACA to examine the system and procedures of any department and make the necessary recommendations to rectify any shortcomings found. This is in the form of Section 8 (c) and (d) of the Act. For further information on the sections mentioned above please see appendix "A".

INTERNAL CONTROL

The fight against corruption took on a new dimension when, in 1998, the Prime Minister directed that in all Federal Departments and Agencies as well as in all State Governments, State Departments and Agencies, Integrity Management Committee (IMC) had to be set up. The function of these committees is to look into matters relating to good governance with a view to preventing corruption, abuse of power and mismanagement. The aim of the IMC is to instill internal controls against corruption. The ACA was appointed together with the Modernisation, Administrative, Manpower Planning Unit (MAMPU) in the Prime Minister's Department as the joint-coordinator for the National Level IMC. Through this, a channel is created whereby not only can integrity be enhanced but the ACA is able to access the various head of departments and agencies, interact with them and establish close cooperation to combat corruption. This channel is considered to be vital for promoting internal control of corruption and abuse. This

is another significant development in the right direction which can be seen in the light of the Tsunami experience.

COMPLAINT CHANNELS

Yet another structure which the ACA has put in place are” reception of information” channels. One channel which is already well established is the ACA post office box number no. 6000 which is applicable nationwide and postage free. A lot of information in the form of anonymous as well as official signed letters of complaint are received annually through this channel. There is also the national ACA toll free number which is manned 24 hours a day for the entire year including public holidays. Another channel is the website of the ACA. All of these means of contact are featured in national newspapers in their “To Call For Help” columns. The ACA has also run advertisements on both radio and television stations appealing for the public’s cooperation in the fight against corruption. These have had a positive impact.

POLITICAL WILL

The building up of all of the above structures and their continuous improvement would never have been allowed if the government were not sincere in its fight against corruption. A lot of money is involved and moreover even political leaders themselves will at times have to face the music of the law itself if they run foul of anti-corruption laws. The political will of government leaders is absolutely essential and, in the case of Malaysia, it has been demonstrated to be so.

HANDLING COMPLAINTS ON CORRUPTION IN TSUNAMI RELIEF

When the Tsunami struck various parts of Malaysia on the 26th December 2004, it may have dealt a disastrous blow but the anti-corruption groundwork that had been carefully laid out and enhanced over the years stood us in good stead.

Briefly, the devastation wrought in Malaysia was in the 4 states of Penang, Perlis, Kedah and Perak. The nationwide total death toll stands at 68 of which 52 come from Penang itself. Another 4 people still remain missing and all 4 come from Penang. In terms of physical damage, 138 houses were totally destroyed of which 8 were in Penang. Reported cases of houses damaged number 770 with 258 in Penang; 551 large fishing boats were damaged, with 102 from Penang, 3,026 small fishing boats were damaged, with 1,502 from Penang; there were 1195 cases of property damage, with 415 of them Penang cases.

The government has set up a National Disaster Aid Fund. Arising from the generosity of the public from all spheres and walks of life, and through the 5 main mass media, a sum of RM89,673,280.74 was collected. Under the Management Committee for National Disaster Aid Fund, chaired by the Honourable Deputy Prime Minister Datuk Seri Najib bin Tun Razak, the Federal National Security Division (NSD) was appointed as the coordinating body. NSD will, from its State level NSD offices, collect data on the disaster-stricken areas with regard to the victims, the extent of damage to various categories of properties, and other damage.

It is in the management of the distribution of the RM89,673,280,74 that the ACA Malaysia had to take steps to see that the anti-corruption infrastructure mentioned in the previous section can be put to effective use. Keenly aware that opportunities abound for corruption, it would be irrational to wait for cases to be reported before anything is done at all.

STRATEGY OF THE ACA

A dual strategy was put into effect. The first part consists of **PROACTIVE ACTION** which are pre-emptive in nature. The main objective of such action is to prevent corruption before it can take place. Thus, without waiting for complainants to come to ACA to lodge reports, teams of ACA officers from the Intelligence. At the same time the Systems and Procedure Examination Unit was deployed to meet with heads of agencies in charge of dispensing aid, to check on the status of the infrastructure which should be in place when aid is being channeled and dispensed. The action of the Intelligence Unit officers serves to strengthen the work of the Systems and Procedure Examination Unit.

The Practices, Systems and Procedure Examination (PSPE) Unit of ACA Penang operating under section 8 (c) and (e) of the Prevention Of Corruption Act 1997, also conducted an examination, the results of which are listed below:

1. **Administrative Control Structure Element:** The Examination Unit found that there existed a good structure for receiving and dispensing aid funds, with elements of accountability and transparency already in place. Funds collected were channeled into the National Disaster Fund. It was found that the National Security Division working with the State Working Committee on Disaster would received the list of the victims, reports of loss and damage to properties from three separate committees: the State Welfare Department Committee which would focus in

particular on victims which had died, were missing or injured, and victims of forced evacuation, including the damage done to their homes and to their livelihoods; the State Fisheries Board which would focus on fishermen who had lost their livelihood and fishing equipment; and the State Education Department which focus on the needs of students adversely affected in the wake of the disaster. Each of these committees, headed by the District Officer, with the presence of the elected State Government Representative and concerned local community representatives, will deliberate on the census carried out on the affected categories of victims and the extent of loss and damage experienced by them. Reports will be prepared and forwarded to the State National Security office which, upon their vetting, will then table them to the State Working Committee on Disaster for deliberation and decision. The approving authority will be the State Working Committee chaired by the State Secretary. An effective administrative control structure is therefore in place.

2. **Accountability Element** : Accountability can be observed from the ground level itself where a census of the categories of victims is being taken. Reports of deaths, missing persons, and the extent of loss and damage to properties given to the various relevant committees, all require the completion of police reports. The police must also fill application forms stating the details of a particular case truly and correctly. Upon collection of these forms, the committees will - via the local task force - verify and confirm the details. The head of the local task force must sign the form. Then the committees concerned will countercheck with each another to weed out any duplicated claims. The State NSD office which collects the list of deaths, missing persons, as well as the list of damages and losses will coordinate this verification. Once finalized the lists will be dispatched to the National level NSD who coordinates with the other affected states at the federal level. Finally, they will be submitted to the National Disaster Aid Fund Management Committee for deliberation and approval. Upon approval the funds will be channeled through the various state level NSD offices who will, in turn, disburse the aid through the concerned State Welfare Committees, State Fisheries Board and State Education Department. Each of these departments have their own IMCs at federal and state levels.

3. **Transparency Element**: Examination has also found that the list of the recipients of compensation are openly displayed at the time of disbursement while the recipients themselves will receive letters informing them of the approval of their applications. The amount of compensation eligible for the various categories of victims have been announced over the mass media and so recipients are aware of the amount that they will received, for example : Death victims – their next-of-

kin receives RM20,000.00; Completely Destroyed House – RM5,000.00 per victim; Damaged House – RM2,000.00; Large Fishing Boat Damaged – RM3,000.00 per victim; Small Fishing Boat Damaged – RM1,000.00; Loss of income – RM500.00 per victim; and so on . It must be emphasised that the amount of compensation given will not be able to cover the total actual loss to the victims but is only a token of relief to alleviate their hardship.

4. **Checks And Balance Element** : By cross-checking with one another the committees mentioned above were able to identify duplicating claims. This has helped to put checks in balance. Further, the departments and committees when visited by the ACA PSPE Unit were open and offered their cooperation. Furthermore, officers of the ACA went down to the field during disbursement which had a positive impact related in the following paragraph.

5. **Correctability Element** : The System and Procedure Examination Unit found that the forms which were going to be used to disburse aid were worded in a way that would technically make a person receiving aid incapable of being culpable of a false claim offence under Section 11 (c) of the Prevention of Corruption Act. In addition, this would mean that the person dispensing aid would not be culpable of abetting a false claim offence, if he or she acted in connivance with the receiver. It was found that there was also no element of deterrence of corruption in the form. The ACA Penang then devised a form that draws warns both the dispenser and recipient of aid of the offence of corruption, false claims, duplicate payments, and false information. These warning were highlighted in bold print at the bottom of each form which the recipient as well as the dispensing officer have to sign. To the credit of the committee which was given this advice, this form was agreed with and subsequently used during the aid dispensing exercise. Please refer to attachment “B” to see the form that was devised and used. Please note, however, that it is a translated version from the Malay language.

There was initial success for the first part of the dual strategy. This proactive action of devising and using the new format which embodies a corruption deterrent element, along with the open presence of ACA officers during aid disbursement, resulted in 12 persons out of over 200 applicants approved of aid who did not come forward to collect their claim. To date these 12 persons have not turned up at the concerned office to pick up the payments.

Following up on these 12 cases, the System and Procedure Examination found out also at the state level NSD office that about 110 cases of dubious claims had been detected and payment withheld pending further enquiry. The NSD state

level office have records of the dubious claims. All details of these cases are in the process of being passed over to the ACA.

The ACA will be working with the state level NSD office as well as the various State Department committees concerned to pursue the various cases concerned above. What needs to be stressed is that, where anti-corruption infrastructure is firm, internal good governance will come to the fore. Through the state level IMCs, the ACA are familiar with other departments and in turn they have been exposed to the need for corruption prevention, as well as the prevention of the abuse of power and mismanagement. Working together towards a common objective has been a good development in spite of the destruction caused by the disaster.

Having ensured that the **PROACTIVE** part of the strategy is on track, the second part of the strategy will be more **REACTIVE** in nature, with a punitive approach. With the Intelligence Unit as well as PSPE Unit officers already having worked on the ground, it will be up to the information receiving channels described earlier to bring in the necessary complainants should they surface. The preferred approach is, of course, to prevent rather than to cure. In this respect, through the action of the first part of the strategy I do believe it has had a positive impact. The amount of information received through the various channels opened has been minimal. Indeed, there were less than 15 cases of such information relating to the Tsunami disaster from all the affected States of Penang, Perlis, Kedah and Perak together. Most of these were related to the unfair distribution of aid, i.e people who more deserving of aid were deprived while those less deserving received aid. Some information was also received relating to the abuse of position by a person responsible for the distribution of aid.

Whatever cases may subsequently be proved, the government has promulgated laws sufficient enough to cover the broad spectrum of possible offences. The relevant sections of the Prevention of Corruption Act 1997 can be referred to in Appendix A.

LESSONS LEARNT / RECOMMENDATIONS

When the ACA was first formed, its initial approach was to concentrate on the investigation of corruption cases and bringing offenders to court. Over the years, however, it has realised that, by itself, it is impossible to curb and control corruption purely with a punitive approach. It will take not only a multi-pronged

approach but a concerted effort in tandem with various other departments before it is possible to tackle this cancerous social disease.

As stated above, the institutional, legal and administrative structures built up over the years were used and tested following the Tsunami disaster. Deploying ACA personnel to actively ensure that the structures in place were working, while making it known that the ACA is monitoring Tsunami aid relief, showed that the internal governance system promoted through the IMCs is in good working condition. Rampant corruption would surely have caused the ACA to be flooded with information of corruption and abuse. Through the proactive strategy adopted and reliance on the structures in place, a mere 12 cases were brought before the ACA.

The experience of the Malaysian ACA in this Tsunami disaster is that any country would be wise to set-up and then continuously build upon its institutional, legal and administrative structures so that, no matter what disaster strikes, it will be able to withstand the damages it has wrought and curb the possibility of corruption and the abuse of power.

Corruption and the abuse of power cannot be tackled on a half-hearted, ad-hoc and poorly planned basis. It is thus recommended that basic and vital infrastructure to fight corruption, the abuse of power and mismanagement must be in place and continuously strengthened. Below is a list of the elements needed if a country is seriously interested to combat corruption not just when a natural disaster strikes but for the long term good and well-being of its citizens: -

1. An Anti-Corruption Department / Agency / Commission
2. An Effective and Strong Legal Framework
3. An Establishment of Government Departments and Agencies Supportive of the Work of the Anti-Corruption Department / Agency / Commission

For each of the infrastructures given above I have provided a checklist of success factors that which is needed for the infrastructure to function well. Please refer to Appendix "C". But the most vital element of all is that **there must be strong political will on the part of government leaders if corruption, the abuse of power and mismanagement is to be curbed and controlled.**

In conclusion I hope this paper has been of help to participants.

(Selected Relevant Sections of the Anti-Corruption Act 1997)

LAWS OF MALAYSIA

ACT 575

ANTI-CORRUPTION ACT 1997

An Act to establish the Anti-Corruption Agency, to make further and better provisions for the prevention of corruption and for matters necessary thereto or connected therewith.

Part 1 (Interpretation)

Section 2. In this Act, unless the context otherwise requires –

“Agency” means the Anti-Corruption Agency;

“Agent” means any person employed by or acting for another, and includes an officer of a public body or an officer serving in or under any public body, a trustee, an administrator or executor of the estate of a deceased person, a sub-contractor, and any person employed by or acting for such trustee, administrator or executor, or sub-contractor:

“gratification” means –

- (a) money, donation, gift, loan, fee, reward, valuable security, property or interest in property being property of any description whether movable or immovable, or any other similar advantage;
- (b) any office, dignity, employment, contract of employment or services, and any agreement to give employment or render services in any capacity;
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (d) money, any valuable consideration of any kind, any discount, commission, rebate, bonus, deduction or percentage;
- (e) any forbearance to demand any money or money’s worth or valuable thing;

- (f) any other service or favour of any description, such as protection from
- (g) any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted, and including the exercise or the forbearance from the exercise of any right or any official power or duty; and
- (h) any offer, undertaking or promise, whether conditional or unconditional, of any gratification within the meaning of any of the preceding paragraphs (a) to (f).

public body includes –

- (a) the Government of Malaysia;
- (b) the Government of a State;
- (c) any local authority and any other statutory authority;
- (d) any department, service or undertaking of the Government of Malaysia, the Government of a State, or a local authority;
- (e) any company over which any public body as is referred to in paragraph (a), (b), (c) or (d) has controlling power; or
- (f) any society, union, organization or body as the Minister may prescribe from time to time by order published in the Gazette;

“Minster” means the Minister responsible for the Anti-Corruption Agency;

“Director-General” means the Director-General of the Agency by the Yang Di-Pertuan Agong on the advice of the Prime Minister”

Part II (Establishment of Agency, Appointments and Powers)

Section 8. It shall be the duty of the Director-General and the officers of the Agency to –

- (a) receive and consider any report of the commission of an offence under this Act and investigate such of the reports as the Director-General or officers consider practicable

Illustration : This section means upon receiving reports of a corruption or abuse of power case the powers to investigate which includes arresting, remanding for purposes of further investigation, recording of statements, seizure of exhibits and

properties connected to the offences, and other related powers may be invoked as the case may be.

- (b) detect and investigate –
 - (i) any suspected offence under this Act
 - (ii) any suspected attempt to commit any offence under this Act;
and
 - (iii) any suspected conspiracy to commit any offence this Act;

Illustration: The above section means before any report has been lodged by any complainant in the first instance, the Agency can commence to take action proactively to detect and investigate the suspected offences of corruption and abuse of power which even includes attempts and conspiracy. So in the Tsunami disaster the officers of the Intelligence Unit or Systems and Procedures Examination Unit may without receiving any reports of corruption proactively take action to detect suspected offences. This is a section that allows for proactive action and is a useful addition to section (a).

- (c) examine the practices, systems and procedures of public bodies in order to facilitate the discovery of offences under this Act and to secure the revision of such practices, systems or procedure as in the opinion of the Director-General may be conducive to corruption;

Illustration: Through the PSPE Unit the Agency may go into public bodies to detect areas which may be weak and open itself to occurrence of corruption, abuses of power and mismanagement. Then the areas of weaknesses may be rectified.

- (d) instruct, advise and assist any person, on the latter's request, on ways in which corruption may be eliminated by such person:

Illustration : Persons from the private sector may also seek out the services of the PSPE unit to render assistance on prevention of corruption, abuses of power and mismanagement.

- (e) advise heads of public bodies of any changes in practices, systems or procedures compatible with the effective discharge of the public duties of the public bodies as the Director-General thinks necessary to reduce the likelihood of the occurrence of corruption;

Illustration : The Director-General of the Agency himself may render advise to heads of public bodies as to the necessity to change their practices, systems or procedures in order to reduce the occurrence of corruption.

- (f) educate the public against corruption:

Illustration : The Agency have a Public Education Division which puts emphasis on public education to all sectors of the society in particular the school going children which will be a long term goal.

- (g) enlist and foster public support in combating corruption :

Illustration : The Agency also engages in various programs with the leaders of civil societies, NGOs and political parties in order to garner support against corruption.

Part III (Offences and Penalties)

Section 10. Any person who by himself, or in conjunction with any other person

- (a) corruptly solicits or receives or agrees to receives for himself or for any other person; or

- (b) corruptly gives, promises or offers to any person whether for the benefit of that person or of another person,

any gratification as an inducement to or a reward for, or otherwise on account of –

- (aa) any person doing or forbearing to do anything in respect of any matter or transaction, actual or proposed or likely to take place; or

- (bb) any officer of a public body doing or forbearing to do anything in respect of any matter or transaction, actual or proposed or likely to take place, in which the public body is concerned,

shall be guilty of an offence

Illustration (A) : Section 10 (a) (aa) or 10 (a) (bb) envisages a situation where a person which means not necessarily a public officer but a person for instance who is privately employed in a company who demands for and receives bribes in order to approve a certain purchase for his company. As an example should manager of a company X wants to purchase a photocopy machine and demands for RM1000 then he will be guilty of an offence. If the manager says the money is meant for a government officer who is in charge the Tsunami aid fund and that officer insists the money be passed through him because he is actually buying the machine on behalf of the government office, both the manager and the government may be charged of an offence.

Illustration (B) : Section 10 (b) (aa) or 10 (b) (bb) envisages a situation where A person which is not necessarily a public officer but works for a a privately owned company and he offers a bribe in order to secure a Sales from either another private company or a government Department then he may be charged for an offence.

Illustration : This section means upon receiving reports of a corruption or abuse of power case the powers to investigate which includes arresting, remanding for

Section 11. If –

- (a) any agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification as an inducement or a reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business.

Illustration : This section is much like section 10 (a) (bb) and it is slanted towards government servants who demands for and receives bribes in order that he do a favour to the bribe giver or he does not impose a penalty or take action against the briber. This section typically is against public officers.

- (b) any person corruptly gives or agrees to give or offers any gratification to any agent as an inducement or a reward for doing

or forbearing to do, or for having done or forborne to do any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

Illustration : This section is much like section 10 (b (bb) and it is slanted towards persons who offers and gives bribes to public officers in order for favours be done by the concerned public officer.

(c) any person knowingly gives to an agent, or if an agent knowingly uses with intent to deceive his principal, any receipt, account or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his knowledge is intended to mislead the principal,

he shall be guilty of an offence.

Illustration : This section envisages two situations, the first where a person who gives to a government servant a false document like a false invoice stating works or supplies have been made when in fact it was made then that person who may be a private company supplier may be charged for an offence of false claims. The second situation occurs when for instance a public officer himself uses a false document like a false hotel bill when actually the rent that he paid is much less than that stated in it to make a claim to his department. Then he can also be charged under this section.

Section 15. (1) Any officer of a public body who uses his office or position for any gratification shall be guilty of an offence.

(2) For the purposes of subsection (1), an officer of a public body shall be presumed, until the contrary is proved, to use his office or position for gratification when he makes any decisions, or takes any action, in relation to any matter in which such officer, or any relative or associate of his, has an interest, whether directly or indirectly.

Illustration : If a public officer for instance approves a piece of land to his own his wife or relative then he can be charged for an offence. Or in a if he is in charge of disbursing Tsunami aid relief he passes it onto to his relative who was not eligible in the first instance then this will also constitute an offence of abuse of power.

Appendix “B”

**COMPENSATION CLAIMS FORM BY OWNERS OF FISHING VESSELS
AFFECTED BY THE PENANG TSUNAMI 2005**

I, (name of fishing vessel owner) holder of the National Registration Card No. (number) in making this compensation claim do affirm that I am the owner of vessel no. (number) have suffered complete loss / damages to the vessel / damages to fishing equipment during the Tsunami disaster which occurred on 26.12.2004. This affirmation is true and correct. I also affirm that I have not make any compensation claims at any other centers of dispensation of compensations. I understand that the act of false claims is an offence under the Prevention of Corruption Act 1997.

(Signature Of Vessel Owner Making Claims)

.....

I, (name of officer paying officer of compensation claims) do believe that the affirmation above is true and correct.

(Signature of Paying Officer)

.....

**WARNING : UPON CONVICTION OF AN OFFENCE UNDER SECTION 11 (c)
PREVENTION OF CORRUPTION ACT 1997 A MINIMUM MANDATORY JAIL
SENTENCE OF 14 DAYS AND A FINE NOT LESS THAN RM10,000.00 SHALL BE
IMPOSED UPON THE OFFENDERS.**

CHECKLIST OF ESSENTIAL CRITICAL SUCCESS FACTORS

A. ANTI-CORRUPTION DEPARTMENT / AGENCY / COMMISSION

1. The Department / Agency / Commission must be given the independence to carry out its functions.
2. It must have the necessary legal powers to investigate corruption cases.
3. It must be given the sufficient manpower and financial means to carry out its functions.
4. It must use integrated strategy to combat corruption, abuse of power, mismanagement by using three-pronged attack, namely investigation, education and prevention
5. It must earned the public confidence and support in the fight against corruption.
6. The officers are easily accessible to the members of the public who wish to give information about corruption.

B. EFFECTIVE AND STRONG LEGAL FRAMEWORK

1. The legalisation in place must clearly state the functions of the department
2. The offences of corruption must be defined properly and carry with it Elements of deterrence when it comes to punishment that is provided for.
3. Corruption is a crime that frequently involves accomplices so it will be Essential that evidence of accomplices be made acceptable and even better evidence of agent provocateurs be made admissible too.
4. Provisions be made for special powers to legalise interception of telecommunications, arrest without warrant, seizure of exhibits, examination of bank accounts and etc.
5. Protection be given to informers and the information given.

C. ESTABLISHMENT OF INTEGRITY MANAGEMENT COMMITTEES WITHIN GOVERNMENT DEPARTMENTS AND AGENCIES WHICH SUPPORTS THE ANTI-CORRUPTION AGENCY ESTABLISHED

1. The Heads of the Department and Agencies must head the committees and lead in promoting programs that enhances integrity.
2. The programs must develop integrity risk assessment and risk management plans for their own departments and agencies.
3. The IMCs should develop a code of conduct for its personnel.
4. An Internal Complaints or Whistle Blower system should be developed.