



My Journey with the Institutional Reforms Committee

| by Ng Liang Yean |

The victory of Pakatan Harapan in the May 9 elections marked the start of a series of surprises, beginning with the return to government of 93-year-old Tun Dr Mahathir Mohamad as the oldest prime minister in the world. His announcement that the Prime Minister and his cabinet would have to declare their assets was groundbreaking and the formation of the Council of Eminent Persons (CEP), within days, was a stroke of genius.

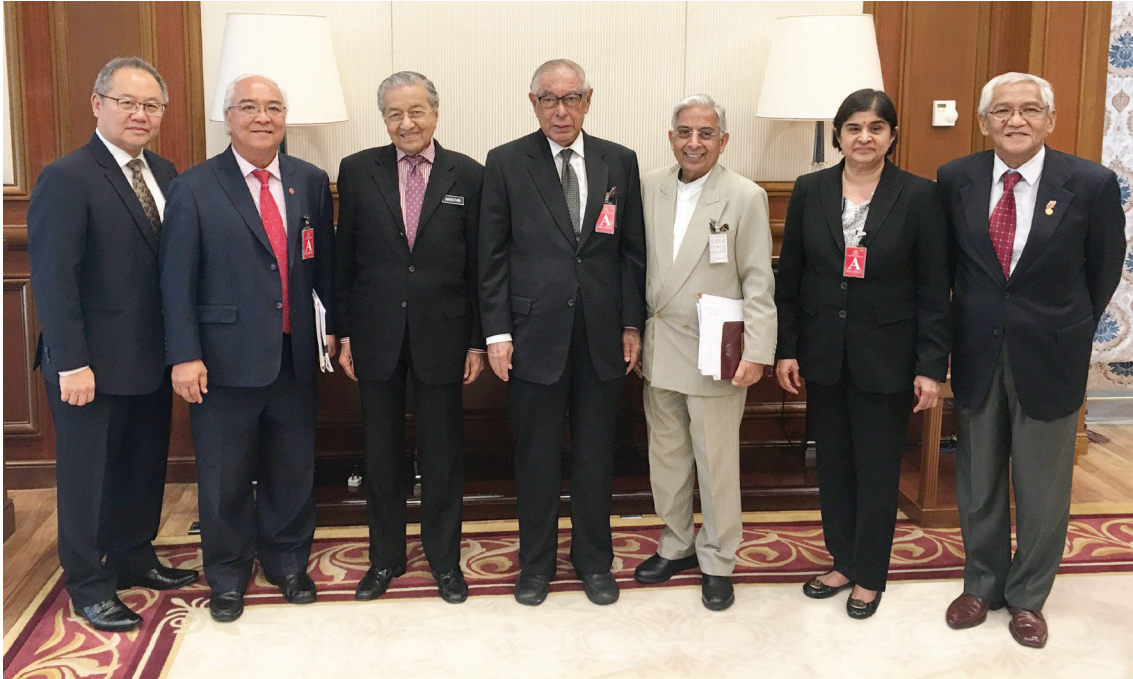
One evening, a few days later, something on the television caught my attention. I was surprised to see a familiar face on the news. It was Dato' K C Vohrah who, up until December 2016, was a consultant at Lee Hishammuddin Allen & Gledhill, the legal firm at which I was undergoing my pupillage.

It was reported that he had been appointed to chair the Institutional Reforms Committee (IRC) that had just been established by the CEP to work on proposals for institutional

reforms that the new government should consider. I felt goosebumps because the news was sensational and close to my heart. Somebody connected with my firm was now suddenly at the forefront of government reforms!

The Institutional Reforms Committee

1. Dato' K C Vohrah
2. Dato' Ambiga Sreenevasan
3. Dato' Mah Weng Kwai
4. Brigadier General Dato' Mohamed Arshad Raji (Rtd)
5. Emeritus Professor Datuk Dr Shad Saleem Faruqi



Members of the Institutional Reforms Committee with the Prime Minister, Tun Dr Mahathir Mohamad (*third left*)

(*From second left*) Dato' Mah Weng Kwai, Dato' K C Vohrah, Emeritus Professor Datuk Dr Shad Saleem Faruqi, Dato' Ambiga Sreenevasan and Brigadier General Dato' Mohamed Arshad Raji (Rtd)
 (*Extreme left*) LHAG partner Koh Kek Hoe, representing the IRC Support Team

There was more to come. A phone call from my pupil master, Mr Tay Weng Hwee, took matters to a new level of light-headedness. Never in my wildest dreams did I expect to be told that my firm would be seconding me to assist Dato' Vohrah and the IRC! Feeling surreal, I quickly rushed down to check with one of the leading partners, Mr Lambert Rasa-Ratnam, only to be told that it was indeed true. While handing me a copy of the Federal Constitution of Malaya 1957, he said, "Yean, this is your chance to do something for the country and it is not every day that an

opportunity like this comes by. We are counting on you and the IRC team to do it right." It felt like I was carrying the weight of the whole world on my shoulders, but upon knowing that a partner from the firm, Mr Koh Kek Hoe, would also be part of the IRC Support Team, I felt relieved.

Within days, we found ourselves at Level 32 of the Ilham Tower, a place which we were to call home for the next two and a half months. The office was well fitted out but empty, having still that newly completed smell of concrete

and plaster. We had to create everything from scratch. Mr Koh, with his experience in managing databases and technology, soon had the team put together an electronic data storage system with categorised folders. A listing system was introduced, which enabled documents stored electronically to be traced and extracted easily based on a quickly cobbled together set of codes and abbreviations to represent subject matter, authors and other contributors. The firm's library staff were on standby to help in research and retrieval of relevant materials, and the firm's collection of books was made available to the IRC and its support team.

Role of the IRC

The IRC was tasked with examining key institutions, identifying the underlying issues and formulating proposals to the government for reform. Under its terms of reference, the institutions and areas where reform was most needed were identified as:

1. Parliament
2. Elections
3. Judiciary
4. Law Officers & Legal Service
5. Anti-Corruption
6. Police & Immigration
7. Communications, Media & Information
8. Human Rights Laws & Institutions.

The IRC issued a press statement inviting the public to submit written representations on institutional reforms.

Public Response

This prompted a deluge of emails and letters, with proposals and suggestions that went beyond the IRC's terms of reference. An underlying theme, which accentuated the gargantuan challenge facing the new government, was the universal concern over corruption, injustice, and the inaccessibility and inefficiency of the public service.

The IRC spent weeks in dialogue sessions with more than 40 delegations, from non-governmental organisations (NGOs), public bodies and various interest groups.

What impressed me was the quality and depth underpinning the proposals submitted to the IRC. It was evident that these individuals and organisations had spent years wrestling with issues of continuing injustice as well as the most important factors necessary for a peaceful and prosperous society. They had really done their homework, so to speak — decades of hacking away at the status quo with little to show.

The stories we heard drew from us feelings of deep horror at how casual and callous cruelty to fellow human beings could take place in our institutions, and frustration at wondering whether and where any change could possibly begin.

The IRC wanted to ensure that everyone felt heard. Even after their task was done and their report submitted to the CEP, the members of the Committee directed the Support Team to ensure that submissions outside the IRC terms of reference were properly collated and forwarded to relevant government ministries and departments to follow up on.

The IRC also dealt patiently, as best as it could, with every submission, including the strange and the misguided.

The Pain

The coming to light of the 1MDB financial scandal and a national debt exceeding RM1 trillion were but the final bursting of a long-festering boil which had been eating away at the peace and prosperity of the country for decades. The lawlessness and lack of governance and the endemic corruption in the national institutions, from the Prime Minister's office down to the lowest-ranking minion, had been an open secret for decades for a population pre-occupied with how best to *play* the system.

Everyone knew that corruption continued unabated because of weak and selective enforcement. Compromised enforcement had in turn resulted from the lack of judicial independence, sourced in the concentration of the power of judicial and other appointments in the Prime Minister. This was aggravated by the lack of transparency in government decision-making. Malaysian history is replete with cases of people challenging government action facing persecutorial prosecution under draconian laws such as the Sedition Act 1948 and the Security Offences (Special Measures) Act 2012.

The Prescription

I was impressed at the wisdom behind the IRC terms of reference. Although issues such as education and health were among the louder clamour from the public, I could see that the institutions selected for the work of the IRC were strategic, leveraging points on which everything else would eventually turn. Hence the focus on justice and integrity with the institutions that would count the most for change.

For each institution, however, "Where do we begin?" and "How do we convince the government to adopt our

proposals?" were the crucial questions that we asked ourselves as we began the task of coming up with proposals for reform.

The dysfunction in our national institutions was so deeply rooted that effective reform would mean changing the system, the relevant law, and even the people administering the system. The Committee spent time studying models from various countries, drawing from their experience, comparing them with the submissions received, and analysing the strengths and weaknesses of each possible option. Even within the IRC working team, there were times when differing opinions led to intensive debate before reaching a consensus on the best way forward.

Eventually, the IRC settled on various forms and mechanisms, including constitutional amendments, amendments and replacement of existing laws, organisational restructuring, and establishment of new entities. The Committee danced between the urgent and the important, and between the temporary short term and the fundamental long term. There were many parts and aspects of the IRC's proposals which echoed the manifesto on which the new government had won their electoral mandate.

In the course of working on its main report, the IRC found many matters which merited urgent attention from the government and on which immediate action could be taken. These formed the subject of weekly interim proposals that the IRC submitted to the CEP.

The IRC and its Support Team had serendipitous support from all quarters. Among others, we had the benefit, from the outset, of valuable input from Dr Richard Foo, Sessional Lecturer at the University of Monash, on matters relating to the judiciary from his PhD research thesis on the subject which he made available to the IRC.

Teamwork Made the Dream Work

The IRC was a committee of five, with a support team of 10. Time was a blurred experience for me during those two months or so. Only when we were putting the final touches to the IRC Report did I wake up to the wonder of how we could have done what we did. In retrospect, it seemed a task more impossible than we thought it was!

I realised that the key to getting the job done was the combined talent, experience and diligence of the team, both in the IRC as well as the Support Team. The members of the Committee were highly experienced and prominent figures in their respective fields and provided prompt and clear guidance that enabled the Support Team to be at their best. The Support Team assisted the IRC in research, recording minutes of meetings with stakeholders, collating materials, and in formulating the various chapters that went into the IRC Report.

Almost everyone in the Support Team was a lawyer, drawing from his or her different subject matter expertise and experience, such as subject specialisation, legislative drafting, journalism, UN service and projects, politics and activism, and years spent in in-depth research and administration. Our internal meetings were a learning experience with a coming together of things new to the ear and exciting.

We also had a quiet but devastatingly efficient secretariat, drawn from the best among the upper echelons of government administration and a major GLC, who made short work of the collation of voluminous submissions and the scheduling and coordination of meetings and periodical reporting to the CEP on the IRC's progress.

The IRC Report

In July 2018, the IRC submitted its two-part report to the CEP. The first part addressed the key institutions and

legislation within its terms of reference. The second part addressed other issues submitted by various delegations who met with the IRC that were beyond the terms of reference, but which the IRC believed were of such importance for a wholesome reform of the country that they merited immediate attention — matters such as gender equality, academic freedom, refugees' rights and native rights.

Shortly thereafter, the IRC was invited to brief the Prime Minister in person and he listened attentively and asked a few but critical questions. He thanked the IRC for its work and promised that the report would be discussed within the government with the aim of implementing the proposed reforms in a strategic and effective manner. Since then, the IRC and the Support Team have found delight in seeing in the news clear signs of the recommendations in the IRC Report being adopted and implemented.

My Perspective

In this journey with the IRC, I witnessed true dedication and passion for service to the nation. Despite working on a voluntary basis, the IRC members held back-to-back meetings with various bodies for long hours, daily, for weeks, giving up their weekends with family and settling for sandwich lunches to accommodate all the people who wanted to be heard despite the tight deadline they were working with.

The hundreds of proposals we received from NGOs and the public were a touching testament to the fact that Malaysians, here and overseas, were all passionate about the well-being and future of the country that they did whatever they could to support the work of the IRC.

After my two and a half months with the IRC, I truly felt that, although individually we are but a drop of water, yet, together, we are an ocean, a Malaysian tsunami! **LH-AG**

About the author



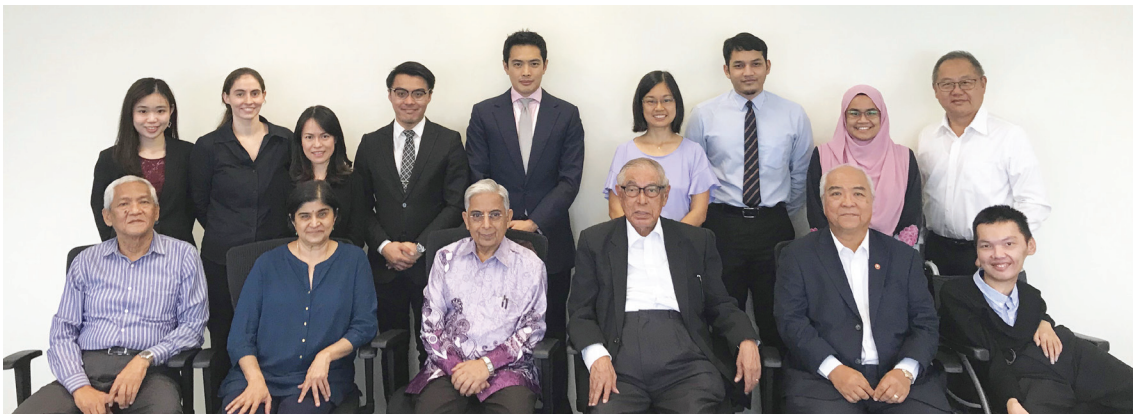
Ng Liang Yean (nly@lh-ag.com) is an associate with the Corporate Department and is part of a team headed by **Tay Weng Hwee** (twh@lh-ag.com).



Koh Kek Hoe (kkh@lh-ag.com), who heads the Knowledge Department in the firm, conducts training for practitioners in basic legal skills and writing and offers support with legal work and in developing new practice areas. He also looks after the publications of the firm and the firm's compliance programme for anti-money laundering and anti-terrorism financing.

The IRC Support Team

1. Andrew Yong Yu-I
2. Anis binti Mohd Sohaimi
3. Ding Jo-Ann
4. Elaine Wong Siew Mei
5. James Low Hong Ping
6. Koh Kek Hoe
7. Leeroy Ting Kah Sing
8. Mohammed Ali bin Imran
9. Ng Liang Yean
10. Zoe Randhawa



(Sitting, L-R) Brigadier General Dato' Mohamed Arshad Raji (Rtd), Dato' Ambiga Sreenevasan, Emeritus Professor Datuk Dr Shad Saleem Faruqi, Dato' K C Vohrah, Dato' Mah Weng Kwai and James Low Hong Ping

(Standing, from left) Ng Liang Yean, Zoe Randhawa, Elaine Wong Siew Mei, Leeroy Ting Kah Sing, Andrew Yong Yu-I, Ding Jo-Ann, Mohammed Ali bin Imran, Anis binti Mohd Sohaimi and Koh Kek Hoe