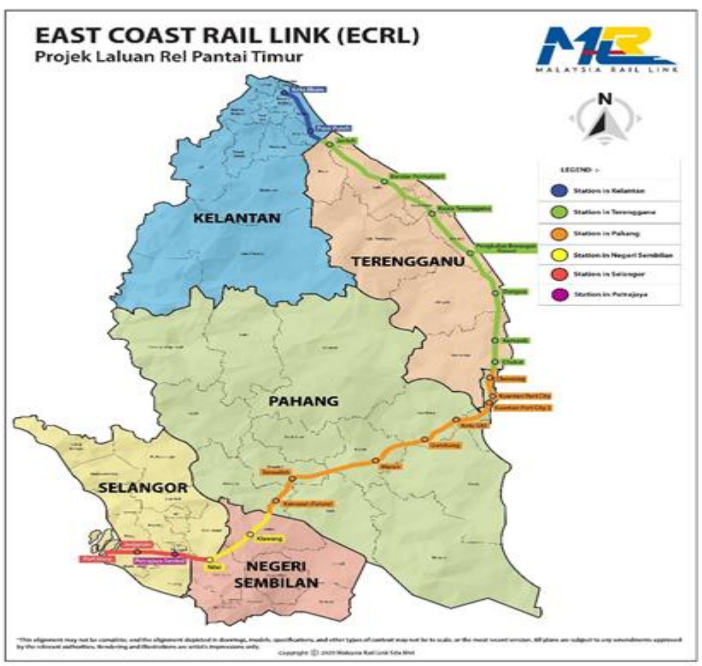
Case Study #1 - East Coast Rail Link (ECRL)

I. Project Summary

The East Coast Rail Link (ECRL) is a proposed railway infrastructure project spanning 640km that would connect the East Coast states of Kelantan, Terengganu and Pahang to Negeri Sembilan, Selangor and Federal Territory of Putrajaya. The expected costs of the project are estimated at **RM44 billion**, reduced from the original project cost of RM65.5 billion.[1] The railway would serve to improve connectivity between the Eastern Coast of Peninsular Malaysia to its West Coast states, which are currently not connected via rail lines. The railway will be used for both passenger and freight transportation, cutting passenger travel time from Kota Bharu to Putrajaya by approximately 4-5 hours and providing transport connection between the East Coast of Peninsular Malaysia to its West Coast. The overall alignment of the ECRL rail network aims to provide both improved connectivity as well as to spur growth and development of the industrial, commercial and tourism sectors along the ECRL corridor. A groundbreaking ceremony was held in August 9, 2017 to mark the start of the ECRL construction, and the project is expected for completion by the end of 2026.

Figure 1. Overview of the East Coast Rail Link line



Source: MRL 2020

[1] Malaysia Rail Link. "ECRL Key Facts." Accessed through http://www.mrl.com.my/en/ecrl/overview/.

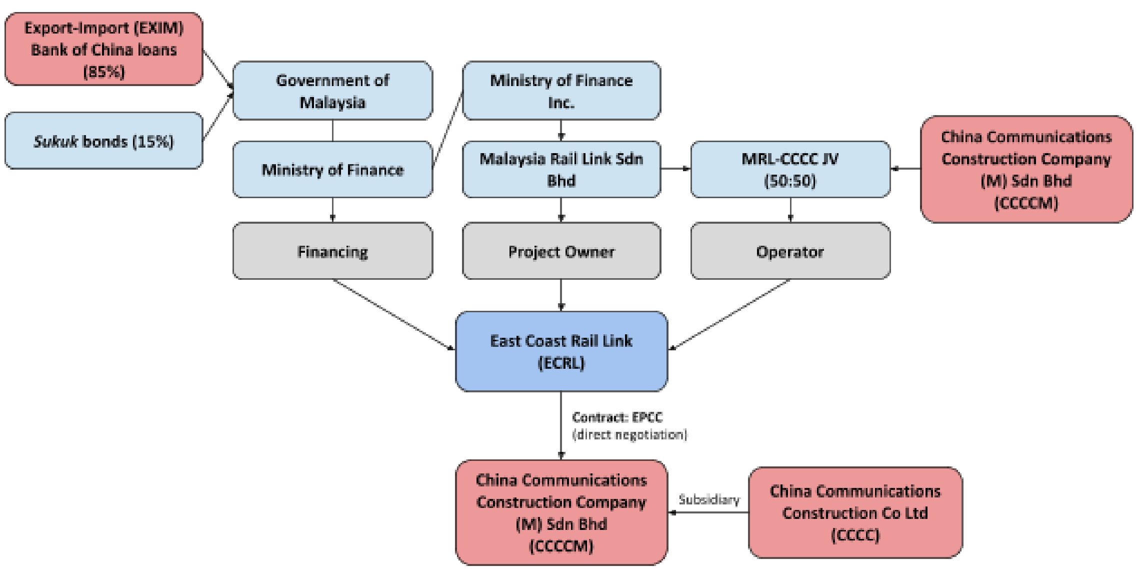
II. Project Structure

The ECRL project is owned wholly by Malaysia Rail Link Sdn. Bhd. (MRL), which is a newly established special purpose vehicle (SPV) created by the Malaysian Ministry of Finance through its corporate body established under the Minister of Finance (Incorporation) Act 1957. As the owner of the project, the MRL has implemented a mixed funding scheme in the form of a public-private partnership. In 2016, the governments of Malaysia and China signed a Framework Financing Agreement and Engineering, Procurement, Construction and Commission (EPCC) contract for the project. This deal had awarded China Communications Construction Company (CCCC) and its local subsidiary, China Communications Construction Company (M) Sdn Bhd (CCCCM), the EPCC works for the project.

In a Supplementary Agreement (SA) to the EPCC signed in 2019, MRL and CCCM have agreed to form a joint venture company (MRL 50%: CCCC 50%) to undertake the operations and maintenance of the ECRL.

In the Framework Financing Agreement signed in 2016, Export-Import Bank of China (EXIM Bank) would provide a 20-year loan that would cover 85% of the total cost at a 3.25% interest rate with an additional seven-year repayment moratorium. The remainder of the cost would be funded locally via the issuance of Islamic sukuk bonds by Malaysian investment banks.

Figure 2. Project ownership structure of East Coast Rail Link



Source: Author's compilation

III. Project Background

The ECRL line will be a standard gauge double-track that covers a distance of 640km. The total length of the ECRL was reduced from the originally planned 688km to 640km following renegotiation efforts in 2019, along with changed rail alignments to the Section C portion.[2] Designed to carry both passenger and freight volumes, the project was designed to establish a rail connection between the more developed western states of Peninsular Malaysia to its relatively less developed east coast, while simultaneously spurring economic growth along the route through its construction activities. The ECRL aims to reduce travel time from the west coast to the east coast of Peninsular Malaysia by about 4-5 hours. Aside from improving domestic connectivity, the line will also provide a land bridge between the South China Sea Port of Kuantan and the Klang Port in the Straits of Malacca, thus eliminating the need for vessels to traverse through the busy Straits of Singapore. The scope of the project includes 20 stations with standard gauge and double tracked railways, 30-40 tunnels that will be built for the project together with viaducts in Terengganu, and a 6-car train set for the electrified modified units (EMU's). The speed of passenger trains will be 160km/h and freight trains will be 80 km/h.

Before the construction of the ECRL project had started, the Land Public Transport Agency (SPAD) and the East Coast Economic Region Development Council (ECERDC) conducted market interest for a proposed East Coast Rail Link rail network on March 15, 2016.[3] The "Request for Information" (RFI) was initiated to gain insight on the views and ideas for the proposed ECRL project, however it remains undisclosed as to who the ECERDC and SPAD consulted during this market insight process nor have the results of the survey been made public.

On October 21, 2016, the Malaysian prime minister Najib Razak announced the approval of the project during his parliamentary speech on the proposed 2017 budget. On November 1, 2016, the Malaysian government signed a "framework finance deal and construction agreement" valued at USD13.1 billion (estimated RM55 billion) with China Construction Communications Company (CCCC) as the "builder" for Phase 1 of the ECRL construction. The construction agreement was later identified as an Engineering, Procurement, Construction and Commissioning (EPCC) contract. Phase 1 of the ECRL stretches from Wakaf Baru in the state of Kelantan to the integrated transportation terminal in Gombak.

In March 2017, SPAD granted the conditional approval for the preferred route alignment of the ECRL and displayed the proposed plan for the ECRL for public inspection for 3 months as required under Section 84 (2) of the Land Public Transport Act 2010. The specific records and documents

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[2] Malaysia Rail Link. "ECRL Key Facts." Accessed through http://www.mrl.com.my/en/ecrl/overview/.
[3] Land Public Transport Commission, 2016. "*SPAD AND ECERDC CONDUCT JOINT MARKET SENSING EXERCISE FOR EAST COAST RAIL LINE (ECRL) PROJECT*." Available through: https://www.apad.gov.my/sites/default/files/media_release_-_spad_and_ecerdc_conduct_joint_market_sensing_exercise_for_east_coast_rail_line_ecrl_project1.pdf.

during this public display have not been archived or made available after the end of the three months, however references to the conduct of the public display exercises are available.

On 13 May, 2017, a "Memorandum of Understanding" (MOU) was signed between Malaysia Rail Link Sdn Bhd (MRL), China Communications Construction Company, and the Malaysian subsidiary of CCCC, China Communications Construction Company (M) Sdn Berhad (CCCM). The MOU was for the 88km Phase 2 of the ECRL project stretching from Gombak to Port Klang, which supplemented the earlier EPCC agreement signed in November 2016, at a cost of an estimated RM10.5 billion. The signing was witnessed by Prime Minister Najib Razak, Transport Minister Liow Tiong Lai and Minister in the Prime Minister's Department Abdul Rahman Dahlan. The Treasury secretary-general Irwan Siregar signed on behalf of MRL.[4] With the completion of the public display exercise and the approval of the final alignment by government authorities, the ECRL began its construction after the groundbreaking ceremony on August 9, 2017.

Malaysia had undergone its first governmental change in 2018 when the opposition coalition, Pakatan Harapan, came into power under the premiership of Mahathir Mohammad on 10 May, 2018. During the period leading up to the election, Mahathir had promised to re-evaluate a series of large-scale infrastructure projects approved by the previous Najib government as these projects had been subject to widely-held corruption allegations. Although the primary message behind these promises were to eliminate or reduce the corruption that had occurred under the Najib administration, underlying them was a criticism of Chinese investments in Malaysia in general.[5]

The ECRL and the two pipelines projects became critical instruments to echo the "debt-trap diplomacy", Forest city was used to channel the image that the government was selling massive portions of land to the mainland Chinese. Indeed, the Pakatan Harapan political *Manifesto* cited that the government would, within its first 100 days in office, "initiate a comprehensive review of all megaprojects that have been awarded to foreign countries".[6] At the end of June 2018, a special committee – the "Commission of Eminent Experts" (CEE) - in charge of studying the country's financial and economic situation and looking into several high-profile projects, submitted a report. The report advanced two alternatives to the ECRL, either to cancel the project and pay a termination cost of RM21.72 billion as prescribed in the contract, or suspend the project and try to negotiate a better deal with China.[7]

On 3 July 2018, the Ministry of Finance (MOF) under the instruction of the prime minister issued several temporary suspension notices via its Ministry of Finance Incorporated (MOF Inc) to all

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[4] Bernama, 2017. "M'sia inks second phase deals on ECRL and Malacca-Pengerang pipeline." *Malaysiakini,* May 13, 2017. Available through: https://www.malaysiakini.com/news/382127.
[5] Shukry, A. and Ho, Y., 2018. "Malaysia's Mahathir Pledges to Review China Investment if Re-Elected." *Bloomberg*. April 9, 2018. Available through: https://www.bloomberg.com/news/articles/2018-04-08/mahathir-pledges-to-review-china-investment-after-malaysia-vote.
[6] Pakatan Harapan, 2018. "*BUKU HARAPAN REBUILDING OUR NATION FULFILLING OUR HOPES*." Kuala Lumpur: Pakatan Harapan. Available through: https://kempen.s3.amazonaws.com/manifesto/Manifesto_text/Manifesto_PH_EN.pdf.
[7] Pei-Hua, Y., Wenwen, W., Yiou, Z. and Tan, J., 2019. "Exclusive: Malaysian negotiator reveals the story behind controversial rail deal's resurrection". Caixin, 15 May. Accessed throught: https://www.caixinglobal.com/2019-05-15/exclusive-malaysian-negotiator-reveals-the-storybehind-controversial-rail-deals-resurrection-101416080.html

contracts related to a number of infrastructure projects owned by the SPVs created by MOF Inc, among them included the ECRL project owned by MRL. The Finance Minister Lim Guan Eng would justify the suspension on grounds that the ECRL had a higher cost than previously anticipated. During his statement on the matter, he noted that the total cost of the ECRL was expected to be upwards of RM81 billion, including the cost of land acquisition and loan interests accrued during the project construction, as opposed to the previously understood total cost of RM65.5 billion from the two previously signed agreements.[8] MRL issued a formal suspension of the EPCC contract with CCCC under grounds of national interest on 4 July, 2018.

Following the contract suspension of the ECRL, the Malaysian government had seeked to re-negotiate the project's contract with CCCC and the government of the People's Republic of China. After several months of negotiation efforts led by special envoy and former finance minister, Daim Zainuddin, both governments had reached a mutual agreement deemed as the "improved ECRL deal". It was announced that on 12 April, 2019, MRL and CCCC signed a Supplementary Agreement (SA) that paved the way for the resumption of the ECRL at a reduced cost of RM44 billion, down from the initial cost of RM65.5 billion.[9]

Among the reduction in the total cost of the project, a number of other provisions had been agreed upon between the two parties. A joint venture company between MRL (50%) and CCCC (50%) would be established to operate and maintain the ECRL. The JV agreement aims to improve the long-term viability of the project through leveraging CCCC's expertise in operations and maintenance and provision of technical support, and act as a risk-sharing exercise during the operational phase following the project's completion in 2026. A great deal of criticism had been posed by Mahathir related to the limited benefit to the local businesses from the ECRL, primarily due to the appointment of a Chinese state-owned firm as the main contractor. The new deal also improved the dedicated percentage of local participation with the increased allocation of 40 percent of the civil works going to local firms - an increase from the 30 percent from the previous deal. CCCC had also agreed to a RM1 billion partial refund of the RM3.1 billion Advance Payment paid for Phase 2 under the original agreement. In addition, the Malaysian government also seeked to renegotiate the EXIM Bank loan conditions for the remainder RM17.6 billion for Phase 2 (which had not yet been signed). However, the results of this renegotiation has not been concluded.

This announcement of the renegotiated ECRL took place less than two weeks before Mahathir's visit to China on 24 April 2019 for the second Belt and Road forum. Commentators have largely deemed the ECRL renegotiation as a success, primarily due to the ability for a host country government to successfully renegotiate unfavourable terms with China and reduce the cost of one

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[8] Abas, Azura. 2018. "MoF: Suspension notice against several projects including ECRL." *New Strait Times.* July 5, 2018. Available through: https://www.nst.com.my/news/nation/2018/07/387686/mof-suspension-notice-against-several-projects-including-ecrl.

[9] Prime Minister's Office Putrajaya, 2019. "*PRESS STATEMENT BY YAB PRIME MINISTER TUN DR. MAHATHIR BIN MOHAMAD ON EAST COAST RAIL LINK (ECRL) PROJECT*." Available through :https://www.pmo.gov.my/wp-content/uploads/2019/04/Press-Statement-by-PM-on-ECRL_15April2019.pdf.

of its major BRI-related infrastructure projects.. The renegotiation efforts also marked a noticeably positive shift in Mahathir's (and Malaysia's) view towards China's BRI and the diplomatic relationship between the two governments, which was further exemplified by China's invitation for Mahathir's keynote address at the second Belt and Road forum.

Table 1. ECRL project timeline

15 March, 2016	SPAD (Suruhanjaya Pengangkutan Awam Darat) and ECERDC (East Coast Economic Region Development Council) conducted market interest gauging surveys to gain insight on views and ideas for the ECRL using a "Request for Information" (RFI).
21 October, 2016	Malaysian prime minister Najib Razak announces approval of the project during his speech to parliament on the 2017 budget.
1 November, 2016	The Malaysian government signs "framework finance deal and construction agreement" valued at 13.1 billion USD, with China Construction Communications Company as the "builder" for Phase 1 of ECRL construction.
2 March, 2017	SPAD grants conditional approval for the preferred route alignment for the ECRL and the plan for the proposed ECRL was displayed for public inspection for 3 months total at the SPAD head office and through a roadshow at 38 district office locations across the nation.
13 May, 2017	Prime Minister Najib Razak witnessed the signing of a "Memorandum of Understanding" for the second phase of the ECRL, supplementing the November 2016 EPCC agreement. The MOU was signed with Malaysia Rail Link Sdn Bhd, China Communications Construction Company Ltd (CCCC), and China Communications Construction Company (M) Sdn Berhad.
June 2017	Approval of final alignment and start of the construction.
3 July, 2018	The Ministry of Finance, on the instruction from the Prime Minister, issued a suspension notice to all contracts related to the ECRL project. MRL had instructed its main contractor, CCCC, to suspend the EPCC contract on grounds of national interest.[10]
12 April, 2019	After months-long negotiation process between the two state companies, Malaysia Rail Link Sdn Bhd and China Communications Construction Company Ltd signed a Supplementary Agreements (SA) which paved the way for the resumption of the ECRL project. In addition, both parties agreed to form a joint-venture company to manage, operate and maintain the ECRL rail network. The SA covers Phase 1 and Phase 2 of the Engineering, Procurement, Construction & Commissioning of the ECRL at a reduced cost of RM 44 billion.
25 July, 2019	ECRL officially resumed work.

Source: Author's compilation

[10] Amarthalingam, Sangeetha. 2018. "MoF confirms ECRL, SSER projects suspended 'until further notice'." *The Edge*. July 5, 2018. Available through: https://www.theedgemarkets.com/article/mof-confirms-ecrl-sser-projects-suspended-until-further-notice.

IV. Issues associated with the ECRL

The ECRL project was initially proposed prior to the Najib administration, but due to the lack of available government funding and lacking availability of technical expertise, the project had been put on hold by previous governments. In fact, the project had been mooted even since 1981, but had only been proposed by the ECERDC as a critical project to stimulate economic growth in 2007.[11]

It is estimated that the ECRL project will contribute towards a 2.7% increase in Malaysia's economic growth and provide an increase towards higher multiplier impacts on the Malaysian economy. [12,13] With the potential to provide a considerable boost to Malaysia's growth and the overall objective of closing the infrastructure gap between the east and west coast states of Malaysia, there is a considerable socio economic rationale for the construction of the ECRL.

China's ambitious Belt and Road Initiative provided availability and accessibility to large amounts of Chinese state-backed finance, thus paving the way for the ECRL project to materialise, crucially closing the investment gap and providing much needed infrastructure financing.

The Malaysian government under the Najib administration at the time was heavily focused on the development of infrastructure, which had culminated in a number of proposed large-scale transportation projects such as the ECRL, the Mass Rail Transit (MRT1 and MRT 2), and the Malaysia-Singapore High-Speed Rail line. Most notable of these, the ECRL has attracted much attention from the public primarily due to the lack of transparency around the procurement procedures and the high economic costs coupled with the contested benefits of the line.

These concerns were amplified by the world-wide "1MDB" corruption scandals linked to Najib in 2015. Such issues around opaque administrative processes and corruption allegations were further highlighted to the public when it became the key focal point of the political campaign of Mahathir Mohamed during the run-up of the 2018 general election, who then led the Pakatan Harapan coalition (opposition) to victory. Fundamentally, the issues related to the ECRL project stemmed from the weak governance oversight and the lack of transparency, which together had morphed a crucial economic opportunity into a white elephant project harbouring corruption, elite capture and economically corrosive activities.

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[11] New Straits Times, 2016. (Statement) ECRL project not hastily decided; proposed since 2007. Accessed from: https://www.nst.com.my/news/2016/11/187009/statement-ecrl-project-not-hastily-decided-proposed-2007;

[12] Kementerian Kewangan Malaysia, 2020. "Fiscal Outlook and Federal Government Revenue Estimates." *Kementerian Kewangan Malaysia.* Available through: file:///C:/Users/Arin/Downloads/CMD.27.2019%20-%20CMD%2027.2019%20(1).pdf.105.

[13] MIDA, 2019. "The Growing And Expanding Opportunities In East Coast Economic Region." Available through: https://www.mida.gov.my/home/administrator/system_files/modules/photo/uploads/20200304180553_01_MIDA.pdf.

i. Gaps in governance, regulatory compliance, and transparency

a. Non-traditional procurement and non-competitive contracting

The ownership of the project under the corporate SPV, Malaysia Rail Link Sdn Bhd (MRL), structures the project under a public-private partnership (PPP) model of government procurement. Although there is no specific legislation that relates to PPPs in Malaysia, it is still governed under the Government Contract Act 1949, the Financial Procedures Act 1957, and a range of guidelines such as the MOF treasury circulars and letters.

However, the regulatory oversight of PPPs in Malaysia, particularly in relation to procurement practices, differs most notably in its centralisation of regulatory governance under the Prime Minister's Department (PMD). The Public Private Partnership Unit (UKAS) within the PMD reviews and evaluates proposals, formulates policies and strategies related to PPPs, and has broad discretion with regard to the contents and operation of PPP projects. At the time of the ECRL project proposal, the prime minister Najib had also appointed himself as the Minister of Finance (supported by a Second Minister of Finance), which provided him with the extraordinary position to oversee and approve PPP projects.

Within the PPP framework in Malaysia, there is no minimum monetary value to qualify for an open tender. The regulations on traditional procurement requires that public works valued above RM500,000 must go through a competitive open tender process to achieve the greatest value for money, while also reducing the risk of rent-seeking. However, there is no evidence that the process for awarding the EPCC contract to the Chinese state-owned company, CCCC, occurred through an open tender or competitive bidding process.

CCCC had been directly awarded the EPCC contract during the signing of agreements between the Malaysian and Chinese government officials on 1 November 2016. It has not been made clear why CCCC has been chosen as the contractor nor if the Government of Malaysia, through its ownership of MRL, had considered any other local or foreign firms to undertake the project.

It should be noted that SPAD and ECERDC had conducted a RFI exercise, which was open to "companies and consortia who are interested in participating" prior to awarding the ECRL contract. The RFI was intended to gauge market interest and be used to analyse different types of business, technical models and procurement strategies and alternatives for the implementation of the ECRL.[14] However, there has been no publication of the results associated with the market survey nor has it been clear if there had been any other local or foreign firms that expressed interest in the project. An interview by then-senior official revealed that "there were three bids, Japan and

[14] Yuan, Go Chee. 2016. "SPAD initiates RFI to gauge market interest for East Coast Rail Line." *The Edge Markets.* March 15, 2016. Available through: https://www.theedgemarkets.com/article/spad-initiates-rfi-gauge-market-interest-east-coast-rail-line.

few other countries. Even India was interested at one point, but nobody could match the deal that China had offered."[15]

b. Lacking economic rationale

Since its initial proposal in 2007, extensive planning, financing modelling, market sensing exercises and studies had been done including three feasibility studies.[16] It was reported that a feasibility study for the proposed ECRL project had begun to be conducted by HSS Integrated Sdn Bhd in 2009 and was completed in December 2015. [17] However, neither the feasibility study by HSS Integrated nor the others done on the ECRL have been published and available publicly.

ECRL has been identified as a "high impact infrastructure project"[18], but the details of a needs evaluation report have not been made publicly available either. Although the Public Private Partnership Committee (JKAS), prior to proposing the PPP project to the Cabinet for approval must ensure the sufficient collection of data, information and economic impacts, these assessments remain largely undisclosed to the public. Similarly, a Value Management Lab to assess the project costs and benefits should have been conducted by the Technical Section of JKAS prior to its proposal, however these assessments also remain undisclosed to the public thus making it difficult to conclude if a comprehensive economic needs or cost-benefit analysis had been conducted prior to the contracting of the ECRL.

During the Budget 2017 Debate in which the ECRL was first proposed to the parliament, then Deputy Transport Minister Ab Aziz Kaprawi noted that the Ministry of Transport had limited knowledge of the the ECRL project as it was under the purview of the Economic Planning Unit in the PMD and not the Ministry of Transport.[19] This illustrated that for such a large-scale project as the ECRL, there did not seem to be much inter-ministerial coordination during the project planning and coordination stage.

Deputy Defence Minister Liew Chin Tong had also openly said that the ECRL was hastily implemented during the project contracting phase.[20] Following the renegotiation of the ECRL scope, MRL has started working on a new Feasibility Study and EIA report for the new alignment

[15] Malgeri, G., 2019. Malaysia and the Belt and Road Initiative: an agency perspective of the East Coast Rail Link (ECRL) renegotiation process.

[16] New Straits Times, 2016. (Statement) ECRL project not hastily decided; proposed since 2007. Accessed from: https://www.nst.com.my/news/2016/11/187009/statement-ecrl-project-not-hastily-decided-proposed-2007

[17] Yong, Yimie. 2016. "Tony Pua: Govt's previous feasibility study shows ECRL's RM55b project cost should be less than RM30b." *The Edge Markets.* November 15, 2016. Available through: https://www.theedgemarkets.com/article/tony-pua-govts-previous-feasibility-study-shows-ecrls-rm55b-project-cost-should-be-less.

[18] APAD, 2020. "East Coast Rail Line Project." Land Public Transport. Available through: https://www.apad.gov.my/en/land-public-transport/rail/east-coast-rail-line-ecrl-project.

[19] Tay, Chester. 2016. "ECRL project not under MoT's purview, says deputy minister."*The Edge Markets.* November 4, 2016. Available through: https://www.theedgemarkets.com/article/ecrl-project-notunder-mot's-purview-says-deputy-minister.

[20] Free Malaysia Today. "Liew: ECRL hastily implemented without open tenders." *Free Malaysia Today.* August 23, 2016. Available through: https://www.freemalaysiatoday.com/category/nation/2018/08/23/liew-ecrl-hastily-implemented-without-open-tenders/.

of the ECRL that includes the Southern alignment and realignment on certain stretches.[21] However, it remains unclear if the feasibility report will be released to the public after their competition.

c. Lacking disclosure of crucial documents and opaque negotiations

Complaints around the ECRL project revolve around the lacking transparency of details related to the process of procurement as well as several crucial documents related to the project, including the feasibility study, the financing agreement and EPCC contract signed between the Malaysian government and CCCC on 1 November, 2017. The non-transparency and lack of publication of these documents results in uncertainty of even the most basic project details. Such details include: the cost of the original pre-tender estimate of the contract, the contract administrative entity, the procuring entity, the formal name of the contract, the supplier of the contract, the price of the contract award, the main outputs that arise from the contract together with the dates and number of weeks from contract start date to (anticipated) completion date. The conditions surrounding the loans from EXIM Bank have been made public on numerous accounts, but the specific details of the loan agreement is still largely unknown as the financing agreement with EXIM Bank has not been published and available to the public.

From the outright, the direct negotiations of the ECRL contract violated the standard principles for accountability, transparency, open and fair competition and fair dealing. When the Najib government develop the idea of ECRL, there were deficiencies in the recognition of potential risks and the balancing of the interests of different stakeholders. Although SPAD reported that 97% of corridor residents supported the project, after it was fully presented publicly, opposing opinions of some state governments and opposition parties were not taken into account in the planning, and some areas were not even publicly informed about the project.[22]

The renegotiation efforts after the project's suspension were also conducted behind closed doors and under a veil of confidentiality. Although Daim Zainuddin was at the time the chairman of the "Council of Eminent Experts", the rationale behind his appointment as leading negotiator over then Finance Minister Lim Guan Eng still remains largely a mystery. When asked during a parliamentary session for clarifications on why an outsider was selected for the renegotiation, Mahathir replied: "our choice for the candidate is based on certain abilities. Sometimes, when we negotiate, we need someone who is acceptable to the side."[23]

d. Lack of external audits or regulatory oversight

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[21]Malaysia Rail Link, 2019. "*PRESS STATEMENT BY MRL TO CLARIFY MISCONCEPTION ON THE IMPROVED ECRL PROJECT*." Available through: "http://www.mrl.com.my/wp-content/uploads/2019/07/PRESS-RELEASE-MRL-CLARIFIES-MISCONCEPTION-of-IMRPOVED-ECRL-PROJECT-9-5-19-9.15.am_-1.pdf."

[22] Low, D., 2020. Risks of Belt and Road Initiative Projects in ASEAN. Centennial Asia Advisors. Accessed through: https://ppol.ust.hk/public_uploads/Team9_Risks_of_BRI.pdf

[23] Mahathir, M. (2019). "Why Daim and not Guan Eng", Free Malaysia Today, 20 March, available at: https://www.youtube.com/watch?time_continue=96&v=5ghjMeWdtzA;

The evaluation of PPP projects in Malaysia integrates multi-agency oversight through the participation of different organizations during meetings that evaluate the overall project prior to their approval. However, several of these members originate from divisions/agencies of the PMS and the MOF. The largely opaque process of PPP evaluation meetings means there is no publicly available information on the outcomes of these meetings apart from the approval announcement made by prime minister Najib in October 2016.

Furthermore, due to the government-to-government nature of ECRL's direct negotiations in November 2017, the project had been approved directly between the national governments of both Malaysia and China through a non-competitive and highly discrete process without much consultation from external institutions.

In weeks following the suspension of the ECRL, on July 18, 2018, officers of the Malaysian Anti-Corruption Commission (MACC) had seized documents linked to the ECRL project and probed investigations into the project.[24] Interestingly, the MACC was involved again after receiving a report on 30 March 2020 on the possible abuse of power with regards to the renegotiation and resumption of the ECRL project.[25] However, neither investigation by the MACC had resulted in any further disclosure of information to the public. To date, there have been no reports of the ECRL made by the National Audit Department, which conducts Government Companies' Management Audits that evaluate whether government companies have been manage in a proper and efficient manner against their objectives.

ii. ECRL's high economic costs and limited benefits

After the announcement made of the successful renegotiation of the ECRL, special envoy Daim Zainuddin claimed that the EPU had objected to the ECRL project and had voiced its concerns over the abnormally high RM65.5 billion costs to the prime minister.[26] Several other opponents of the ECRL project had noted similar concerns with the costs of the railway project, especially when compared to the expected benefits it would bring.

In 2016, Member of Parliament Tony Pua Kiam Wee vehemently argued that the ECRL project could be undertaken for RM25 billion less than Putrajaya's cost for the project, citing the original estimate by ECERDC for the cost of the high-speed rail which was based on the original feasibility study conducted in 2014 by HSS Integrated. The feasibility study revealed that it would cost an estimated RM30 million to build a kilometre of railway of the project as opposed to the RM91.7

[24] New Strait Times, 2018. "MACC raids offices linked to three major projects, including ECRL." *New Strait Times.* July 18, 2018. Available through: https://www.nst.com.my/news/nation/2018/07/392150/macc-raids-offices-linked-three-major-projects-including-ecrl.
[25] Yatim, Hafiz. 2020. "MACC receives report on possible abuse of power in ECRL project." *The Edge Markets.* March 31, 2020. Available through: https://www.theedgemarkets.com/article/macc-receives-report-possible-abuse-power-ecrl-project.
[26] Free Malaysia Today, 2019. "Najib ignored govt advice on ECRL, says Daim." *Free Malaysia Today.* April 21, 2019. Available through: https://www.freemalaysiatoday.com/category/nation/2019/04/21/najibignored-govt-advice-on-ecrl-says-daim/.

million per kilometer of railway cost of the signed ECRL contract (under the previous RM65.5 billion cost of the project).[27]

Although some have responded by arguing that these costs are due to geographical cost factors, land acquisition costs and various other service related costs associated with a turnkey project,[28] the lack of a publicly accessible feasibility study reports makes it difficult for the public to understand the justifications behind the exorbitant cost valuation of the ECRL project. Indeed, Malaysia's ECRL has the highest cost per kilometer of rail when we compare the cost per kilometer of rail of other BRI-linked railway projects (Table 2).

Table 2. ECRL cost per km in comparison with other BRI railway projects

Country	**Project Name**	**Length of railway**	**Total cost in RM***	**Cost per Kilometer (km)**
Malaysia	**East Coast Rail Link (ECRL)**	640km[29]	RM44 Billion	Rm 68.75 million
Malaysia	**Gemas Johor Bahru EDTP**	197km[30]	RM7.3 Billion	RM 37.05 million
Uzbekistan	**Angren Pap Railway**	124 km[31]	RM7.88 billion	RM 64.06 million
Hungary and Serbia	**Budapest Belgrade Railway**	350km[32]	RM8.7 Billion	RM24.9 million
Nigeria	**Lagos Calabar Railway**	1400km[33]	RM 45.6 Billion	RM32.6 million
Nigeria	**Lagos Kano Standard Gauge Railway**	2700km[34]	RM21.9 billion	RM8.1 million

[27] Free Malaysia Today, 2016. " Pua: Study proves ECRL costs RM25 billion less." *Free Malaysia Today.* November 15, 2016. Available through: https://www.freemalaysiatoday.com/category/nation/2016/11/15/pua-study-proves-ecrl-costs-rm25-billion-less/.

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[30] Ministry of Transport, n.d. "*DESIGN, CONSTRUCTION, COMPLETION, TESTING, COMMISSIONING AND MAINTENANCE OF ROLLING STOCK MAINTENANCE DEPOT AND OTHER ASSOCIATED WORKS AT KEMPAS BARU, JOHOR*." Available through: http://www.mot.gov.my/SiteCollectionDocuments/Darat/Gemas-JB%20bi.pdf.

[31] World Bank, 2019. "Pap Angren Railway*." World Bank.* Available at: http://documents1.worldbank.org/curated/en/214651549202022304/pdf/Disclosable-Restructuring-Paper-Pap-Angren-Railway-P146328.pdf.

[32] Brînză, Andreea. 2020. "China and the Budapest-Belgrade Railway Saga." *The Diplomat.* April 28, 2020. Available through: https://thediplomat.com/2020/04/china-and-the-budapest-belgrade-railway-saga/.

[33] The Civil Engineer. 2020 "Chinese firm undertakes the construction of the Lagos-Calabar coastal railway line in Nigeria." *The Civil Engineer*. February 1, 2020. Available through :https://www.thecivilengineer.org/news-center/latest-news/item/1189-chinese-firm-undertakes-the-construction-of-the-lagos-calabar-coastal-railway-line-in-nigeria#:~:text=In%20July%202016%2C%20China%20and,before%20the%20end%20of%202018.

[34] Alhaji, 2020. "Nigeria launches construction of the US$5.3B Ibadan-Kano railway." *Construction Review Online.* June 26, 2020. Available through: https://constructionreviewonline.com/news/nigeria/nigeria-launches-construction-of-the-us5-3b-ibadan-kano-railway/#:~:text=Lagos%2DKano%20SGR,near%20the%20border%20with%20Niger.

Nigeria	**Abuja Light rail**	45km [35]	RM5.4 billion	RM12 million
Angola and D.R Congo	**Benguela Railway**	1344km[36]	RM RM7.6 billion	Rm5.64 million
Laos	**Vientiane Boten Railway**	422km[37]	RM29 billion	Rm68.7 million

**Conversion rate used USD1 = RM4.14*

Source: Author's calculations based on various sources

According to Deputy Defense Minister Liew Chin Tong, the ECRL costs too much and means very little to Malaysia in terms of connectivity and regional strategy.[38] One of the primary benefits of the ECRL was to provide a faster way for freight to travel through without having to circumnavigate through the Straits of Malacca, thus also alleviating China's "Malacca dilemma"[39]. However, Liew points out that transport by ship is an alternative transportation route and currently shipping from Port Klang on the west coast to Kuantan Port on the east coast via the Strait usually takes only three days, while cargo travel via the ECRL would add additional loading times resulting in a total of more than three days of travel time.[40] Detractors also point out that the ECRL's estimated 60 million tonnes of yearly freight volume by 2035 is a substantial increase from the current volume and such underperformance would mean a greater cost in the future.[41]

Despite the cohort of experienced railway construction contractors and companies based in Malaysia, the initial ECRL contract would only award 30% of the total civil works pckages to local businesses, which has increased since to 40% under the new deal. Opposition leaders feel that this consideration to local firms is only an afterthought in the contract.[42] There is also some concern from local companies that this allocation to locals might be subcontracted back to Chinese companies. It should be mentioned, however, that the tendering process for the 40% of civil works

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[35] Saliu, Olatunji. 2018. "Nigeria's new light rail officially commences operation." *Xinhuanet.* July 15, 2018. Available through: http://www.xinhuanet.com/english/2018-07/15/c_137326186.htm.
[36] Xinhuanet, 2019. "Chinese-built Benguela Railway handed over to Angola." *Xinhuanet.* November 10, 2019. Available through :http://www.xinhuanet.com/english/2019-10/03/c_138446624_2.htm.
[37] Xinhuanet, 2020. "Construction of China-Laos railway's Vientiane station starts." *Xinhuanet.* July 3, 2020. Available through: http://www.xinhuanet.com/english/2020-07/03/c_139186424.htm
[38] Zainul, Emir. 2018. "ECRL and HSR cost too much, mean too little — Liew Chin Tong." *The Edge Markets.* August 23, 2018. Available through: https://www.theedgemarkets.com/article/ecrl-and-hsr-cost-too-much-mean-too-little-%E2%80%94-liew-chin-tong.
[39] The Malacca dilemma refers to the sea passageway between Indonesia, Malaysia and Singapore through which about 80% of Chinese energy needs pass by and to the geopolitical US predominance in this area, which could stalemate its economy in a time of crisis.
[40] Zhendong, Liu. 2018. "East Rail, High Speed Rail Not of Substantial Strategic Importance to Malaysia and China." *Malaysiakini.* August 23, 2018. Available through:https://www.malaysiakini.com/news/440023.
[41] Jomo, K.S. (2017). "ECRL folly bound to fail and burden the nation", Malaysiakini News, 11 August, available at: https://www.malaysiakini.com/news/391563;
[42] Democratic Action Party Malaysia. https://dapmalaysia.org/Kenyataan-Akhbar/2017/03/30/24758/

packages have been conducted in a more competitive manner than the initial direct negotiation of the main EPCC contract. CCCC's procurement of materials and equipment are done via competitive bidding with a shortlist of suppliers selected a pre-qualification process has been undertaken by MRL and CCCC for companies planning to bid in upcoming tenders for project packages. These qualification documents, as well as information on the project itself have been published online.

Further analysis of the financing agreement around the EXIM Bank loan shows that the ECRL has one of the highest interest rates at 3.25% compared to nine other BRI railway projects (Table 3). Although the terms around EXIM Bank loans are quite similar across projects, when compared to others, the ECRL also has the highest loan amount at RM56.7 billion even when its railway length only ranks fourth among all the nine projects. Critics of the BRI point to a lack of transparency in Chinese financing, which has opened opportunities for corruption to occur. Some claim that China's use of infrastructure and financial resources is a strategy to extend soft power globally and create a web of global interdependence on Chinese financing.[43]

Table 3. Loans of various BRI projects

Country	**Project Name**	**Lending Bank**	**Loan Issuing Year**	**Loan Amount (RM bil)***	**Interest Rate (%)**	**Repayment Period**
Malaysia	**East Coast Rail Link (ECRL)**	Exim Bank	2016	56.7	3.25	20 years, 7-year moratorium
Indonesia	**Jakarta-Bandung High Speed Rail**	China Development Bank	2016	22.0	2.0% on RM13.0 bil (in USD); 3.4% on RM9.0 bil (in Yuan)	40 years, 10-year moratorium[44]
China, Laos	**Kunming-Vientiane Railway Project**	Exim Bank	2012	15.0	2.25	35 years, 5-year moratorium[45]
Nigeria	**Lagos-Kano Standard Gauge Railway**	Exim Bank	2020	21.2	2.5	20 years, 7-year moratorium[46]
Budapest	**Budapest Belgrade**	Exim Bank	2020	7.8	2.5	20 years, 5-year

[43] Carmody, P. 2020. "Dependence not debt-trap diplomacy."*Area Development and Policy.* 5:1. 23-31.
[44] Hermansyah,Anton. 2016."Jakarta- Bandung high speed railway to get Chinese loan." *The Jakarta Post.* November 10, 2016. Available through: https://www.thejakartapost.com/news/2016/11/10/jakarta-bandung-high-speed-railway-to-get-chinese-loan.html.
[45]Freeman, Nick. 2019. "Laos high speed railway coming round the bend." *Think China.* December 11, 2019. Available through: https://www.thinkchina.sg/laos-high-speed-railway-coming-round-bend.
[46]Olisah, Chike. 2020."DMO discloses facts about Chinese loans to Nigeria, states terms of the loans." *Nairametrics.* June 20, 2020. Available through: https://nairametrics.com/2020/06/20/dmo-discloses-facts-about-chinese-loans-to-nigeria-states-terms-of-the-loans/.

	Railway					moratorium
Nigeria	**Abuja Light Rail**	Exim Bank	2012	4.2	2.5	20 years, 7-year moratorium[47]
Kenya	**Mombasa-Nairobi Standard Gauge Railway**	Exim Bank	2014	13.6	2.0% on RM6.7 bil; 6-month LIBOR[48] & 3.6% on RM6.9 bil	RM6.7 bil (20 years, 7-year moratorium), RM6.9 bil (15 years, 5-year moratorium)[49]
Nigeria	**Abuja-Kaduna Railway**	Exim Bank	2010	2.1	2.5	20 years, 7-year moratorium[50]
Ethiopia	**Addis Ababa Light Rail Transit**	Exim Bank	2012	1.7	2.6	23 years, 3-year moratorium[51]

**Currency conversion rate: 1 USD = 4.2 MYR*

Source: Author's calculations based on various sources

Mahathir had also criticised the nature of the ECRL project financing because the money from the loan given out by the EXIM Bank for the construction was being kept abroad and is paid directly to the Chinese construction company in China.[52] Normally the procedure for the loan would have been such that the loan is provided to the lendee (i.e. Malaysia) and paid to the foreign company's local subsidiary, CCCM, since the construction is occurring in Malaysia. Mahathir also points out that the payments to CCCC are not on the basis of work done but according to a predetermined timetable, which is also not a normal practice in infrastructure projects.[53] The advance payment of RM3.1 billion to CCCC before the completion of work on Phase 1 of the ECRL had also been pointed out by Mahathir as one example of corruption that took place from the project.

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[47] Brautigam, Deborah. "Chinese Finance Abuja Light Rail in Nigeria: At Last." *The China Africa Research Initiative Blog.* September 16, 2012. Available through: http://www.chinaafricarealstory.com/2012/09/chinese-finance-abuja-light-rail-in.html.
[48] Kagan, Julia. 2020. "London Interbank Offered Rate (LIBOR)". *Investopedia.* April 26, 2020. Available through: https://www.investopedia.com/terms/l/libor.asp.
[49] International Monetary Fund, 2015. "KENYA REQUEST FOR STAND-BY ARRANGEMENT AND AN ARRANGEMENT UNDER THE STANDBY CREDIT FACILITY—STAFF REPORT; PRESS RELEASE; STATEMENT BY THE EXECUTIVE DIRECTOR FOR KENYA." IMF Country Report. *International Monetary Fund*, pp.4-75. Available through: https://www.imf.org/external/pubs/ft/scr/2015/cr1531.pdf.
[50] Agabi, Chris. 2020. "Nigeria: N190 Billion Debt - Abuja-Kaduna Train Service and Burden of China Loan." *All Africa.* September 14, 2020. Available through: https://allafrica.com/stories/202009140761.html.
[51]Dreher, A, Fuchs, Parks, B.C., Strange, A. M., & Tierney, M. J. (2017). *Aid, China, and Growth: Evidence from a New Global Development Finance Dataset.* AidData Working Paper 46. Williamsburg, VA: AidData. Available through: https://china.aiddata.org/projects/1471.
[52] The Edge Malaysia. 2018. "Mahathir says the ECRL project contract is strange." *The Edge Market News.* June 4, 2018. Available through: https://www.theedgemarkets.com/article/mahathir-says-ecrl-project-contract-strange.
[53] Ibid.

iii. ECRL's corruption allegations and political mobilization

The lacking transparency around the ECRL project at its outset created more opportunity for corruption to take place, which has been the crux of the controversies surrounding the ECRL project and the primary reason for its suspension. The Sarawak Report, an investigative journal, published a report in 2015 claiming that the ECRL project costs were inflated in order to accommodate for "Additional Differential" costs of RM29.85 billion that would be used to launder out cash to debt-laden companies related to the sovereign wealth fund, 1Malaysia Development Bhd.[54] In return, the terms agreed upon between the Najib administration and CCCC provided the Chinese company with land at a discounted price, 10 year tax break for income and goods and services tax (GST), and also the ability to select partners, suppliers and subcontractors. Mahathir later confirmed suspicions that some money paid for the ECRL was to be used to retire 1Malaysia Development Bhd's debts and to buy certain companies.[55]

Corruption perceptions in Malaysia had continuously been on the decline over the years leading up to the ECRL, as institutions to detect and sanction corruption such as the MACC and the Auditor Generals Chamber had gradually become compromised from the increasing concentration of political powers. The magnitude and scale of corruption in the 1MDB was the catalyst for citizens to vote out the political party that had been in government for over 60 years.[56]

The opposition party, PH, deliberately employed the "China threat" narrative during the 2018 general election and pointed to the corruption allegations associated with the ECRL and 1MDB to shape the public perception against the ruling government. Although Mahathir's narrative of Chinese financing echoed the growing concerns of China's "debt-trap diplomacy", it is important to note that the PH coalition primarily highlighted the government's mismanagement as the source of issues. One of the leading voices of the opposition, Nurul Anwar, wrote that "indeed, foreign investment remains important for economic growth. But as with any venture, we must adopt moderate and prudent approaches to cope with potential risks. Deals concluded too soon increase the plausibility for exploitation, collusion and corruption."[57] Nevertheless, the allegations of corruption and negative perceptions of China's influence built strong public resistance which was

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[54] The Sarawak Report, 2016. "OUTRAGE! - Najib's Secret Deal With China To Pay Off 1MDB (And Jho Low's) Debts! - SHOCK EXCLUSIVE." *The Sarawak Report.* July 26, 2016. Available through: https://www.sarawakreport.org/2016/07/outrage-najibs-secret-deal-with-china-to-pay-off-1mdb-and-jho-lows-debts-shock-exclusive/.

[55] Ibid.

[56] World Bank. 2020. Enhancing Government Effectiveness and Transparency: The Fight Against Corruption.

[57] Nurul Izzah Anwar, 2017. "China's investments in Malaysia - too much, too fast, too soon", Malaysiakini, 29 May, available at: https://www.malaysiakini.com/news/383898

instrumental in overthrowing the incumbency and ultimately leading to the suspension of the ECRL.

In addition to the politicization of the project prior to 2018, the changing political landscape in Malaysia continues to be a source of uncertainty for the ECRL. In February 2020, internal struggles and political games within the PH coalition led to the resignation of Mahathir Mohamed as prime minister and the climb of the Perikatan Nasional (PN) government under the premiership of Muhyiddin Yassin. Muhyiddin had also previously voiced his concerns over 1MDB and questioned the ECRL in the past, thus creating additional uncertainty over the fate of the project.[58] Most recently, on 8 September 2020, the Transport Minister Wee Ka Siong confirmed that the PN government would seek to renegotiate once more on the ECRL alignment, citing that a realignment has the potential to lower the project costs and reduce the amount of time required.[59] The renegotiation would be on the Section C portion of track, which was among one of the major changes made to the track alignment under the new ECRL deal, to its original alignment. However, at the time of writing, there had been no further actions or decision from the proposal.

V. Conclusion

Of the myriad BRI projects around the world, ECRL is a notable case as it is one of few projects that have been suspended by the recipient country because of a lack of transparency and corruption scandals against the ruling leadership. It is also the first BRI project that withdrew inequitable terms and significantly cut costs through renegotiation with China. Malaysia still faces various challenges due to governance risks in implementing large scale infrastructure projects, and as exemplified by the ECRL, such challenges are often amplified when managing the large sums associated with BRI projects. The case of ECRL, therefore, would sound warning bells for countries that have weak governance as well as serve as an eye opener for China's pursuit of its ambitious initiative.

Malaysia's ECRL also presents an example of how domestic players, who act as gatekeepers of the BRI initiative, inevitably influence the extent to which BRI projects will contribute to local development. This has been markedly demonstrated by the crucial role that the new government had in prompting a renegotiation process to achieve an improved agreement for the ECRL against a context of a mismanaged deal. The risks arising from the gaps in governance and lack of transparency ultimately compromised the potential benefit from the infrastructure project.

[58] The Straits Times, 2015. Muhyiddin breaks silence on 1MDB, says PM ignored advice: Reports
Accessed through: https://www.straitstimes.com/asia/se-asia/muhyiddin-breaks-silence-on-1mdb-says-pm-ignored-advice-reports
[59] The Malay Mail, 2020. ECRL: Government to renegotiate Mentakab-Port Klang alignment
Accessed through: https://www.malaymail.com/news/malaysia/2020/09/08/ecrl-government-to-renegotiate-mentakab-port-klang-alignment/1901294

The ECRL also demonstrates the importance of public perceptions about the BRI, particularly for large scale infrastructure projects which present a high risk of politicisation. Therefore to reduce the risks, BRI infrastructure projects must be consistent with the interest of local stakeholders and immune from public criticism as far as possible, since any failure or concern involving those projects might have implications to their success.

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