

MEA Proposal:

Enhancing Parliamentary Committees in Malaysia





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PERSATUAN EKONOMI MALAYSIA
(Malaysian Economic Association)

MEA Proposal: Enhancing Parliamentary Committees in Malaysia (Full Version)

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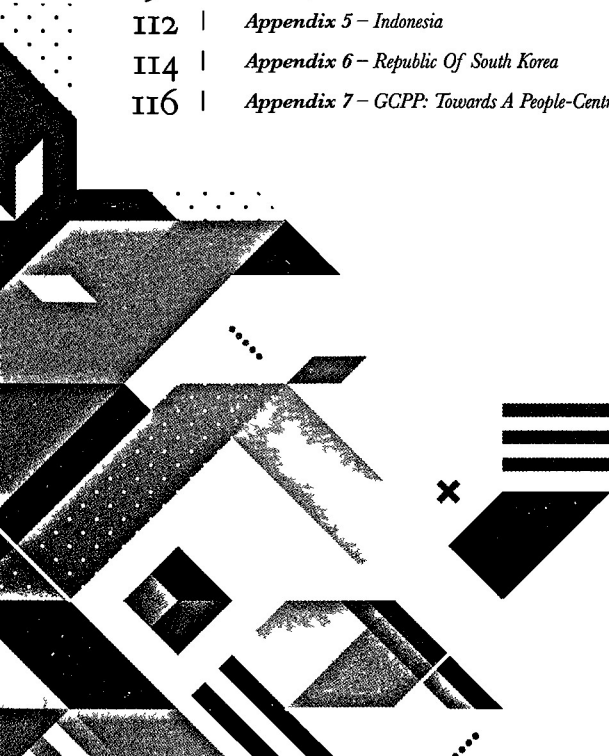
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Executive Summary of Proposal

The defining feature of good economic governance is the capability within government to implement the agreed policy agenda and achieve the policy objectives. Research shows that countries with good governance structures and practices perform better economically.

Malaysia is facing a situation of twin dynamics—moderate growth for nearly two decades with emergence of poor governance which is threatening the upside of its growth potential. The emergence of poor governance has opened doors for high level corruption to expand and deepen, in line with research which show poor governance often leads to corrupt practices, which in turn will progressively erode long-term growth and development potential.

MEA views it is timely to stimulate public dialogs in economic governance which MEA started in 2015 to draw attention to the critical need for governance to prevail in all Malaysian public institutions. As in the corporate sector, national governance must start at the top, in Malaysia's highest institution, the Parliament, and cascade to all other public sector institutions. Accordingly, it was appropriate for MEA to convene a forum

on parliamentary committees to learn and disseminate information of the values of parliamentary committees as enabling mechanisms for parliament's governance structure to be more effective in its oversight of the Executive and ensure the checks and balance to safeguard public interest against the abuse of power. The Forum in August 2016 brought together parliamentarians and experts from the UK, Australia, India and Indonesia to discuss with Malaysian Members of Parliament (MPs) and think tanks on options that Malaysia can take to benefit from a good governance framework using the mechanism of parliamentary committees.

This paper makes detailed proposals on parliamentary committees in the Malaysian context. Other proposals on reform of parliament are contained in a paper prepared by IDEAS and other CSOs.¹

Current Legal Framework: Presently, the Standing Orders of the Dewan Rakyat provides for the establishment of five Select Committees, as well as Special Select Committee (SSC). The purpose of the Special Select Committee is to inquire and deliberate on such matters as determined by the House. Unlike the Select Committees, Special Select Committees are established when needed and for specific cases of national interest. They serve on a limited time period with specific terms of reference. Although there is a legal framework on setting up and operations of SCs and SSCs, in practice there is limited use of these committees to facilitate MPs undertaking their functions. Even in the case of the Public Accounts Committee (PAC) which has its own standing order, the Committee's set-up and operations is not in line with best practices. Following the PAC reports and debates in Parliament, there have been no conclusions or sanctions of those responsible for financial losses. There are also no Parliamentary reports made available to the public.

Parliamentary Committees in Selangor State Assembly: There are more select committees in Selangor State Assembly than in the Federal Parliament, proving that setting up parliamentary committees is largely a reflection of political will to have a good governance framework in Parliament.

¹ Proposals on Parliamentary reform by IDEAS and other CSOs, entitled: GCCP-Towards a People-Centred Parliament.

A major shortcoming of the Selangor Parliamentary Committees is that reports or discussions are not made public. State Councillors (ADUNs) are not compelled to respond to issues raised. It is sufficient that the ADUN replies he/she has been notified of the issue and will look into the matter, without being compelled to follow through.

The financing of Select Committees and Special Select Committees comes from the treasury department of the Selangor State Legislative Assembly. Although the State Assembly Secretary has discretion on allocations for Assembly expenses, the fact that the Assembly budget is derived from the State Budget Office, it gives significant power to the Chief Minister of Selangor over the operations of the State Legislative Assembly.

There are good rationale for developing a policy framework on parliamentary committees in Malaysia: More and better structured parliamentary committees will provide the mechanisms for Members of Parliament (MPs) to be able to function as the watchdog, ensuring that ministries and departments are operating according to policies, rules and regulations approved by Parliament. Parliamentary committees and select committees are tested means to truly implement the concept of democratic governance, transparency and accountability. In addition, the structured processes enable parliamentary committees to devote more time and debate on complex issues. Procedures in operations of parliamentary committees which enables MPs to demand more information ensure a more systematic oversight over the Executive, as well as enable legislators to fully investigate work of the Executive and demand more accountability from public servants.

Most important is that Parliamentary Committees enable legislations to be debated thoroughly with experts called in to validate the impact assessment results and MPs having more time to consider the various implications of the legislations. There will also be a mechanism for greater public scrutiny of bills leading to better legislation and its implementation.

The repeated financial losses by public sector agencies can be avoided through the work of Parliamentary Select Committees appointed to examine specific cases of indiscretions by public officials, or through regular oversight by Parliamentary Committees tasked with oversight over specific public sector agencies or functions. Since 1979, financial losses through poor management and lack of accountability is estimated at more than RM140 billion.

Greater transparency of the work of such committees in line with best practice procedures and processes will ensure appropriate sanctions on those accountable. This in turn will create a disincentive environment for misappropriation of public funds.

Success in other countries: Parliamentary Committees are effective not only in the Westminster Democracies with its long history, but also in the newer democracies of Indonesia and Korea. In younger democracies like Korea and Indonesia, parliamentary committees are helping develop stronger parliamentary processes resulting in better public finances as well as reigning in corrupt practices. MEA examined practices in the UK, US, Australia, India, Indonesia and Korea. Summary of studies for each of these countries are contained in Appendices 1-6. Experiences in these countries provide useful lessons for Malaysia. One of the most important outcomes of parliamentary committees has been that MPs may take the party line during early discussions of any issue but as more information and evidence are provided by officials and experts, MPs decisions are generally along lines of what is optimal for national interest.

Effectiveness of parliamentary committees is of course subjected to committees adopting key principles like transparency which enables availability of required information. By making reports from investigations submitted to Parliament available for public scrutiny, MPs are pressured to perform their duties and make good and fair decisions. This outcome is more likely as the committee system enables parliament to have an open channel with the public and this encourages community participation in assisting parliament to exercise governance efficiently. On the legislative side, the committee system has resulted in legislation that really serves the national interests and prevents parliament from adopting legislation to favour the ruling party.

Another important factor for effective parliamentary committees is parliament having its own administrative budget to adequately support committees with research and other professional expertise. This enables parliamentary committees to exercise authority given to them to bring in experts from the public sector to assist its investigations. Opportunities are given to civil society to forward views on legislations, scrutinize details on public policy and the budget, and their implementation.

Countries continue to improve their parliamentary processes for better government. The Indonesian parliament has engaged the Westminster Foundation for Democracy to assist in improving processes in its conduct and delivery of parliamentary functions. In Korea, recent processes on impeachment of the President demonstrate effectiveness of special committees.

Overall, success of parliamentary committees is also dependent on the political will of parliamentarians to want good governance to prevail. Integrity is important and can be ensured through processes and procedures adopted by parliament in the conduct of its functions and responsibilities.

Recommendations on a Policy which promotes effective Parliamentary Committees

Malaysia can leverage on the legal framework which already exist for parliamentary committees and take measures to enable Parliamentary committees to meet objectives of strengthening oversight by MPs to restore public confidence that public sector agencies and its officials, are always accountable and observe ethical practices. Parliamentary committees will enable restoration of powers of MPs to approve legislation and not give opportunities for the Executive to undermine the role and powers of Parliament.

Recommendation 1

Establish additional Parliamentary Committees

In addition to the PAC, additional parliamentary committees should be set up. A Select Committee on Legislation to consider bills and assess impact of these bills and make recommendations relating to the bills, including policy issues involved and evaluating legislative alternatives is necessary so that Parliament can take back its role in making laws which has been usurped by the Executive taking advantage of the weak Parliament to push a Bill without much scrutiny. Several new select committees will enable better oversight and monitoring of federal ministries and their activities. In addition, special committees should also be established when required to undertake investigations of suspicious of unethical behavior or accusations of wrongdoings by public officials. In the case of the current PAC, it is recommended that its operations be improved by adopting best practices of its chairman being appointed from the opposition party and principles and procedures on appointments and operations of SC and SSC in Recommendation 4 below. The PAC should be serviced by its own team of officials, experts and researchers who have expertise in financial management.

Recommendation 2

Put in place practices to set up Special Select Committees on Enquiries on Specific Issues to avoid financial losses or non-financial damage to economy

In addition to the Select Committees, Parliament should implement the law that enables it to set up Special Select Committees to undertake investigations on wrongdoings of public sector officials, any matters of policy or government operations or performance or any matter of public interest. The Special Select Committee will be appointed as the need arises. The Committee must operate within a defined time line and submit its report for debate in Dewan Rakyat.

Recommendation 3

Strengthen the legal basis to make Parliamentary Committees effective

The current legal framework already exist which enables Parliament to establish new permanent Select Committees (SC) and Special Select Committees (SSC). However, to ensure effectiveness of these committees, the legal framework should be enhanced to enable adoption of processes and procedures (Recommendation 4 below). The enhancements to the Parliament Ordinances are enabled by Article 62 of the Federal Constitution and changes or additions to the Standing Order should be undertaken to provide for stronger policies to make parliamentary committees effective.

Recommendation 4

Parliament to Adopt Principles and Processes in setting up and operating Select Committees and Special Select Committees

After 59 years of independence, Malaysia should have a matured democratic Parliament. All that is needed is political will among Parliamentarians to be proud of a house that operates to fulfill its mandate of serving the people. As such, Parliament should adopt best practices and by doing so, it is implementing its powers as accorded by the Federal Constitution and not making it opportune for the Executive to usurp these powers.

Best practices principles in setting up and operations of SCs and SSCs are proposed to make Parliament strong and effective and this will cascade into an Executive which is equally strong and fulling its function of implementing laws approved by Parliament in a transparent and ethical framework. In the same vein, the Judiciary will also be able to enforce the laws to achieve objectives set by Parliament. These procedures will

cover rules on establishments and operations of select committees and special select committees. The recommended rules are adopted from global best practices.

On legislation, it is recommended that Bills should be made available to the public and MPs well in advance of the First Reading (currently made available to MPs after the First Reading). MPs should then have more time to debate the Bill during the Second Reading. For Bills that are controversial and impact fundamental liberties, such as the National Security Bill should be remitted to the Select Committee on Legislation for detailed scrutiny. The public views can be considered by this Select Committee.

In establishing new SCs which are permanent, a gradual approach is recommended. Priority should be given to setting up SCs on areas dealing with responsibilities of key ministries and those with large budgets. This includes SCs for areas like Economic Policy and Financial Management, National Security and Foreign Policy, Education and Health, Political Financing and Ethical Practices.

Recommendation 5

Establish an administrative and research office to support Parliamentary Committees

For the SCs and the SSCs to function properly, they must be provided with full-time paid qualified staff to undertake research, assist in investigations, write the reports and support the work of the committees generally. It is essential that the Parliamentary Service Bill announced by Speaker to be tabled early this year be implemented with urgency. This Bill is required to ‘revive’ an earlier legislation (the Parliamentary Service Act 1963 that was repealed in 1992) that will enable parliament to have its own dedicated administrative service, so that the officers can have continuity in their parliamentary work and grow to become professionals in assisting members of parliament in the performance of their duties.

See also the recommendations in this area by the GCPP: Towards a People-Centred Parliament (Appendix 7).

Recommendation 6

Parliament to Adopt an Impact Assessment Guide to Measure Improvement in Parliamentary Performance based on the Work of Select Committees and Special Select Committees

It is recommended that Parliament adopts an Impact Assessment Framework to measure the effectiveness of the SCs and SSCs and its contributions to success of Parliament in exercising its functions. This impact assessment will help Parliament audit the outcomes of the work of the SCs and SSCs, and address shortcomings.

Recommendation 7

Undertake complementary measures which are necessary for Parliamentary Committees to fulfill functions of oversight over Executive and MPs can serve constituencies effectively and truthfully.

Parliamentary committees can be more effective with a supporting regulatory environment. The first is reforms for reasonable freedom of the media to provide for unbiased, professional reporting on issues concerning public interests such as education, health care, finances, governance and administration. At the core of their role is the editorial freedom to report these issues without fear of political persecution, as long as the reports do not incite physical harm and violence against people of different race, ethnicity, gender or religion. It is recommended that liberalisation of the media focus on two main changes: reform strict laws governing the media, particularly the PPPA; and promote greater autonomy for journalists within the media industry.

Calls for a Freedom of Information Act should be recognized and the government should pass legislation to enable greater access to information. Secrecy should be replaced with freedom to share information. Greater access and transparency of information is also to the advantage of government as it prevents media sources from spreading wrong information or making inaccurate analysis.

Other regulations which can greatly support work of MPs include enhancing the asset declaration for ministers and senior officials by having an independent audit firm which collects and evaluate the integrity of reporting, compulsory public declaration of assets and business interests by Ministers prior to appointments, strengthening integrity rules and practices, strengthening whistle-blowing protection practices and a more open system of appointments to senior positions and heads of government ministries and agencies to strengthen leadership and integrity in the public sector.



MEA Proposal on Parliamentary Committees in Malaysia

| Background & Context

While good governance per se cannot be regarded as a magic bullet for development and economic progress, development policies need to address governance practices of the political leadership, to have a process to develop governmental capacities and systematic mechanisms to facilitate sound decision making. This is also a fundamental rationale why the Sustainable Development Goals of the United Nations also include a governance agenda (Goal 16) which is to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions. The defining feature of good governance is the capability to implement the agreed policy agenda. “Evidence of this capacity increasing, decreasing or stagnant will show that governance is supportive or destructive of the growth process.”²

Malaysia is demonstrating a situation of twin dynamics - growth that has been only moderate for nearly four decades with the emergence of poor governance which is threatening the upside of the growth potential. The emergence of poor governance has opened doors for

² World Bank reports on indicators of good governance

endemic corruption at high levels of government to expand and deepen. Work by the World Bank and others show concrete evidence that poor governance leads to corrupt practices and their impact on growth can be extremely damaging. This happens slowly and as proceeds from economic projects or economic resources are siphoned off, long-term growth and development potential are progressively eroded.

At the national level, good governance means building capable and accountable government that can implement sound policies, provide public services, set rules governing markets and provide oversight of how public resources are used. This means that all institutions have in place good governance frameworks which determine how policies are formulated and the consideration and processes to implement these policies to meet development policy goals. For Malaysia, this means implementing policies to achieve the 3 goals of inclusive and sustainable growth.

In a parliamentary democracy, good economic governance begins at the highest level in terms of Parliamentary oversight that the executive arm of government is well managed and budget and fiscal rules are observed. Flowing from the various legislations passed by Parliament, good economic governance cascades to the different levels of the Executive through rules and regulations administered by competent regulatory authorities which are empowered by Parliament with the necessary tools and resources to efficiently and effectively exercise their functions. Appropriate sanctions must exist when leaders and officials in ministries, regulatory authorities and agencies are not practicing good governance by not observing prescribed regulations and procedures in carrying out their functions.

Governance in Malaysian public sector institutions have somewhat taken a back seat in recent decades. Public sector operational processes and procedures have been compromised in the interest of getting the work done. When processes and procedures have been set aside, it became easy to for rent seeking and patronage to emerge. A culture is being bred where integrity is less of a priority and proper documentation for decision making and implementation is becoming an exception. If left unchecked, this culture can become the cancer that erodes both efficiency and efficacy of the public sector delivery systems which ultimately leads to improper allocation of resources and raises the cost of doing business, all leading to slower growth.



What can we do? The MEA has started the public dialogs on economic governance to draw attention to importance of good implementation processes for economic policies to meet their objectives. The focus is on the critical need for governance to prevail in all Malaysian public sector institutions. Corporate governance in the private sector will not be sustained without equally strong governance in public institutions. Just as in the corporate sector, good public sector governance must emanate from the tone at the top. Therefore, good public sector governance means a sound governance framework must be in place in the Malaysian Parliament which cascades down to all other public sector institutions, including the civil service.

This paper focuses on Parliamentary Committees as one of the options which have proven to be effective in the developed countries as well as in the more advanced emerging economies in providing the mechanism for Parliament to exercise effective oversight of activities and actions of the Ministers and the public sector as a whole. This inextricable link between good economic governance at the parliamentary level and the capacity and capability to sustain economic fundamentals and the growth trajectory must exist to ensure elected governments and the institutions they manage will continue to function effectively to continuously sustain the investment climate and promotes sustainable economic growth.

Considering the imperative need for proper and effective checks and balances so as to safeguard public interests against the abuse of power, we believe that Parliament should be more dynamic in its role in overseeing the functions of the Government, particularly, with regard to the operations and performance of the ministries and departments. In this regard, this paper makes detailed proposals to enable Parliament to carry out its oversight function on a regular basis, as well as undertake special investigations when there are wrongdoings. The paper does not aim to cover the entire reform of Parliamentary processes, but only to focus on the governance framework through the establishment of parliamentary select committees.³

³ IDEAS and other CSOs have already put together a complete proposal on Parliamentary reform entitled: GCCP: Towards a People-Centred Parliament.

Current Set Up in the Malaysian Parliament

General Oversight

Currently, the oversight role by Parliament takes the form of raising questions during question time and debating issues. Questions are sent to officers of relevant Ministries which prepare the answers and prep Ministers before the Parliamentary sessions. Anecdotal evidence shows that officers and Ministers generally focus on the positive elements and significant efforts are made by officials to make ministers, ministries and government agencies look good. Shortcomings are rarely admitted and often never revealed.

Special Chamber

Since May 2016, the Special Chamber of the House of Representatives began its sitting to discuss more substantively issues which would otherwise have been discarded because of Parliament's tight schedules. This Special Chamber was influenced by the second chamber concept in the Australian Parliament.⁴ The Second Chamber sittings are governed by the Parliamentary Standing Orders following the amendments made in April 2016 and the new Standing Orders 14A and 24A.⁵ With these amendments, any member of the Chamber other than a Minister may raise any matter, such as: 1) matters of administration for which the government is responsible; and 2) matters of importance to the general public. The Minister responsible is required to reply to issues raised. However, the matters to be raised must be approved by the Speaker.

All Members of the House of Representatives are Members of the Special Chamber. The sitting of the Special Chamber must include the Speaker, the member raising the issue and a member representing the government. The Special Chamber can convene at any time as agreed by the Speaker who can designate the Chairman of the Special Chamber other than himself. The designated Chairman will have all the powers of the Speaker as it pertains to the sitting of the Special Chamber.

⁴ The second chamber is the Federation Chamber in the Australian House of Representatives. The Chamber is convened for more debates on bills which have bi-partisan support. It allows the busy schedule of the House of Representatives to be managed more efficiently and gives members more opportunities to contribute to the debates. A team of Malaysian Parliamentarians visited Australia in 2015 and studied this concept.

⁵ Nine (9) amendments were made to the Parliamentary Standing Orders (13, 14, 16, 17, 18, 22, 24)

Select Parliamentary Committees and Special Select Committees in the House of Representatives (Dewan Rakyat)

Presently, the Standing Orders of the Dewan Rakyat provides for the establishment of five Select Committees, namely:

1. *Committee of Selection (Ord. 76);*
2. *Public Accounts Committee (Ord. 77);*
3. *Standing Orders Committee (Ord. 78);*
4. *House Committee (Ord. 79);*
5. *Committee of Privileges (Ord. 80).*

Order 81 of the Standing Orders also empowers the Dewan Rakyat to establish a Select Committee (or Committees) other than the five Committees above. Such a Committee is called the Special Select Committee (SSC). The purpose of the Special Select Committee is to inquire and deliberate on such matters as determined by the House. The members of the Special Select Committee are nominated/appointed by the Committee of Selection. The latter consist of the Speaker and six members of the House, as stipulated in Ord. 76 of the Standing Order of the Malaysian Parliament.

Unlike the Select Committees, Special Select Committees are established when needed and for specific cases of national interest. They serve on a limited time period with specific terms of reference different by case. This means that Special Select Committees might not be in all Parliamentary sessions.

Thus there is already in place a legal mechanism for Dewan Rakyat to appoint 5 select committees and Special Select Committees to inquire into specific issues whenever it deems fit to do so. Unfortunately, it is noted that in practice Special Select Committees are rarely appointed. Even important or controversial Bills are rarely sent to a Special Select Committee.

Public Accounts Committee (PAC)

One example of a Select Committee is the Public Accounts Committee which has its own ordinance in the Standing Order. This means the PAC would be called into service for every session of Parliament sitting, unlike the Special Select Committees which are case and time specific.

76. (1) There shall be a Committee to be known as the Public Accounts Committee appointed at the beginning of every Parliament, for the examination of:-

- a) The accounts of the Federation and the appropriation of the sums granted by Parliament to meet the public expenditure;*
- b) Such accounts of public authorities and other bodies administering public funds as may be laid before the House;*
- c) Reports of the Auditor-General laid before the House in accordance with Article 107 of the Constitution; and*
- d) Such other matters as the Committee may think fit, or which may be referred to the Committee by the House.*

The PAC is the only regular and active Committee through which Parliament undertakes to monitor the workings of the Government on financial matters. The quality of the discussions in the PAC depends on the issues raised in the Auditor General's reports and the extent to which the civil servants are able or willing to respond to the queries raised by the PAC. The content of the reports is about financial management and it highlights instances of mismanagement for which the civil servants are held accountable, being the controlling officers under the Financial Procedure Act 1957 and the Treasury Instructions. However, as evidence from the many financial scandals debated in Parliament, Ministers who might have misused their powers in the decision making process are not called upon to testify on the scandals in which they are either involved in or held responsible.

The PAC is also convened to look at special cases of financial mismanagement. Again, following the PAC reports and debates in Parliament, there have been no conclusions or sanctions of those responsible for financial losses. In fact, in many cases, those involved have moved on to even higher positions in the government. Further, PAC reports are not made public, and the IMDB case was even declared an official secret under the Official Secrets Act (OFA), denying the public access to the Report as well as limiting MPs in what can be open debate on the case.



Standing Committees in the Senate (Dewan Negara)

There are four Standing Committees in Dewan Negara:

- *Committee of Selection;*
- *House Committee;*
- *Committee of Privileges; and*
- *Standing Orders Committee*

With the exception of the PAC and the occasional special select committees, the Standing Committees in both houses deal mainly with the administrative issues on operations of parliament. There are no specific committees which exercise oversight over the operations of the many ministries. Even complex bills are not debated in any Select Committee or Special Select Committee. Bills are generally handed down from the Attorney General's Chambers with little scrutiny and debate in both houses. Generally, bills are adopted by both houses with minimal amendments.

Current Legal Framework on Select Committees in the Malaysian Parliament

There is already a legal framework governing Select Committees (SC). The Standing Orders, 76-80 (SO) of the Dewan Rakyat, made pursuant to Article 62(1) of the Federal Constitution (each House of Parliament shall regulate its own procedures) provides for appointment of the 5 Select Committees and its members. In addition SO81 empowers the Dewan Rakyat to establish new Select Committees in addition to the 5 above, which shall be called Special Select Committees (SSC). These SSC are to inquire and deliberate on matters determined by the House. In appointing the SSC, SO82 dictates that members of the SSC must reflect the composition of the parties within the House. Further, the SSC (and the SC) are empowered to compel anyone person to appear before it and ask for documents and papers to be produced before it.

Notwithstanding the powers given to Parliament by the Federal Constitution and Parliament itself having the SOs, Parliament has not made great use of Parliamentary Select Committees.

Legal Notes on Parliamentary Select Committees

1. The Malaysian Parliament is not only a legislative body but also serves as an institution where the Government is held responsible for its policies, and where matters of national importance are scrutinized.
2. The Federal Constitution establishes up three institutions to govern the country at the federal level. These institutions are Parliament, the Executive and the Judiciary. Parliament makes laws; the Executive carries out the laws; and the Judiciary interprets and enforces the laws. Consistent with the doctrine of separation of powers, as implicit in the Federal Constitution, these three institutions are co-equals and they check and balance one another. No one institution is supreme: only the Federal Constitution is supreme.
3. Parliamentary proceedings in the Dewan Rakyat are governed by the Standing Orders of the Dewan Rakyat. The Standing Orders are made pursuant to the Article 62 (1) of the Federal Constitution that states –

62. (1) Subject to the provisions of this Constitution and of federal law, each House of Parliament shall regulate its own procedure.

4. The Standing Orders of the Dewan Rakyat provides for the establishment of five Select Committees, namely, -
 1. Committee of Selection (Ord. 76);
 2. Public Accounts Committee (Ord. 77);
 3. Standing Orders Committee (Ord. 78);
 4. House Committee (Ord. 79);
 5. Committee of Privileges (Ord. 80).

Except for the Committee of Selection, the members of the above Select Committees are nominated by the Committee of Selection. The members of the Committee of Selection are appointed by the House.

Except for the Public Accounts Committee ('the PAC'), each of the above Committees is chaired by the Speaker. The Chairman and Deputy Chairman of the PAC are appointed by the House.



5. Order 81 of the Standing Orders empowers the Dewan Rakyat to establish a Select Committee (or Committees) other than the five Committees mentioned in paragraph 4 above. Such a Committee is called the Special Select Committee. The purpose of the Special Select Committee is to inquire and deliberate on such matter as determined by House. The members of the Special Select Committee is nominated by the Committee of Selection. However, a Special Select Committee shall have the power to elect its own Chairman.
6. A Select Committee shall have the power to compel any person to appear before it and to ask for documents and papers to be produced before it.
7. In the Malaysian Parliamentary practice, unfortunately, no great use of Parliamentary Select Committees has been made. Bills are rarely sent to a Special Select Committee. The Public Accounts Committee is chaired by a Government member, contrary to the Westminster convention, under which this Public Accounts Committee is chaired by an opposition member.

| **Lessons from the Selangor State Assembly**

The state of Selangor is one of the biggest states in Malaysia, economically contributing 22.6 per cent to the national GDP growth of 5 per cent in 2015. It has been governed by the opposition political party in Malaysia since the 12th General Election in 2008. Since then, the state government has made several amendments in the Standing Order (SO) of their legislative assembly, including enabling the setting up of Select Committees. Selangor is the only State to set up Parliamentary Committees as a governance institution in its oversight of the administration by the state government.

The SOs that specifically deal with select committees are SOs 68 to 77.⁶ There are a number of Select Committees specifically set up for weekly state assemblies. To date, the Selangor State Legislative Assembly has more select committees set up than the national parliament, proving that the setting up of select committees is largely a matter of political will.

⁶ Taken from <http://dewan.selangor.gov.my/peraturan-tetap>

Members of the committees consist of both the state and opposition State Councilors (ADUN).

A major shortcoming of the Selangor Parliamentary Committees is that reports or discussions are not made public. This has compromised the basic advantage of parliamentary committees to impose obligations on ADUNs to ensure good governance. The Standing Order only requires that reports of the weekly committee meetings of the Assembly will be released to the public and state executives will have 14 days to issue their responses to the reports. However, these responses are not compulsory. The Speaker could insist on them and keep reminding until a response is made, but even when a response is issued, there is no requirement for the response to be substantial or addresses the issues raised. It is sufficient that the ADUN replies he/she has been notified of the issue and will look into the matter, without being compelled to follow through.

This practice means that the legislative assembly does not have the power to discipline members of the house. The most it could do is to put pressure on members of the Assembly, particularly the members in a committee to at least respond on the issues that have been raised. This means that the role of the legislative assembly is mainly to report on what's happening in the state, and no obligations to participate in the governance of the state.

Could the state's legislative body then be empowered to have more executive functions to act more effectively on malpractices among state officials? Perhaps not at the Selangor state level, even though the assembly has done numerous reforms to ensure better accountability to the people. Another factor limiting impact of Selangor Assembly effective oversight of state officials is that despite Selangor being governed by the opposition coalition, the Federal government still has significant influence in the appointment of state officials.



Selection of members of Select Committees

Members of the Select Committees in the Selangor State Assembly are selected with the consent of the Speaker of the House, together with the consent of the members themselves and their respective political parties.

The composition of the committee must also reflect the composition of the House to ensure there is a proportionate representation of members of the House in the committees.

72. (1) Every Select Committee shall be so constituted as to ensure that, so far as is practicable, the balance between the parties within the Assembly is reflected in the Committee.⁷

Once appointed, the roles of the members of committees are negotiated among themselves. The chair of the Select Committees is usually a member of the House from the opposition party.

One of the Select Committees in the Selangor State Assembly is the Public Accounts Committees. The role and scope of work stipulated in the revised Standing Order of the Selangor State Legislative (2016):

68. (1) There shall be a committee to be known as the Public Accounts Committee appointed at the beginning of every session and chaired by the Opposition Leader for the examination of:

- a. The accounts of the State of Selangor and the appropriation of the sums granted by the Assembly to meet the public expenditure;*
- b. Such accounts of public authorities and other bodies administering public funds as may be laid before the Assembly;*
- c. Reports of the Auditor General laid before the Assembly in accordance with Article 107(2) of the Federal Constitution; and*
- d. Such other matters as the Committee may think fit or which may be referred to the Committee by the Assembly.*

However, since this reform in the Standing Order Ord. 68(1) was inserted on 4 December 2014, the position for the chair of Public Accounts Committee has been vacant due to the resignation of the opposition party's appointed Head of Opposition on 8 December 2014.

⁷ Selangor State Legislative; Standing Order of the Legislative Assembly 1965; revised 10 March 2016

Terms of Reference

The terms of reference are different for Select Committees and Special Select Committees of the Selangor State Assembly. The terms of reference for Select Committees are stipulated in the Standing Order (revised 10 March 2016), these committees are:

1. Public Accounts Committee - Ord. 68(1) through (5)
2. Select Committee of District & Land Office - Ord. 68A(1) & (2)
3. Select Committee of Local Authority - Ord. 68B(1) & (2)
4. Select Committee of Agency, Statutory Body & Subsidiary Company - Ord. 68C(1) & (2)
5. Standing Orders Committee - Ord. 69(1) through (3)
6. Committee of Privileges - Ord. 70(1) through (5)

The key difference between Select Committee and Special Select Committee is their permanence in parliamentary sittings. The former committee needs to table their reports at every sitting as opposed to the latter which tables reports on the issue during assemblies based on specific cases and are therefore temporal.

Special Select Committees in Selangor

Ord. 71(1) of the Selangor State Legislative (revised 2016):

Special Select Committees are appointed by the Assembly which can authorize the Committee to nominate its own Chairman. The Speaker, if he thinks necessary, can also establish a Special Select Committee for a special purpose during the adjournment of the Assembly and appoint the Chairman and members of the committee.

As Special Select Committees are designed to perform investigations on specific cases or issues, there are no deadlines set for the Committees to conclude their work. The KPI for the Committee is based on the number of Special Select Committee reports they put out after each investigation, which are no more than two per Assembly sittings. One example of Special Select Committee of the Selangor State Legislative Assembly is the Special Select Committee of Competence, Accountability and Transparency (SELCAT) which recently examined the issue of water supply and disruption in the state of Selangor (Hansard Kertas Bilangan 36/2014).

It is not compulsory for the Special Select Committee to table a report of their findings at every session and state assemblymen are not compelled to respond to the reports issued by the Special Select Committees, if any. However, the members of the Assembly could be called to the House for inquiries.

Financing the State Assembly Committees

The financing of Select Committees and Special Select Committees comes from the treasury department of the Selangor State Legislative Assembly, governed under the Selangor Legislative Assembly Service Enactment 2009 (Rang Undang-undang Perkhidmatan Negeri Selangor 2009).

This means the financing and ultimately, the administration of the Selangor State Legislative Assembly comes from the Executive arm of the ruling state government. Although the State Assembly Secretary has discretion on allocations for Assembly expenses, the fact that the Assembly budget is derived from the State Budget Office, it gives significant power to the Chief Minister of Selangor over the operations of the State Legislative Assembly. The Parliamentary Services Act 1963 would have allowed the Selangor State Legislative Assembly to have autonomy over their financing. However, the repeal of PSA at the Federal level affected the structure of Parliament also disabled independent management of the budget at the state level.

Till today, the services of the Selangor State Legislative Assembly are financially supported by a state level circular for governance of salaries and allowances called Enakmen Anggota Pentadbiran dan ADUN (Saraan) 1980).

Rationale for New Proposals on Parliamentary Committees

(i) Governance at Top Institution: Parliamentary Committee as part of governance framework in Parliament

One of the functions of Members of Parliament (MPs) as the representatives of the people is to play the role of a watchdog, keeping the ministries and departments constantly on their toes, especially on matters pertaining to financial management of budgetary allocations. In this function, duties of MPs include monitoring and ensuring that the ministries and departments do follow the right procedures in departmental spending and the procurement of goods and services. For example, a Minister who spends the whole of the ministry's travelling budget within the first few months of the year, or who takes a large delegation to an international conference without prior clearance from the Federal Treasury, must be made accountable for his conduct. In our system of parliamentary democracy, the only authority that can question the spending by Ministers and Ministries is Parliament.

Parliament being the highest legislative authority in the governmental hierarchy, it is incumbent upon the elected representatives to play their proper role as the guardian of the people's interest and rights. This is what good governance, transparency and accountability is all about. In a parliamentary democracy, as the people have given their trust to the political leaders, the latter, in turn, must honour this public trust and must make themselves accountable to the citizens.

Parliamentary Committees offer the operating mechanism for Parliament to exercise the oversight over the Ministries and public sector officials. Through appropriate Parliamentary Committees, MPs can ensure that policies are appropriately implemented to yield the results of creating employment, strengthening growth and reducing poverty. Parliamentary Select Committees function more than just to scrutinize public policies, they also function to keep the most important aspect of governance in check - the budgets, to ensure no misuse of public funds, legislation that ensures the proper checks and balance, enable markets to function and guarantees protection of rights of businesses and individuals.

The setting up of parliamentary select committees will also enable non State actors such as civil society organisations to play a constructive role in promoting good governance by assisting their representatives in Parliament perform their duties and obligations as Members of Parliament. This will indeed be consistent with the concept of democratic governance, transparency and accountability.



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