

# 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<sup>1</sup>.

*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.

A major shortcoming of the Selangor Parliamentary Committees is that reports or discussions are not made public. State Councilors (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 5 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 fulfilling 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.