

GLC and Statutory Bodies Political Appointment: Reforming The Appointment Process

Executive Summary

This policy brief was created based on the persisting issue of political appointment on GLCs and Statutory Bodies.

The purpose of this policy brief is to call the Malaysian Government to reform their GLCs and Statutory Bodies' appointment process.

The issues are:

- Unclear Appointment Guidelines and Law
- Political Tool
- Weak Check and Balance

Some recommendations to reform appointment process have been listed:

- Establish Appointment Guidelines
- Establish Monitoring Bodies
- Introduce Law for GLCs

2021. Furthermore, Juliana Lajuddin (2021) found that out of 137 statutory bodies, 100 were headed by politicians.

Despite facing criticism, this practice has persisted. Even under the leadership of Prime Minister Anwar Ibrahim, political appointments continue to be made to lead GLCs and Statutory Bodies. This trend is worrisome as it raises questions about the governance standards in place.

Therefore, it is crucial to reform the appointment process for the heads of these bodies to restore good governance practices in Malaysia. Such reforms are necessary to address this significant concern and ensure that the selection of leaders is based on merit and expertise rather than political considerations.

Background

Government-Linked Companies (GLCs) and Statutory Bodies play a crucial role in Malaysia, serving as important instruments of government policy, as stated by Menon (2017). Due to their significance, it is essential to safeguard the direction and integrity of these organizations.

Over the years, there has been growing concern regarding the practice of appointing politicians to lead GLCs and Statutory Bodies. According to IDEAS (2022), approximately 200 political appointments were made between 2013 and

Issues and Recommendations

Issues

1. Unclear Appointment Guidelines and Law

The appointment of the heads of GLCs and Statutory Bodies is made without any clear guidelines or provisions under the law.

For example, in the context of Statutory Bodies, they are governed by their respective laws. In the laws, there are certain additional requirements for the appointment of the chairman or director.

However, the requirement is very minimal and vague (Fikri Fisal 2021). Anyone can be appointed, including politicians, if they meet the requirement (Juliana 2021).

On the other hand, for GLCs, it is not much different. According to Fikri Fisal (2021), there are a few guidelines, like MoF guidelines, Green Book 2006, Security Commission guidelines, and BNM guidelines. However, these guidelines are only for selected companies. The vast majority of other GLCs in Malaysia are not bound by these guidelines.

Thus, without a clear provision in the law or clear guidelines, the appointment is freely done by the ministers-in-charge and the executive. They can easily appoint anyone despite the person's lack of qualifications.

2. Political Tool

Generally, a high position will offer high benefits like remuneration and power. With such benefits, many politicians have their eyes on these positions. This has opened up opportunities for the executive to use these bodies for political gain.

According to Prof. Terrence Gomez (2020), there are three political gains that government elites can receive by appointing their political associates to these bodies. First, these bodies can channel their resources to key constituencies to gain voters. Second, it is used to solidify their party's support. Third, to prevent any politicians from withdrawing their support for the government.

According to Tayeb and Ragu (2021), these positions are a form of reward for loyalists. They also discovered that positions in GLCs and Statutory Bodies can be beneficial to parties because of the bodies' resources.

This is the reason why the practice of political appointments is inherited from one government

to another.

3. Weak Check and Balance

As the GLCs and Statutory Bodies are owned by the government, the executive has a strong presence in decision-making for both bodies. This has led to unhealthy power dominance by the executive.

According to Fikri Fisal (2021), as the GLCs are supposed to work independently, the Malaysian government uses the golden share as a control mechanism. This mechanism is to preserve government interest in these bodies. This led to strong government involvement in GLCs. In Yew Yik Khai's (2022) studies, it is found out that the involvement of the Malaysian government is high compared to Singapore.

This strong power occurred because of the weak check and balance in GLCs and Statutory Bodies' decision-making. There are no laws or authorities that can administer the executive's power. Thus, the executive can utilize their power to appoint politicians to head these bodies.

Recommendations

1. Establish Appointment Guidelines

Appointment guidelines are needed in order to solve the political appointment problem in GLCs and Statutory Bodies

Many organizations, like C4 Center (2022), IDEAS (2022), and Bersih (2023), believe that establishing appointment guidelines will be a necessary tool to restore good governance in these bodies. It can prohibit the practice of political appointments.

Thus, these are a few suggestions to be included in the Guidelines:

- A) Ban Politicians from Chairperson Positions
 - Implement a complete ban on politicians serving

as Chairpersons in GLCs and Statutory Bodies to prevent conflicts of interest and the abuse of these organizations. This ensures that the top leadership remains independent from political influence.

B) Politicians as Board of Directors (BoD) Members with Restrictions

– Allow politicians to serve as ordinary members on the Board of Directors but under specific conditions:

- Politicians on BoDs should receive no stipend or financial benefits to maintain their independence and prevent conflicts of interest.
- They should not have voting rights to prevent political interference in day-to-day operations.
- Criteria for their appointment should be established, including:

1. Requiring members of a political party to resign from their party posts if appointed to BoD.
2. Mandating a declaration of non-involvement in a political party for a specified number of years both before and after appointment.

C) Clear and Merit-Based Appointment Process

– Establish transparent and merit-based criteria for the appointment of politicians to BoDs, ensuring that those selected are qualified and capable. This includes setting clear guidelines and oversight mechanisms to ensure transparency in the selection process.

D) Independent Oversight Mechanisms

– Create independent oversight mechanisms to monitor GLCs and Statutory Bodies:

- Establish a GLC Commission or Ombudsman to serve as a neutral and impartial authority responsible for investigating complaints, ensuring adherence to rules and regulations, and addressing issues related to their operations.
- Empower institutions like the Malaysian Anti-Corruption Commission (MACC) and law enforcement agencies to ensure proper

oversight and compliance within GLCs.

E) Public Consultation for Transparency

– Implement a public consultation process to ensure transparency in the appointment and oversight of GLCs. This process should involve seeking input and feedback from the public and stakeholders, including industry experts, civil society, and citizens.

F) Parliamentary Select Committee (PSC) for GLC Appointments

– Establish a Parliamentary Select Committee (PSC) dedicated to overseeing GLC appointments. This committee should consist of members of Parliament and be tasked with reviewing and approving candidates for GLC positions. This approach ensures that appointments are made based on merit and public interest rather than political considerations.

G) Legal Framework for Recommendations

– Transform the recommendations into law or regulations to provide the necessary authority and structure for implementing the proposed changes.

H) Incentivize Politicians to Represent the Public

– Encourage politicians to represent the public's interests by reducing their reliance on business interests for financing and decreasing patronage systems. This ensures that their primary loyalty remains with the people they serve.

2. Establish Monitoring Body

The need for the establishment of a monitoring body is undeniable. Currently, any decision made within these bodies is unmonitored and has no check and balance.

Organizations and researchers like Fikri Fisal (2021), Bersih (2023), C4 Centre (2022), and GLC Reform Group (2020) believe that the government needs to establish a Parliamentary Special Select Committee (PSSC) to monitor GLCs and Statutory Bodies.

Here are a few suggestions for PSSC's role in this issue:

1. Monitor government involvement in these bodies.
2. Scrutinize the annual and financial reports.
3. Screening all top-level candidates.
4. Monitor decisions made within these organizations.
5. Order GLCs and Statutory Bodies to answer to PSSC regarding Public Interest.

3. Introduce Law for GLCs

The establishment of GLCs was made under the Companies Act. Until today, there was no specific law for any GLCs in Malaysia. Thus, without a specific law, the structure of GLCs is convoluted, as Fikri Fisal (2021) stated.

Also, the definitions of GLCs are still vague. For example, GLCs are typically known as a subsidiary company of GLICS. However, Statutory Bodies like MARA, FELDA, and so on also have subsidiary companies under them. Thus, confusion arises over whether these companies are GLCs or not. With a specific law, this confusion can be clarified.

Scholars like Terrence Gomez (2022) and organizations like C4 Center (2022), Bersih (2023), and IDEAS (2021) suggested that an act for GLCs be introduced in order to reform these companies. This act can regulate the GLCs.

Suggestions for the law:

1. It must clarify the definitions of GLCs.
2. Give more independence to GLCs in decision-making.
3. Limit the power of ministers-in-charge to appoint heads of GLCs.

Conclusion

The practice of political appointment resulted in many negative outcomes, like cronyism, conflicts of interest, corruption, and incompetent directors. Thus, the practice must stop in order to ensure GLCs and Statutory bodies are

headed in the right direction.

The Malaysian government must consider the recommendations in this policy brief. GLCs and Statutory Bodies must remain free from politics and personal gain.

The CSO Platform for Reform, a coalition of more than 60 civil society organisations (CSO), saw a need for a critical look into statements, comments, and commitments of the Unity Government, as it is a reflection of their priorities. The platform is comprised of various civil society organizations (CSOs) that work together to promote human rights, democracy, and good governance in the country.

The platform engages in various activities such as research, advocacy, and public outreach to raise awareness about issues related to institutional and legal reforms in Malaysia. Some of the key issues the platform addresses include electoral reform, freedom of expression, police accountability, and access to justice.

Through its efforts, the CSO Platform for Reform seeks to create a more inclusive and participatory democracy in Malaysia, where citizens can freely express their opinions and hold their government accountable for its actions. The platform also seeks to address systemic issues of corruption and abuse of power within government institutions.

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