

### Part 3: Required for effective government - *A weightier Parliament and a slimmer Cabinet*

**Too many Barisan Nasional MPs are fettered.** The silence from BN MPs on shenanigans such as the NFC 'Cowgate' stink and fishy Scorpene submarine deal is deafening, but not surprising. Senior BN MPs serving in the bloated 68-member Cabinet cannot criticise themselves. Less than 60% of BN MPs are free to perform parliamentary oversight roles. These relatively junior MPs would naturally think thrice before tackling their prominent colleagues in ministerial positions.

**Corruption and abuse of power are issues that must transcend party lines.** The absence of bi-partisan parliamentary oversight of the ministries has led to a culture of complacency and perhaps, even arrogance in our government. Ministers easily shrug off criticism as 'opposition-led' or 'politically-driven' because their own BN backbenchers remain silent in the face of government shenanigans.

**Parliament needs more resources.** The entire Parliament has just 14 research officers at its disposal, and only one committee - the Public Accounts Committee - to scrutinise the Executive. Well-resourced, properly-run, bi-partisan parliamentary committees might well have helped our government avoid fiascos such as AES where ministries collided over traffic enforcement and the current minimum wage backtracking.

**Let's beef up Parliament.** Talented MPs and civil servants, instead of butting heads or languishing in superfluous roles in unnecessary ministries, can be reallocated to parliamentary committees. There will be far fewer dubious dealings when MPs from both sides work together in bi-partisan, powerful, well-resourced committees that can call recalcitrant ministers and civil servants on the carpet.

Docile BN MPs have left the watchman role of Parliament to the Opposition and civil society.

This allows Ministers to dismiss criticisms as 'opposition-led' rather than address the issues.

Properly-resourced bi-partisan parliamentary committees are crucial for effective government.

Talented MPs and civil servants can contribute more to nation-building via powerful parliamentary committees instead of languishing in redundant roles in our bloated Cabinet.

**Previously, in this series:**

1. Part 1: *Why our government needs CPR - Cabinet & Parliamentary Rebalancing* highlighted the many overlaps and bizarre allocations of responsibilities in Prime Minister Najib’s bloated Cabinet of 68 ministers and their deputies. Just to name a few examples: The Ministry of Housing licenses money lenders, while the financial whizzes at the Ministry of Finance license contractors and the Prime Minister’s Department oversees SPAD, the Land Public Transport Commission. Is it any wonder that the administration of our country is in such a mess?
2. Part 2: *The tangled mass of 68 Ministers and Deputies - Let’s reallocate some resources to Parliament instead* suggested that a Cabinet of 18 ministers is a good balance of efficient decision-making and diversity. The streamlined Cabinet should also be reshaped to reflect new realities and inter-linkages. For example, a key purpose of education must be to equip Malaysians with the necessary skills to be productive citizens. Therefore, the Human Resources and Higher Education Ministries could be streamlined into one Ministry of Tertiary Education, Skills and Talent to better match our human resources with the jobs available.

**Our Parliament needs more weight**

Parliament has been left with scraps while our Cabinet has grown to a corpulent mess of 68 ministers and their deputies. The governing Barisan Nasional (BN) coalition selects its ministers and other members of the Executive from its Members of Parliament (MPs)<sup>1</sup>. The Executive is now so large that it subsumes more than 4 out of every 10 BN MPs<sup>2</sup>.

Our 3 pillars of government: *Parliament* makes the laws and keeps tabs on the *Executive*.

The *Executive* is lead by the Cabinet of ministers. It decides on government policies and is responsible for administering the country.

The *Judiciary* adjudicates disputes and interprets the law.

This separation of powers is aimed at minimising abuses of power and privilege.

More details are in Appendix A.

The balance of power in our Westminster-style model of parliamentary democracy has been upset. The Executive-MPs cannot criticise their own policies. This leaves less than 60% of BN MPs to perform checks-and-balances roles in Parliament. Also, the BN MPs who remain free to perform such roles would be junior to their more experienced colleagues in ministerial positions. This results in ministers being more likely to get away with scandals:

1. Firstly, less experienced MPs will not be so acquainted with where the skeletons are likely to be buried;
2. Secondly, even when they unearth an issue, the non-Executive BN MPs would be ‘small fry’ junior MPs who will naturally think twice before tackling their more prominent colleagues who hold the Executive positions, who might even be going so far as to attempt to cover up and conceal problems at their ministries.

In our present situation, Parliament is no longer able to effectively fulfill its roles of being the supreme law-making body in Malaysia and as watchman keeping an eye on the Executive.

## Barisan Nasional MPs have failed in their watchman role

*Quis custodiet ipsos custodes?*

*[Who watches the watchers/ who guards the guardsmen?]*

BN Members of Parliament have been reluctant to act on their consciences and critique their Cabinet colleagues. This means the burden of scrutinising the activities of the government falls on the Pakatan Rakyat federal opposition and civil society. Take for example the deafening silence from BN MPs on the Scorpene scandal<sup>3</sup> where the French courts are investigating alleged corruption in our multi-billion ringgit procurement of submarines, and the National Feedlot Corporation (NFC) fiasco where taxpayer funds earmarked for cow-rearing were diverted to, among other misuses, purchasing ultra-luxury condominiums.

This situation where most, if not all, major critiques of government wastage, inefficiency and misdirection of taxpayer money receive no support from BN MPs has led to the unhealthy state of affairs where any criticism is interpreted as “anti-government”. This is in stark contrast with the situation in countries such as Australia, India and the UK where a much smaller minority of the Legislature perform Executive functions, as shown below.

**Table 1: Malaysia has too many Members of Parliament in Executive roles**

	Australia	India	UK	Malaysia
Cabinet Members	20	33	23	68
Other Executive non-Cabinet Members	20	44	68	-
Total Executive positions	40	77	91	68
Total Members of Parliament (MPs)	150	552	650	222
<b>% MPs who perform Executive functions</b>	<b>27%</b>	<b>14%</b>	<b>14%</b>	<b>31%</b>

Sources: REFSA and various public sources including official websites of the respective parliaments<sup>4</sup>.

As explained in Part 1, Australia, India and the UK are used for comparison because their Westminster model of representative government is similar to ours. They also embody governments of developed and developing economies of varying populations and land sizes.

In such countries, MPs from the governing coalitions can be fierce critics of their own prime minister. Just last month, British prime minister David Cameron was criticised by MPs from *all* parties for his conduct in the “plebgate” controversy<sup>5</sup>. In Australia, they have gone so far as to depose their own prime minister! When it became clear that then Prime Minister Kevin Rudd would not alter his deeply unpopular policies on climate change, his own Labor MPs ejected him in favour of Julia Gillard in 2010.

There was no insinuation of an Opposition-led ‘coup’ in this case. The governing party itself felt the top leader was out of touch. The Westminster system was working. Power was properly balanced between Parliament and the Executive. There were enough influential non-Executive MPs to lead the revolt such that MPs themselves could set the situation right and install a new leader whom they believed better reflected the wishes of the people.

### **Bi-partisan parliamentary committees are necessary**

Out-of-touch leaders and corruption and wastage and abuse of power are issues that must transcend party lines. The United Kingdom and Australian Parliaments have developed an effective system of *bi-partisan* parliamentary committees to check on the activities of the government. These Parliaments create committees of MPs from *both* the governing and opposition parties and grant them considerable powers to undertake work on their behalf.

The parliamentary committees oversee the conduct of government and the expenditure of public money. They can thoroughly investigate issues because:

1. The parliamentary committees have extensive powers to call for government officials, including ministers, to account for their actions and explain or justify administrative decisions; and
2. Each committee is able to specialise and build up expertise of its members such that they are able to effectively cross-examine witnesses called to testify.

In the United Kingdom, there is a Commons Select Committee for *each* government department. These Committees examine three aspects: spending, policies and administration of government departments. They can look at any or all of the government departments and their findings are reported to the House of Commons and published on the Parliament website.

There are 38 Commons Select Committees in all. In addition, there are also other committees such as General Committees whose main role is to consider proposed legislation in detail. In Australia, the House of Representatives administers 28 committees.

## Our Parliament needs more committees; Cabinet fewer

Here in Malaysia, we have just five permanent parliamentary committees and only one of these five - the Public Accounts Committee - checks on the government. The remaining four - the Selection Committee, the Standing Orders Committee, the House Committee and the Privileges Committee - deal mainly with parliamentary 'housekeeping'<sup>6</sup>.

The Public Accounts Committee (PAC) scrutinises the accounts of our country and other bodies administering public funds. To cover this extensive ground, the PAC comprises just 13 MPs supported by administrative assistants. There are no researchers or analysts. In fact, the entire Parliament has just 14 research officers<sup>7</sup>!

While the Cabinet has more committees than its own ministers can keep track off<sup>8</sup>, Parliament is tremendously under-resourced. Our system needs to be rebalanced. Ministers, civil servants and resources freed-up as the number of ministries is streamlined<sup>9</sup> can be redeployed to powerful parliamentary committees.

Australia has 28 such committees, the UK, 38. We should probably have fewer than Australia and the UK given our smaller population and land size, but certainly, we must have more parliamentary committees than we do now. Our suggestions are set out below.

**Table 2: Parliamentary Committees - Existing and Suggested**

	Existing		Suggested
1	Public Accounts Committee	6	Finance, Appropriations and Administration
2	Selection Committee	7	Housing, Public Transport and the Community
3	Standing Orders Committee	8	Law Enforcement and Justice
4	House Committee	9	Skills, Education and Employment
5	Privileges Committee	10	Health
		11	Trade and Competitiveness
		12	Resources and Environment
		13	Agriculture & Rural Affairs
		14	Infrastructure and Communications
		15	Foreign Affairs
		16	Defence
		17	Public Works
		18	Arts, Culture, Media & Sport

Source: REFSA. This list is certainly not exhaustive. It is meant to serve as the basis for constructive discourse.

## **Parliamentary Committees facilitate better policies<sup>10</sup>**

Most parliamentary committees investigate specific matters of policy or government administration including the expenditure of public money. Other parliamentary committees are responsible for matters related to the internal administration of Parliament.

Committees are able to do things which are not possible in the large, formal environment of the entire Parliament. Activities such as finding out the facts of a case or issue, gathering evidence from expert groups or individuals, sifting evidence and drawing up reasoned conclusions are more effectively carried out by small groups. Australian committees comprise 7 to 34 members; UK committees have at least 11 each.

Also, committees can operate simultaneously at any one time, enabling many more investigations to be conducted. This helps Members of Parliament obtain a wide range of community and expert views. Through the committee process, Parliament will be better informed of community issues and attitudes.

Committees provide a public forum for the presentation of the various views of individual citizens and interest groups. In the continent of Australia, committees can travel extensively and have flexible procedures. In a sense, they take Parliament to the people and allow direct contact between members of the public and Members of Parliament. They provide opportunities for more people to have a say on the issues being investigated, and by simply undertaking an inquiry a committee may promote public debate on the subject at hand.

Some committee meetings might be in private closed-door sessions. This facilitates the free exchange of ideas and viewpoints, with no fear of being misquoted or misrepresented in the media. In addition, their bi-partisan make-up encourages the healthy situation where MPs from the governing coalition are also involved in scrutinising and acting as effective checks and balances on their colleagues who have taken on Executive roles. The public interest is served in that, while the proceedings are secret, the findings must be made public. It incentivises MPs to present reasonable and realistic viewpoints and proposals, and the public gains vital facts and knowledge on the issues at hand.

## **Beef up Parliament ... to cut the fat in government**

Properly run and well-resourced parliamentary committees contribute to better informed policy-making, laws and accountability. In the UK, the Cabinet accepts and implements 40% of their suggestions<sup>11</sup>. This is an excellent reflection of the expertise, credibility and relevance of the bi-partisan committees.

Such committees might have helped our government avoid the Automated Enforcement System (AES) fiasco where the Ministry of Transport and Home Affairs collided over the small matter of traffic enforcement and the current mess and backtracking over minimum wage<sup>12</sup>. In all these cases of inefficient use of taxpayer resources, Barisan Nasional MPs were conspicuous in their silence.

The approach need not be adversarial. In fact, parliamentary committees can help ministers deal with recalcitrant civil servants. Take for example the insubordination shown by National Sports Council director-general Datuk Zolkples Embong. He flatly contradicted Youth and Sports Minister Dato' Sri Ahmad Shabery Cheek's promise that the RM20 million allocation for the "Road to London" Olympic programme would be open to public scrutiny<sup>13</sup>. Minister Shabery received no support from his own Cabinet, and of course junior BN parliamentarians will not rock the boat. But a powerful parliamentary committee can call the truculent civil servant on the carpet in Parliament.

## **Better to be a powerful committee chairman than an impotent minister**

Working in parliamentary committees would be a far superior platform for our talented MPs and good civil servants who currently trip over each other in the bloated Cabinet, duplicating work and clashing heads. These experienced, capable leaders and skilled civil servants can instead perform important roles in parliamentary committees that restore Parliament to its rightful role as the supreme legal authority of Malaysia, keeping tabs on the Cabinet and administration.

In summary:

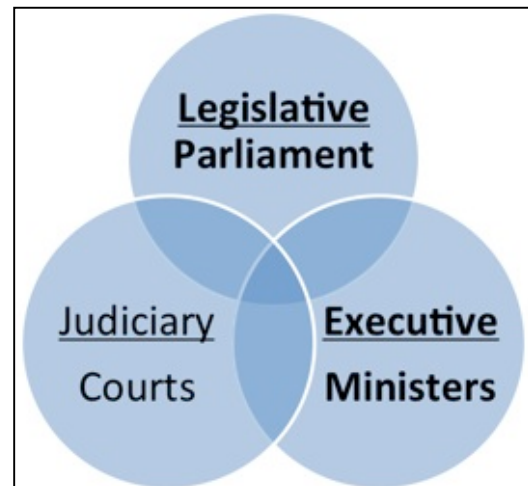
1. The 68-member Cabinet is bloated and ineffective. Ministries overlap, and even worse, the allocation of responsibilities is bizarre. It is impossible to achieve competent government administration in the current scenario, where, for example the Ministry of Finance licenses contractors while moneylending falls under the purview of the Ministry of Housing.
2. Conversely, Parliament is under-resourced. It has just 14 research officers at its disposal, and only one committee - the Public Accounts Committee - scrutinises the activities of the government. This is exacerbated by BN MPs not performing as parliamentary 'watchmen'. More than 4 out of 10 BN MPs are in the Cabinet. The BN MPs who remain free to perform parliamentary oversight roles would naturally shy away from critiquing their senior colleagues in ministerial positions. Almost all major exposés of government wrongdoing have been by the Pakatan Rakyat federal opposition or civil society.
3. This allows BN ministers to dismiss criticism as 'opposition-led' rather than address the issues. In contrast, in countries with smaller Cabinets such as Australia and the UK, many senior MPs remain free to act according to their consciences and do lead criticism, including of their own prime ministers!
4. Rebalancing is necessary for effective government. Our Cabinet can be streamlined to a svelte 18 ministers with responsibilities reflecting current realities. MPs and civil servants released from superfluous Cabinet duties can be given important roles in powerful, well-resourced parliamentary committees.
5. Parliamentary committees help effective government. In the UK, for example, the Cabinet accepts 40% of their suggestions. Properly run and well-resourced parliamentary committees contribute to better informed policy-making, laws and accountability.

REFSA hopes our MPs will recognise that the position of powerful parliamentary committee chairman is far superior to that of an impotent minister. A streamlined Cabinet balanced with a beefed-up, watchful Parliament can deliver better government policies and services for the benefit of all Malaysians.



## Appendix A: Parliament, the Executive & the Judiciary - the 3 branches of power in our Westminster system of democracy

The Westminster system apportions power between 3 institutions. Parliament, the Executive and the Judiciary have distinct but overlapping roles. The intention is that these institutions act as checks and balances on one another to prevent incidences of abuse of power. This Focus Paper series focuses on Parliament and the Executive.



### Political power must never be concentrated

*Power tends to corrupt, and absolute power corrupts absolutely*<sup>14</sup> - Lord Acton, Historian, 1887

Lord Acton's famous maxim has been borne out by too many tyrannical leaders as well as psychological studies, notably the 1971 Stanford Prison Experiment which had to be hastily stopped when a group of students arbitrarily assigned to serve as "prison guards" over another group began to abuse their wards.

Mankind has for centuries grappled with the problem of how to balance the assignment of political power against the propensity to abuse it. Governments are necessary in the complicated modern world, to make and enforce laws, deliver public goods and arbitrate conflicts. A government needs powers to fulfill its responsibilities. We, the people, grant these powers. Individually, we each sacrifice some rights for the greater good of the community.

For example, consider our desire for protection from criminals. To facilitate this objective, we give the police force the authority to investigate and arrest people suspected of crimes. Those subsequently found guilty by the courts of law are then declared criminals and deprived of their freedom. They are imprisoned.

When the system works, society is better off. We can live our lives in peace and security in exchange for granting a select few the sweeping powers of investigation, arrest and detention. But what if those select few in government use the powers we grant them for their own self-interest rather than for the interests of the people whom they are supposed to be representing<sup>15</sup>?

The solution has been to create political systems that keep the powers of the different arms of the government separate, in order to minimise the potential for abuse, as shown in Table 3.

**Table 3: The three overlapping branches of power**

	Who they are	What they do
1. Legislature (Parliament)	<p>The 222 Members of Parliament (MPs) within the Dewan Rakyat whom we, the citizens of Malaysia, elect during the general elections.</p> <p>In addition, the Dewan Negara comprises 70 appointed Senators.</p>	<p>The MPs and Senators meet in Parliament to make the laws that we abide by and scrutinise the activities of the <i>Executive</i>. This includes debating and approving the annual Budget proposed by the government.</p>
2. Executive (popularly known as the Government)	<p>Some of the MPs from the coalition that wins power during the general elections take on executive roles to administer our country.</p> <p>The Executive is led by the Cabinet headed by the prime minister. PM Najib's Cabinet comprises 30 ministers and 38 deputies<sup>16</sup>.</p>	<p>The Executive creates and executes policies and operates various programmes. When we mention <i>government</i>, it is usually the Executive that we are referring to.</p> <p>In our system of parliamentary democracy, the <i>Executive</i> should be scrutinised and held accountable by <i>Parliament</i>.</p>
3. Judiciary	<p>The judges who preside over the courts of law.</p> <p>The Chief Justice is chosen by the Yang di-Pertuan Agong acting on the advice of the prime minister. Lower-rung judges are appointed by their superiors in a fashion similar to corporate hierarchy.</p>	<p>The <i>Judiciary</i> interprets the law and settles disputes between citizens, the <i>Legislature</i> and the <i>Executive</i>.</p> <p>For example, citizens may challenge the constitutionality of a law passed by the Legislature, or the Executive may implement a law passed by the Legislature in an unexpected manner.</p> <p>In such cases, the aggrieved parties can file suits in a court of law and the <i>Judiciary</i> would interpret the law and apply it to the facts of the case.</p>

Source: REFSA

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### Acknowledgement

This Focus Paper draws heavily from the report *A Comparative Study of Cabinet Structures and Parliamentary Oversight across Australia, India, the UK and Malaysia*, commissioned by REFSA and undertaken and completed by Marie Tan Kiak Li on 6 Feb 2011. The study is available for free download at [www.refsa.org](http://www.refsa.org).

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### Other Information

The information in this report has been obtained from and is based upon sources that are believed to be reliable but no guarantee is made as to accuracy and completeness.

<sup>1</sup> There is a back door in to ministerial status - via appointments to the Dewan Negara (Senate). For example, unsuccessful candidates in the 2008 general elections Tan Sri Koh Tsu Koon and Datuk Seri Shahrizat were subsequently appointed as Senators and brought into the Cabinet as Ministers. However, the vast majority of the Executive is drawn from the MPs in the Dewan Rakyat.

<sup>2</sup> 56 of the 68-member Cabinet are MPs (the balance are Senators). So this means only 81 of the 137 BN MPs (59% of the total) are not in the Cabinet. Put another way, more than 4 out of 10 BN MPs are Ministers.

<sup>3</sup> *Amnesty sees link between SUARAM shakedown, Scorpene scandal*. Clara Chooi, The Malaysian Insider, 22 Sept 2012. Available at [www.themalaysianinsider.com](http://www.themalaysianinsider.com). Retrieved 5 Feb 2013.

<sup>4</sup> As covered in endnotes 1, we acknowledge that not all members of the Executive are MPs. For example 4 Ministers in our PM’s department are Senators from the Dewan Rakyat; and a few executive positions in the UK government are held by members of the House of Lords, such as Lord Astor of Hever DL at the Ministry of Defence. However, these exceptions do not make a material difference to the overall picture.

<sup>5</sup> *MPs criticise Cameron and Heywood over ‘plebgate’ affair*. Andrew Sparrow, The Guardian, 21 Jan 2013. Available at <http://www.guardian.co.uk/politics/2013/jan/21/mps-criticise-cameron-heywood-plebgate>

<sup>6</sup> As their names suggest, they select the members of the other committees and cover matters relating to parliamentary procedures and services and breaches of parliamentary privilege.

<sup>7</sup> Compiled by REFSA from the phone directory section of the parliament website [www.parlimen.gov.my](http://www.parlimen.gov.my). Data retrieved on 7 Feb 2013.

<sup>8</sup> Deputy Education Minister Datuk Dr Wee Ka Siong said “There are so many I cannot count,” and he was referring to only those committees headed by the Deputy Prime Minister. Quoted in *Scrap the Cabinet committees*. Azril Annuar, the Malay Mail, 16 Feb 2012. Available at [www.mmail.com.my](http://www.mmail.com.my)

<sup>9</sup> We suggest our Cabinet can be streamlined to a svelte 18 ministers and 16 ministries. Details in Part 2: *The tangled mass of 68 Ministers and Deputies - Let’s reallocate some resources to Parliament instead*.

<sup>10</sup> The information in this section is sourced primarily from the official websites of the Australian and UK parliaments. Do peruse those sites for much more: [www.parliament.uk/about/how/committees/](http://www.parliament.uk/about/how/committees/) and [www.aph.gov.au/about\\_parliament/house\\_of\\_representatives/powers\\_practice\\_and\\_procedure/00\\_-\\_infosheets/infosheet\\_4\\_-\\_committees](http://www.aph.gov.au/about_parliament/house_of_representatives/powers_practice_and_procedure/00_-_infosheets/infosheet_4_-_committees)

<sup>11</sup> *The impact of House of Commons Select Committees*. Meg Russel and Meghan Benton, June 2011, University College London. Available at [www.ucl.ac.uk/constitution-unit/research/parliament/select-committees](http://www.ucl.ac.uk/constitution-unit/research/parliament/select-committees)

<sup>12</sup> *Awkward U-turn on minimum wage*, Himanshu Bhatt, the Sun daily, 6 Feb 2013. Available at [www.thesundaily.my/news/607811](http://www.thesundaily.my/news/607811). Retrieved 17 Feb 2013.

<sup>13</sup> *RM20m is not peanuts*. R. Nadeswaran, the Sun, 9 Dec 2012. Available at [www.thesundaily.my](http://www.thesundaily.my)

<sup>14</sup> From The Phrase Finder, [www.phrases.org.uk](http://www.phrases.org.uk)

<sup>15</sup> Why power brings out the best in some and the worst in others is a fascinating topic. For a taster, try *Why Power Corrupts*, Christopher Shea, Smithsonian Magazine, Oct 2012. Available at [www.smithsonian.mag.com](http://www.smithsonian.mag.com)

<sup>16</sup> The full list of ministers and their deputies is set out in Part 1 of this series, available at [www.refsa.org](http://www.refsa.org)