Perceived Factors for the Public Accounts Committee (PAC) In Malaysia to be Independent

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Abstract

PAC plays an important role in helping parliament to ensure that the activities and spending of the government is according to the approval given by the parliament. In order for the PAC to be effective in performing their duties, they have to be independent in exercising their roles as a PAC member. The objective of the study is to examine the factors that contribute to the independence of the PAC in Malaysia. A study was conducted using qualitative approach to examine the factors that perceived to be important for the PAC to be independent from the perspective of PAC members and non-PAC members. The study reveals that the PAC need to be free from any form of interference, integrity of the members, non-partisan behaviour and chairman of the PAC from the opposition are the factors perceived to be important in order for the PAC to be independent.

Keywords: Public Accounts Committee, independence, interference, non-partisan, chairman.

INTRODUCTION

The PAC roles is to examine the accounts of the federal, budget and the Auditor General’s (AG) reports. According to Pelizzo [1], PAC is internationally regarded as an important oversight tool. Jones and Jacobs [2] described the role of the PAC as ensuring that government spending adheres to the stipulated rules and regulations. In Malaysia, Standing Order No. 77 of the Dewan Rakyat, states that the roles of the PAC is to examine the federal government accounts, budget and AG’s reports. In fulfilling its role, the PAC is granted powers that allow it to investigate; collect the necessary evidence; order the relevant government officers to attend, give information, and responds to questions raised in a PAC meeting; provide publicity about the PAC’s findings; and draw up the PAC’s report to parliament. However, a question arises regarding the extent to which the PAC is independent in monitoring and overseeing the government’s activities. Issues on the mismanagement of public funds and activities keep appearing every year in the AG report. Therefore, the activities of the PAC must be in accordance with any responsibility that it has been given by parliament to ensure government spending and activities are conducted according to the approval given by parliament. The PAC’s role is to examine and check how public funds and resources are being managed and used by the government. The objective of the study is to examine the perceptions of PAC members and non-PAC members on the factors that contribute to the independence of the PAC in Malaysia. This paper is divided into 5 sections. The next sections illustrate prior studies on the independence of PAC and research methodology employed in the study. It is followed by a section on research findings and the final section concludes the paper.

LITERATURE REVIEW

The PAC plays an important role in helping parliament ensure that the activities and spending of the government is according to the approval given by the parliament. Siddique [3] also suggested that apart from monitoring and overseeing government spending and activities, the PAC should also examine how efficiently and effectively the government has managed the resources. Jones and Jacobs [2] explained that the responsibility of a PAC is towards parliament and not to the government. Therefore, the activities of the PAC must be in accordance with any responsibility that it has been given by parliament to ensure government spending and activities are conducted according to the approval given by parliament. The PAC’s role is to examine and check how public funds and resources are being managed and used by the government.

Thus, in performing its oversight functions, the PAC needs to distance itself from the government to avoid interference by the government in its operations.
and activities. However, this is not easy to achieve if members from the cabinet, who thus represent the government, become members of the PAC. Therefore, MPs who hold a post in the cabinet should not be permitted to sit on the PAC or to serve as a PAC member because they may use their influence and power to delay any work or investigations conducted by the PAC in order to provide a cover up for the government or to protect the cabinet in which the MPs are also serving [4]. McGee [4] also revealed that MPs that belong to the majority party or to a coalition face the dilemma of being worried that as a member of a PAC, they are compelled to choose between loyalty to their party and loyalty to the PAC. They must choose between protecting their own party’s interests and so fail in their responsibilities as a PAC member, or fulfilling their PAC duties and so distancing themselves from the party they belong to and acting against their party’s interests.

Another issue highlighted by McGee [4] is that of MPs who have already been appointed and who have served in the cabinet being allowed to be a member of the PAC. According to McGee [4], the appointment as a PAC member will create an incentive for the MPs to favour their own party’s interests rather than the interests of the PAC. This will mean the PAC is unable to function and fulfil its role according to the expectations of the public. Thus, the PAC would behave and function in a partisan manner. Even if the PAC were composed of members from different political parties, that is, representing both the ruling party and the opposition, in a proportion that reflects the distribution of seats in parliament, it would not prevent MPs from favouring their own party’s interests. This is because in the parliamentary system, the parties that hold the majority of seats control the parliament. Briefly, the government is able to control the PAC and avoid it overseeing government actions.

According to Stapenhurst et al., [5], the balance composition of the PAC membership is important for the PAC to be successful. PAC with a balance representative from all political parties will deter the PAC from being used by the government to protect their political interest. Having a committee with equal members from both government and the opposition will encourage the members of the PAC take a non-partisan stance on any issues brought before the committee. According to Wehner [6], in most parliaments, the composition of the PAC reflects the seats in the parliament.

However, Pelizzo and Stapenhurst [7] found that not all researchers agreed on the issue of the PAC comprising a fair representation of MPs from all parties in parliament in order for it to be successful. This is because the PAC itself is a committee by its nature and the issue of fair representation as a condition for the success of the PAC is not an issue, as highlighted by Rockman [8]. Thus, it is important to point out that as a committee, the PAC needs to work and operate in a bipartisan and non-partisan manner in order to work well. This is a very important point, as the MPs are appointed to work in the PAC, and so have to serve the PAC and conduct PAC activities in a non-partisan manner. Put briefly, issues of partisanship and proportional representation can be avoided if the spirit of the committee is followed and practised by the MPs.

According to Pellizzo and Stapenhurst [7], the potential for overseeing government spending and activities is not easily translated into real practice, as the obstacles that can prevent the PAC from functioning well are caused or contributed to by the attitude and behaviour of the PAC members, who tend to act in a partisan manner. Indeed, for the PAC to fulfil its function well, PAC members need to cooperate and behave in a non-partisan manner. However, it was found that instead of conducting the PAC’s function according to the stipulated responsibilities, PAC members operate in a very partisan manner and take advantage of their status as a PAC member to promote their own political interests.

McGee [4] suggested that to reduce or minimize the partisan conflict, the chairman of the PAC should be a member of the opposition party [4, 9]. However, this is not the case in Australia, where the chairman is not appointed from the opposition party, but rather, the position of chairman is given to the majority party that forms the government. This is done to enable the PAC to come up with suggestions and recommendations that are decided unanimously and so can be promoted and accepted easily by the government for remedial or corrective action. Analysis by Pelizzo [1] on PACs in the Pacific Island nations and analysis of the Nigerian PAC by Pelizzo and Umar [10] seem to support the case in Australia, where it was found that the chairman being from the opposition party has a negative impact on the activities of the PAC.

**Research Methodology**

This study adopts a qualitative approach using interview data from PAC and non PAC members. The aim of the interviews was to study the elements that influence the PAC independence in Malaysia. Through the interviews, the embedded knowledge and experience of the PAC chairman and the members of the PAC, the AG’s office, the media and NGOs could be obtained. The participants offered a vast range of experiences from different backgrounds. This accounted for more than 600 years of accumulated experience as illustrated in the Table-1 below, and represented invaluable knowledge to be tapped and explored.
The participants from the PAC had a total of 282 years of experience with an average of 28.20 years of experience in various positions individually, such as doctor, accountant, lawyer, engineer, businessman, corporate sector, public sector, Member of Parliament (MP) and member of state assembly. The next set of participants, which comprised of four people from the AG’s office, had a total of 159 years of experience with an average of 39.75 years of experience in the public sector and auditing. Another group of participants, which comprised four people who had vast experience in the media and journalism, NGOs, and the corporate sector, had a total of 174 years of experience with an average of 43.50 years of experience. All the participants were recognised to represent an authority in their field.

The semi-structured interview was thus considered the most appropriate type of interview for this study because of the active involvement of the participants and their assumed perception of reality, and because the researcher had a reasonable pre-knowledge of the issues. Semi-structured interviews were conducted to allow interviewees to express themselves according to their own systems of meaning [13]. Each interview was conducted by the researcher at a place and time decided by the participants. This was to ensure that the participants were comfortable and felt free in voicing their opinion. The participants gave their consent to the researcher to record all the interviews. The recorded interview was then transcribed and subsequently downloaded to the Atlas.ti software and saved in a file in the computer. Atlas.ti is a qualitative data analysis software program that can help researchers to keep all the documents in a file and process the information. The software allowed the researcher to investigate the information and make the process more transparent so that the process can be repeated. The software also enabled the researcher to examine the results of the findings in detail and save or print the report for reference.

The researcher was able to collect and arrange the information according to the code and theme that was developed based on the literature and information gathered during the analysis. The code is the term that represents idea or theme that is associated with the characteristic of a related piece of data. The encoding process is also the basis for most types of qualitative studies. Encoding is defined by Gibbs [14] as a means of identifying passages from the text in a document that gives an example of some idea or concept and then connects the quotation with a named code that represents the idea or the concept. In this study, all the information that shared the same characteristic was coded and examined together to identify a form or pattern. Thus, encoding is the process of making it easier for the researcher to interpret the data obtained. The use of Atlas.ti software was very helpful not only in terms of the construction and the formulation of themes, but also in highlighting the words and phrases

<table>
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<td>Journalist, Corporate</td>
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<td>Fraud Examiner, NGO</td>
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Total years of experience 615
in the document that show the phenomenon under study. The construction of the code as described by Gibbs [14] is an analytical process and involves the construction of a conceptual scheme. In this study, the coding was driven by the concept that had been already examined through earlier reviews and analyses of the literature and during the analysis of the documents.

FINDINGS AND DISCUSSIONS
Free from Interference
All of the participants agreed that independence is important for the PAC to be effective. The independence of the PAC is said to be crucial, as without independence, the PAC will not be able to conduct its responsibilities accordingly. All the PAC members agreed that the PAC is very independent and that they are free to examine any issue that they think important and that involves the public interest. Independence, as suggested by most of the participants, means that the PAC should be free from any form of interference from any party when exercising and conducting its responsibilities. Mostly, the participants agreed that to be independent, the PAC must be free to select any topic or issue to be examined and discussed by the PAC, as demonstrated in the statements below:

So, we want to find out what is the story. We can investigate anything that involves government funds. The government is a stakeholder; the shareholder is the rakyat. (PAC8)

PAC is not influenced by any political agenda…by any political party … and there is no interference from any party for the PAC in choosing any issue or topic to be investigated. (PAC2)

Public Hearings
A few of the participants suggested that for the PAC to be really independent, the PAC’s hearings should be open to the public, as this would prompt PAC members to conduct their role without favours, as their performance would be monitored by the public. However, one of the participants from the opposition had a different view and questioned the reason for having the hearings open to the public, as illustrated below.

Actually, what is the motive for having a live telecast? Parliament itself .... is not all being telecast .... It’s got its own prime time ... after that question time. It’s only around 10 to 10.30 ... That’s also depending on the camera and where it wants to shoot. The whole day is 9 to 11.30... Not having the telecast doesn’t mean the PAC cannot ask the witnesses … and those witness that we call may feel uncomfortable because this is considered an internal investigation … if it is an internal investigation… it depends whether they want to answer or not, yes or no; we cannot force them ... and sometimes, they can bring their lawyer … then the lawyer advises them, ‘Please don’t answer the question!’ … It’s no problem with us… if it’s telecast… it will be more difficult for us to get cooperation… usually it’s not a problem. (PAC8)

Non-Partisan
All the informants accepted that the current composition of the PAC is appropriate. They also suggested that what is needed is for PAC members to behave in a non-partisan manner. All of the informants indicated that what is important is not the number of representatives from each political party but that the individual members of the PAC must act with integrity and in a non-partisan fashion. The excerpts below illustrate the manner in which the PAC must be portrayed:

Once we talk about the interest of the public, the interest of the people, the interest of the country, hence we cannot think in a partisan manner although we come from different political parties … we should think based on humanity grounds … I’m PAS … I’m PKR … I’m DAP … I’m Barisan Nasional … I’m appointed to safeguard the welfare of the citizen and population of the country regarding anything to do with government expenditure. (MN3)

First, the composition of the PAC at the moment is fourteen (14); nine (9) are from the ruling and five (5) are from the opposition. Now, we have a dual party system - one is from the back benches and another from the opposition - but what has conventionally happened in the PAC is that although they are in opposition, when we deliberate issues, most of the time, issues are deliberated as though we are representing one party, that is, only the PAC, and during the proceedings, more often than not, we come to a consensus that the most important thing is about the nation, and that is what the PAC is all about. (PAC 9)

All of the participants indicated that the members of the PAC have a very good working relationship, and they are able to work together and make professional judgments. Three of the PAC members indicated that, sometimes, even PAC members from the ruling party ask questions as if they come from the opposition party, as illustrated in the following excerpt:

So, in the case of the PAC, there are times when we are critical. If you look at the procedures, you may want to ask anybody you know in the Auditor General’s Office who attended the meeting. You may find certain representatives from the ruling party sound as though they are from the opposition. (PAC 9)

Integrity
All PAC members from the opposition indicated that they had no problems with the number of representatives from the opposition in the PAC as, to them, what mattered was the integrity of the members;
they accepted that the appointments were based on the agreed terms decided by parliament, as illustrated below.

Composition is not a problem, as it is reflected by the seats, but the problem is the chairman, as the chairman has the administrative power to set the time for meetings, select the topic to be examined ... He has got more power ... which is not stated in the rules, but according to the convention, the chairman has some power. (PAC6)

Chairman from the Opposition

Four of the participants pointed out that although the composition is based on the agreed formula, it has been suggested that the number of opposition members should equal the number from the ruling party; however, most agreed with the current ratio provided that the chairman is appointed from the opposition party. One of the comments by the ruling party on the issue is as below:

That’s why this depends on the credibility of the PAC... because in our country, BN members are more than the opposition...we are seen as the PAC. BN can control everything, so the PAC’s credibility is not high... If we are professional enough, credible enough, there will be no issues of the PAC not being effective, but today, the general public perception is that they see the PAC as a toothless tiger. (PAC3)

In Malaysia, the chairman of the PAC comes from the ruling party; this is in contrast to the practice in most commonwealth countries, where the chairman of the PAC is appointed from the opposition party. The results from the interview are very interesting, as fifteen of the participants suggested that the chairman of the PAC should be appointed from the opposition in order to make the PAC more effective, as described below:

For us, the PAC comes from United Kingdom... so if we follow them, the chairman should come from the opposition (PAC 1)

If we want to be effective, firstly, the chairman should come from the opposition.... It is important for the chairman to be appointed from the opposition party. (PAC 3)

In Malaysia, the chairman still comes from the government, but in the majority of commonwealth countries, the PAC chairman is appointed from the opposition, as the opposition is better in monitoring the government. (PAC 6)

Fifteen of the participants indicated that it is important that the chairmanship of the PAC be given to the opposition, as it will give more check and balance to the government and so avoid the government abusing its power. However, one of the members from the opposition party pointed out that the chairman can come from the ruling party provided that he fulfils his duties accordingly, as illustrated below:

If someone from Barisan becomes the chairman, and he really does his work accordingly, it will not be a problem. The point is, PAC members should be able to fulfil their duties - no more politician, no more party - when we discuss, we never quarrel ... never... if we disagree ... we say we disagree... we make our comments... (PAC8)

It is quite interesting to see that even four of the PAC members from the ruling party agreed that the chairman should be appointed from the opposition; however, two of them believed that due to reasons of political maturity, the status quo should be maintained, with the chairman coming from the ruling party. They believed that political maturity is still lacking, as they claimed that the opposition is always trying to find ways to discredit whatever the government is doing, and their motive will always be to focus on gaining political mileage by politicising all issues rather than on the real role of the PAC, as illustrated in the comments below:

For me, to make it independent, the opposition should have the chairmanship of the PAC, only then will we have a true check and balance... However, the problem with us in Malaysia [is that] the opposition is only interested in fault finding, and the government tends to support... so the party system still is not that mature. (PAC 5)

The current chairman gets the view from all PAC members, which includes the opposition. The chairman alone cannot make the decision... It is more effective (chairman from government)...the opposition today, as far as I can see, is not that professional... They tend to make accusation only. (PAC 4)

However, one of the participants did not agree with the reason of political maturity and instead stressed the need to be prepared for changes, as illustrated below.

If we give the reason that we are not mature, then we have to prepare for it by taking the best example and not giving excuses. If we are not prepared to have a chairman from the opposition, we can co-opt an outsider to become the chairman. What’s the problem? If parliament has the moral authority to appoint PAC members and the chairman, it has to abide by its contract with the people who elect them every five years, and its their responsibility to the people and not to the party president. The problem now with our people is, they have become a nation or misguided political group. We are experiencing misguided politics whereas we are supposed to be heading towards a Westminster parliamentary system, because that is our
mould of constitution or our administration. However, we are moving towards resembling undeveloped countries. (MN3)

On the other hand, three of the participants pointed out that the chairman has the power to control the operations and direction of meetings, such as delaying the issue to be discussed and selecting the topic to be brought to the meeting. That is why the chairman should come from the opposition party, as illustrated by one PAC member from the opposition and an officer from the AG’s office:

*Often, the chairman can influence the direction of the discussion, deciding who is to attend, deciding the tone of the meeting... The chairman has the chance to set the direction. The chairman can say that this topic is more important because of a, b, c... Normally, we respect the chairman although the chairman comes from the government. (PAC6)*

It depends on the chairman how the chairman exercises control. During Tan Sri J, when he was chairman.... Mostly he ‘played a bit’. He was not independent; he was very close to the PM. (AN2)

Sixteen of the participants agreed with the point that the chairman should be appointed from the opposition party. On the question of whether the chairman of the PAC can be appointed from outside and not from be an MP, all of the participants pointed out that it is very unlikely, as the procedure clearly states that PAC members are selected from among the MPs. Furthermore, it would be difficult if it were allowed, as the chairman, not being an MP, would not be able to participate and debate in parliament. Two of the participants also indicated that it is not a matter of from which side the chairman is selected, but that what is most important is that the chairman should have integrity and be non-partisan. According to them, without integrity, whoever becomes the chairman, they will definitely act not in the interests of the PAC. Ten of the participants admitted that the current chairman of the PAC (in 2015) is open compared to the previous chairman, and he allows all the members to voice their comments and raise questions on any issues that are brought before the PAC.

**Political Mileage**

However, being independent can also be seen as a way of gaining political mileage for PAC members; fifteen of the participants pointed out that the majority of PAC members from the ruling party had been appointed to a ministerial post in the cabinet. However, this is not an advantage only for members from the government, but it also gives advantages to the opposition members, too, as illustrated by one of participants as follows:

Independent ... they should not consider their own political interests ... So that’s why Mr X’s credibility is questionable; his approach seems more to tarnish the government...many exposures were made when he talked to foreigners ... He himself has no good intentions... Why aren’t’ internal problems solved internally?... You said it directly and critically... You are using PAC for your own political gain, which I think is not right. (MN1)

This trend of appointing PAC members to become cabinet members is not new, as was pointed out by a few interviewees. Most of the interviewees agreed that overall independence of the PAC is much better than before especially under the new chairman, but the move the government made in appointing most of its representatives in the PAC as cabinet members means the independence of the PAC has become questionable in the eyes of the public, as commented by some of the participants below:

*In terms of independence...I’m not sure about this chairman... Yes, he’s from Barisan Nasional - if there is an issue like this One Malaysia ... like the PM ... is he going to call him ... yeah ... you know ... most of the previous PAC members ... all of them have become ministers. I have seen that. (AN2)*

It’s absolutely affected because it was given to pro government people. (MN4)

Lately, if we look at the current example ... the manipulation of PAC, if before we suspected that the PAC is used as a tool by the ruling party, an executive tool, it’s proven with the IMDB... whether it’s sabotaged or postponed ... with the appointment most of PAC members from the ruling party... so that no more MPs can become a PAC member... and this, for me, is an ultimate example that the PAC can be manipulated and has been proved to be manipulated by the executive to cover up something or to make their work easier... (MN3)

*The decision in transferring the PAC chairman and all the members from Barisan Nasional into the cabinet ... it has disappointed the people. The work of the PAC is suspended, and people have to wait for another meeting. They should allow the PAC to complete the investigation... This case is big, and the trust in this institution seems to be diminishing. (MN2)*

The PAC members also claimed that they are independent in practice and work in consensus with other PAC members. In contrast, the non-PAC members seemed to be skeptical about the role of the PAC members. According to them, the PAC members are not interested in serving the PAC as they are supposed to. The NGOs and the media especially claimed that the members of the PAC are interested only in their political survival, and, ironically, they felt...
that both the members from the government and from opposition demonstrate the same behaviour. According to them, the opposition members will act in the same way as their counterparts once they are in power - just like changing the hat.

The non-PAC members argued that the PAC chairman is not independent since he was selected by the prime minister. Further, the chairman is said to be riding on political mileage. The non-PAC members also claimed that the PAC is not independent, as the government can interfere with the operation of the PAC. Their claim is substantiated by the government’s action in appointing the PAC chairman and other PAC members from the government to join the cabinet. This has crippled the activities and function of the PAC. Indeed, it seems that the worries and predictions of the non-PAC members regarding the PAC chairman eventually became true, as commented by one of the non-PAC participants below.

*He is quite ambitious. Whatever it takes, he wants to become a minister.* (MN4)

One of the non-PAC members argued that the PAC has been used by the government to protect the executive, and so the PAC is not independent as illustrated below.

*If we look at the latest example, manipulation of PAC happens... Previously, we suspected that PAC is the tool of government party, the tool of the executive. This is evident in the 1MDB case, where all the works related to the PAC have been sabotaged or postponed with the appointment of nearly all the PAC members from the ruling party joining the government.* (MN3)

**CONCLUSION**

The PAC needs to be independent, as without independence, it will not be able to conduct its operations and activities freely and objectively. The PAC should be able to conduct its activities without being dictated to or controlled by the government or any other party. The PAC should also act in a neutral and non-partisan manner, as only then will its work be appreciated and trusted by the public. Independence here connotes the ability of the PAC to select the topic to be examined as well as the time to discuss the topic. In addition, the PAC should also be free to call anybody it considers might be necessary to give explanations on the matters under examination. The burden of independence weighs more heavily on the shoulders of the members from the ruling party, as any move or act that seems to side with the government will be interpreted as being biased and not independent, while for members from the opposition, the burden is that they must be seen as objective and not using the PAC as a platform to gain political mileage. The presence of members from both the ruling and the opposition party in the PAC is important, as there will be a check and balance between PAC members. Furthermore in strengthening the PAC, the chairman should be elected from the opposition party. However, it is the PAC members who make the largest contribution to the independence of the PAC. Most of the interviewees agreed that independence is important, but that the most important thing is the integrity of the members. The members need to behave in a non-partisan manner and must always uphold the trust given to them from the day they were appointed as a PAC member and must serve in the best interests of the public.

The main data collection of this study used the interview method and document analysis. The results were based on interviews with 18 participants (10 PAC members and 8 others) and the analyses of reports published by the PAC. The involvement of all current PAC members in 2015 was not possible at the time of the research due to the hectic and busy schedule of some PAC members. However, the researcher managed to access 9 out of 13 PAC members to assist in the research in 2015. The assistance from the AG’s office as well as the recommendation given by the Deputy Auditor General who had direct contact with the PAC members were of significant help to the researcher in securing an appointment with PAC members and also with one previous PAC member. Other participants, that is, from the media and NGOs, were contacted through the help of one of the participants who had personal contact with all the rest of the participants. The interviews focused only on the operation of the PAC at a federal level, and the findings may not be appropriate for use in constructing policies and generalizing the results to other PACs at the state level. Therefore, for further study, interviews should cover state PACs and other participants who are involved with state PACs’ activities. Futures studies are also recommended to investigate inter country PAC practice in the commonwealth countries, and this also could be expanded to non-commonwealth countries so that comparative studies can be done for the benefit of all PACs.

**REFERENCES**


