THE BOARD OF DIRECTORS' PERSPECTIVES ON GOVERNANCE OF PUBLIC UNIVERSITIES IN MALAYSIA

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ABSTRACT

University governance is the process of policy making at the highest level within the institutional framework so that the university as an organization could be organized and managed according to its purpose of establishment. There are several theories that can describe governance practice. Structural theory, political theory, and open systems theory have been referred to as the theories that are able to provide partial explanation for governance practice. In practice, university governance has changed over the last quarter of a century and universities are increasingly encountered with complex issues that demand better solutions. This study has been conducted on seven members of the universities' Board of Directors from the Malaysian public universities to gain an insight into their understanding on the importance of governance as well as to find out the key elements affecting governance activities according to their experiences. Utilizing the qualitative approach, despite documents analysis, interviews with seven members of the University Board of Directors from two public universities were conducted and each interviewee was asked a semi structured open ended questions following an interview protocol. The findings suggest that there is no single theory that could best described the tenability of the governance process in Malaysia, but rather there are combinations of the structural, political and open system theories to describe the characteristics of the Malaysian public universities and how governance works in Malaysia. Several concerns have also been pointed out that have affected the governance practice. These include the aspects of university autonomy, leadership, power of the Board of Directors, representation in the Board, and laws on university governance. There should be an enabling and supportive framework so that the Board of Directors can contribute more effectively in the governance practice.

Key words: board of director, governance, public university, leadership

INTRODUCTION

University governance can be defined as the process of policy making at the highest level within the institutional framework so that the university as an organization could be organized and managed according to its purpose of establishment (Kezar & Eckel, 2004; Shattock, 2006). It encompasses the entire leadership function of the university including that of the formal governing body, the President, Rector or Vice-Chancellor, the senior management team, the Senate and the central administration (Scott, 2001). Essentially, university governance

determines several significant factors affecting the sustainability of the university such as the values, the systems of decision-making, the mission and purposes, the patterns of authority and hierarchy, and the relationships of the university with the larger environment (Marginson & Considine, 2000). As an academic institution, the University Constitution stipulates the division of power among the stakeholders such as the Chancellor, the Vice Chancellor, the Ministry of Education, the Council, the Board of Directors, the Senate, and the Faculties. Above all, university governance is the foundation that governs the university's affairs and shapes the university's direction.

The ambition to reach the status of a world-class university is an example of a crucial decision made at the highest decision-making body in the university. The Board of Directors plays an integral part to make such decision. Furthermore, the launching of the National Higher Education Strategic Plan 2007-2010 shows that the strategic plan is expected to transform the public universities into world class universities in the next couple of years (Ministry of Higher Education, 2007). It is also expected that as a world-class university, the local graduates will highly be sought by the industries while the universities will also continue to embark on cutting-edge researches, transferring technologies to benefit the Malaysian society. For the Malaysian Universities, various transformation plans have also been formulated and are being implemented at the national level.

This paper argues that the Board of Directors plays a crucial role in the governance of public universities in Malaysia. The theoretical arguments charter the debates on the topic of university governance and following that this paper highlights the concerns that have arisen from the practice of university governance in the Malaysian public universities from the members of the Board of Directors' perspectives. Several themes emerged from the study on university governance are discussed to point out that if governance is not manipulated to the advantage of the university, it may to a certain degree weakens the public universities as compared to their counterparts both regionally and globally.

The Problem Statement

Issues of university governance have become a prime concern and extend beyond the long traditional conception of academic governance that demands new interpretation and understanding. This is due to the fact that university governance has changed over the last quarter of a century and universities are increasingly encountered with complex issues that demand better and feasible solutions (Shattock, 2006). Universities in various countries have taken the steps to improve governance practice (de Boer, Maasen, & de Weert, 1999; Huang, 2006; Lapworth, 2004; Shattock, 2002). In the local scenario, Report by the Committee to Study, Review and Make Recommendations Concerning the Development and Direction of Higher Education in Malaysia – Zahid Report (2006) pointed out the importance of governance and acknowledge there is a need to improve on the current governance practice especially on the roles of the Board of Directors.

LITERATURE REVIEW
Governance as Defined

The word governance is derived from the Latin verb *gubernare*, means to steer (Pierre & Peter, 2000) and it is open to various interpretations (Gayle, Tewarie & White, 2003). At times its conceptualization is ambiguous although its usage in the current period is gaining popularity (Keller, 2001). Many of the definitions also avoid clear or precise definition (Kezar & Eckel, 2004; Ricci, 1999). In general, according to Shattock (2006, p.1) university governance is defined as 'the constitutional forms and processes through which universities govern their affairs'. This similar with Kezar and Eckel's definition (2004) that governance within the context of universities refers to "the process of policy making and macro-level decision making within higher education" (p. 375).

Therefore, it can be implied that university governance relates to "the structure and process of authoritative decision making across issues that are significant for external as well as internal stakeholders within a university" (Gayle et al., 2003, p.1). Within the university system, the arrangements of governance are, therefore, concerned with power and authority, about the distribution and exercised of power and authority, and comprised of a system of checks and balances involving various groups such as trustees, or board members, or governors, presidents or vice chancellors, university administrators, academics, students unions, alumni, and government agencies (Ackroyd & Ackroyd, 1999; Bargh, et al., 1996). A system of check and balance through proper allocation and execution of powers and authorities to various groups is instituted legally in the university constitution and it facilitates governance.

As universities are getting more complex and more interconnected with the larger environment, the boundaries between governance and management become blurred. It is important to point out that there is a distinction between governance and management. Indeed, governance is distinct from management because:

The governance role is not concerned with running the business of the company, per se, but with giving overall direction to the enterprise, with overseeing and controlling the executive actions of management and with satisfying legitimate expectation for accountability and regulation by interests beyond corporate boundaries. If management is about running business, governance is about seeing that it is run properly. (Tricker, 1984, pp.6-7)

Theoretical Arguments on University Governance

There are several theories that can describe governance practice. Among them are the structural theories, political theories, and systems theories (Kezar & Eckel, 2004). These theories can give partial explanation on the complexity of the universities as complex organizations. Structural theory, political theory, and open systems theory have been referred to as the theories that are able to provide partial explanation for governance practice (Kezar & Eckel, 2004). Hence, theories are discussed in relation to the theoretical debates about university governance. These theories are elaborated accordingly to see how these theories could describe the governance exercised as practiced in the Malaysian public universities.

University establishment is made possible through its charter of establishment. Systematically, the university is organized and governed according to the stipulated laws and comparatively, in different countries different governance models could be discerned reflecting cross-national differences depending on the national education system of the country (Clark, 1983). Above all, how the work in the university is arranged, the authority is distributed, the belief is maintained, the systems are integrated and the changes are managed, all require the collective performance of those entrusted with the governing activities as well as the management team in the university (Marginson & Considine, 2000; Shattock, 2008).

The existence of a university as an organization is to serve a certain functions according to its charter of establishment, and in the university there are several structural elements created such as a board, or a council, a senate, faculties, institutes and departments to ensure the proper functioning of the university (Gayle, Tewarie & White, 2003). Structurally, rules are made to facilitate the conduct and relationships among the structures that have been designed in order to accomplish the desired aims and objectives. Hierarchically, the goals and policies are set at the top level and organizational functioning is guided by these goals and policies. In its governance, the university is to focus on the core processes through strategic planning and justifications are made within the concept of organizational rationality. In short, "for any governance process, a structural form can be designed and implemented to improve effectiveness and achieve ideal functioning" (Kezar & Eckel, 2004, p. 375-376).

From another perspective, a university also has another salient feature contrary to the structural believe. It is well understood that a university is an organization that comprises coalitions of individuals and interest groups (Bolman & Deal, 1991). The university with its pluralistic characteristic is seen as a complex organization, fractured into interest groups or power blocs (Angiello, 1997). The political theory views a university as a dialectical organization with the existence of a political arena and policy emerges as a consensus between the interest groups. People are the key variable because influence and informal processes play a critical role in any policy formulation cycles. Therefore, to solve many of the organizational problems, the structural organizational framework only gives partial explanation and in many cases, a political interpretation is necessary whereby it sets the stage for power manipulations and struggles in decision-making activities (Bolman & Deal, 1991; Kogan, 2002). Obviously, university governance embraces a political process rather than as a simple bureaucratic process that works through bureaucratic mechanism (Sufean, 2007).

On the other hand, the open systems theory takes the view that the universities are susceptible and responsive to their environment (Kezar, 2004; Kezar & Eckel, 2004). This perspective takes the view that all systems except the smallest have sub-systems, and all systems also except the largest, that is the environment, belong to the supra-systems. Therefore, in line with this perspective, a university is regarded as an open system and although it maintains a definite boundary, it is related to a larger environment and it has to make exchanges with the larger environment. In short, the theoretical arguments as discussed above can be

shown as a combination or a mixture of the three mentioned theories as depicted in Figure 1.
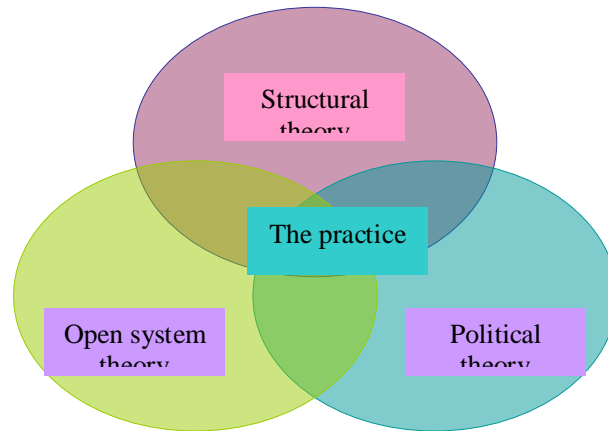

Figure 1: Governance Theories in Practice

As shown above, there is no single predominant theory that can fully described the governance practice; rather it is the interlocking of the three theories. At any single point in time, a particular theory might be able to describe the governance aspect, but at the same time another theoretical aspect also manages to describe the practice.

The Roles of Governance

    With regard to the ambition to become a world-class university, it is therefore crucial for those entrusted to govern the university to be able to make a wise policy decision and come up with a relevant strategy for building up a world-class university. A recent survey in the European universities revealed that governance influence university performance (Salmi, 2009) and it was salient for the universities to have appropriate governance framework. Salmi also suggests three basic strategies as necessary for establishing world-class universities, namely: (1) Upgrading selected existing universities that have the potential to excel; (2) Encouraging several universities to merge and create a new university; and (3) Creating a new fresh world-class university from scratch.

    For the first strategy, theoretically, it would be quite difficult to change the mode of governance within the available framework if we were to upgrade the existing universities. On the other hand, the merging of universities would more likely allow the mode of governance to change because there would be different legal framework resulted from such exercised. It would also be possible to have a new framework if we were to create new universities because creating new universities would provide the opportunity for the required legal amendments.

    One of the key factors of a world-class university is a favorable governance framework (Salmi, 2009). A favorable governance mechanism would contribute to

facilitate the achievement of such status. As one of the factors, good governance alone as argued by Shattock (2008) does not guarantee a university to be effective and successful; however its contributions could be felt.

> *The truth is that successful universities are not successful because they have effective governing bodies, but a significant contribution to their success can be made by effective governance structures which are congruent to their aims, objectives and culture.* (Ibid, p.98)

Such contributions given by the governing body, especially when we now have strong lay members in the governing body, could be divided into seven categories: the technical and professional advice; the long-term view; the referee for internal arguments; the layman as critical friend; the technical aspects of governance; the reading of environment; and the appointment of a vice-chancellor. It is understood that many of the lay members are senior and experienced persons who possessed the technical and professional background and could give priceless advice to the university. At the same time, they could also envisage the long-term priorities despite pointing out the immediate needs of the university, which might have been overlooked by those preoccupied with the daily operations. Lay members also might provide impartial decisions to solve the conflicts that might arise due to internal differences. As a critical friend, the lay members could give the needed criticisms if there is a potential of drop in university performance. Being partially representing the public interest, the lay members could ensure that the university has a sound financial system and could play the roles pertinent to financial audit. Changes in the external environment may affect the university. As such with their experiences and background they could bring in external views into the internal discussions that might affect the university and give wise advice on the importance of strategic planning to deal with the future. Interestingly, the lay members have a certain degree of influence and play a significant part on the appointment of the Vice-Chancellor. Appointing the right person crucial and the university might have an internal succession plan that could be complimented by the existence of the governing body which would give impartial opinions on the candidates.

METHODOLOGY

This study has been conducted on seven members of the universities' Board of Directors from the Malaysian public universities to gain an insight into their understanding on the importance of governance as well as to find out the key elements affecting governance activities. Specifically, this study has two objectives; one, to discuss the theoretical debates of university governance in Malaysia; and two, to elicit the experiences of the members of the university Board of Directors in the governance practice.

Utilizing the qualitative approach, interviews were conducted with seven members of the University Board of Directors from two public universities and each interviewee was asked a semi structured open ended questions following an interview protocol (Gay & Airasian, 2003). Each interview took between one and half to two hours and was conducted two or three times according to the willingness and amount of information gathered during the interview. Legal documents such as

university constitutions, statutes, rules and regulations, annual reports, government reports, and commissions' reports were also referred to as sources of evidence.

Interviews were transcribed verbatim. The process of analyzing the interviews started immediately after each interview was transcribed. Miles and Huberman's suggestion (1994) on the ladder of analytical abstraction comprising 3 levels of data analysis; to code, to categorize, and to group the emerging concepts, patterns and themes of the findings were followed during the analysis stage. Simultaneously, constant comparison was also made with the literature, documents and interviews so that the development of main themes for the study could be traced. The emerging themes were then linked to find out the major themes of the study in relation to the research questions raised.

FINDINGS AND DISCUSSIONS
Structural Arguments

One of the main themes emerged was related to the theoretical arguments. Is there any best governance theory that could be applied to the Malaysian universities? Starting with only one university in 1962, Malaysia now has 20 public universities comprising more than 419,000 students of which about 48,000 are at the post-graduate level of education (MOHE, 2008). According to MOHE also, there are about 25,000 lecturers serving in the local public universities, of which more than 6,500 hold doctoral degrees. This development has made the governance practice more complicated. As a result, there is no single theory that could give the best picture about the governance process. It is argued here that there is no single best theory that could best describe the tenability of the governance process in Malaysia, but rather there are combinations of the structural, political and open system theories to describe the characteristics of the Malaysian public universities and how governance works in Malaysia.

Examining the university development in Malaysia, it was found that the university environment has grown up from a simple organization in the early 1960s into complex organizations that resulted with an emergent and domination of the bureaucratic structure. This resembles the argument given by Clark Kerr (1970) that as universities grow into complex organizations, structural images become prevalent describing the nature of the governance process and universities have become the Multiversity that were "held together by administrative rules and powered by money" (p.20).

Universities in Malaysia comprised many faculties and faculties are further divided into departments. There are also institutes or centers that focused on special research interests while non-academic departments such as registrar, bursar and library that supported the universities core functions. All these faculties, institutes, centers, registrar departments, bursar departments and libraries are held together by rules and regulations and simultaneously depended on the government financial assistance to finance their operations. Consequently, laws including the Charters of University Establishment, Education Act 1961, followed by the Education Act 1996, Universities and University Colleges Act 1971 (Amendment 1996) and Universities' Constitutions have shaped and influenced the mode of governance practice.

The hierarchical nature of the Malaysian public universities as the government arms was given by the levels of authorities that existed in the universities. The laws delineate the bodies that were supposed to make the decisions in the universities, which include major universities' authorities such as the Board, the Faculty and the Senate. Theoretically, such delineation could increase the efficiency and effectiveness of the policy making processes. From the structural perspective, it could be inferred that bureaucracy was applied to the governance of Malaysian public universities. Therefore, it could be sum up that the structural aspect of the university concurred to the definition of bureaucracy, that have made Malaysian universities as complex organizations consisting of rules and procedures to achieve a definite social function for the purpose of nation building.

Political Arguments

From the political perspective, there are several arguments that could describe the governance process of public universities in Malaysia. Power, authority and influence were three components significant to the exercised of governance whereby power related to the ability to make others do according to the requirements of the power holder, while authority was very much connected to legal organizational structural position. On the other hand, influence was not directly connected to organizational position or legal authority, but to the ability to persuade others especially in organizational politics (Angiello, 1997; Bolman & Deal, 1991). There are many agreement seeking activities happening in the universities and inducing of others to behave in certain patterns. Therefore, these activities could be regarded as political activities.

The governance process works through functional representation and powers were vested in various bodies or committees and only selected or elected individuals were allowed to participate. Nevertheless, it was felt by some interviewees that in reality, the Board was powerless because many of the Board's powers were executed or delegated to the universities' Vice-Chancellors. The University Constitution has allocated the powers to the Board and regarded the Board as the executive body. Paradoxically, by tradition the Board's attendance in the universities was limited to attending Board meetings or official functions. Feeling that the Board should play more roles and contribute to the university development based on the experiences of the members, the members started raising issues that were deemed as relevant to governance process. Issues pointed out include university's strategic plan, finance, abiding to government's directives, leadership, accountability, and autonomy. However, such initiatives by the Board were viewed as micro-managing and interfering with the university's operations that has created resistant from the university community. Thus, the debated issue was about who has the power, was it the Board or was it the Vice-Chancellor?

Political theory also regards the university as a political community and this perception has received much attention in the literature about university governance (Angiello, 1997; Birnbaum, 1991; Kezar & Eckel, 2004; Sufean, 2004). Many of the discussions emphasized the prevalence of political characteristics in the university community based on the assumptions that groups' contest for power is undeniable, policy formulation is the focus of decision making and conflict is

normal whereby political analysis through rational approaches would necessitate the emerging outcomes favorable to every group. In the end, there was a question, is university a political institution? In this study, can the Malaysian public universities be considered as political institutions?

Malaysian universities are academic institutions. The professors should be the wise and suitable individuals to lead or in this situation, to govern the institutions. Why? It has been said by Moodie & Eustace (1974) that academic institutions are better lead by the academicians because they know better the life of academic institutions. However, in the Malaysian universities, the academics are underrepresented (refer to the Universities and University Colleges Act 1971 (Act 30) University Constitution – section 13). The activities of politics through political maneuvering to become members of the Board could be said as prevalent. The Minister was given the power to appoint Board members. Hence, it was normal to appoint members who would serve the interest of the appointees and such appointment made members to incline to partisan politics. Political inclination to the ruling party was undeniable, but to a certain degree there were also expectations by the members that they should be given leeway on the governance aspect. The Board should be the avenue for debates and discussions between the university and the government, but it was felt by several members that the Board was expected to abide by the Ministry's directives.

The university environment thus becomes the center of power tussle especially to fulfill the political aspiration of the Minister or political masters and the present ruling government. Academic credentials were not the primary characteristics to become members of the Boards, and the academicians especially the professors were not seen as the 'persons' to participate in the governance process. Therefore, the understanding on the spirit of the constitution of academic institutions was interpreted as that of an institution to fulfill the national aspiration and not as an academic institution following the traditional academic histories of Cambridge or Oxford. Therefore, can we imitate the Oxbridge's practice if we were to achieve the world-class status? Furthermore, can governance contribute to university's success?

Board's Experiences and Concerns on Governance

There were several concerns that have affected the governance practice. These are discussed in turn.

University Autonomy

Greater autonomy for the public universities as expressed by the interviewees was a debatable issue which has been going on since the early establishment of the Malaysian universities. The interviewees have pointed out that the issue of balance of power between the central government especially in the forms of control and directions exercised by the Ministry of Higher Education, the board and the universities created tensions and left the universities with little room for autonomous functions. Nevertheless, in the public universities, university autonomy is still practiced because universities in principle are practicing

meritocracy in their academic appointments and promotions. Universities are also allowed to pursue for competitive excellence and to gain world-wide reputation in their niche areas of specialization through research and academic writings.

> *University is the only institution where you're born free. You're free to think and think of [the] new things. And then you can get great things out.*
> *In university who tells you what to do? You yourself. You became world renowned, if you have good ideas. That's the only place you can do it, no other.* (Interviewee 4)

> *We have autonomy, we make our decisions. Out of hundred decisions that need to be made by the university, 95% we do it. Majority of the decisions are made by the university.* (Interviewee 7)

Leadership in Governance

Leadership was viewed as an important factor to achieve a world-class status. It was agreed that in governance exercised, good strategic leadership could lead to proactive actions that could led to better university direction, mission and strategic plan. It was agreed that a leader must think global. The process of appointing a leader must be done based on meritocracy. It was very important as pointed out that the university must appoint the right person to lead the university. It was noted that the universities had the capable people to come forward and to lead the academicians. The only problem was that the mechanism to appoint the right person was distorted due to various reasons including that of politicking.

The experience of the notable universities such as Oxford and Cambridge must be brought into the local university practice so that the public universities could imitate the success of those universities. The Vice-Chancellor is one of the most important people to lead the university and it was commented that the Vice-Chancellor must be someone who is good in both, in administration and in academic because he would lead other academicians. The salient point was to appoint the right person and in order to do that the university must practised meritocracy.

Power of the Board of Directors

The powers of the Board of Directors were ambiguous and need further elaboration. On many aspects, the members regarded that the Board was powerless and cannot make decisions because through the Malaysian university education system, many affairs needed the central government's approval or decisions. The government was seen as the main determinant of the policies affecting the public universities. Powers were also related to the university autonomy, which to date has been regarded that the public universities lacked the university autonomy.

Clear delineation of laws, powers, accountability and transparency are the significant principles of governance as derived from the interviews. The members of the Board felt that they should be given the roles as they should have according to the Constitution, but in reality many of the Board's roles have been exercised by the Vice-Chancellor at the university level. The authoritative power of the Board indirectly has been contested. As the governing body, the Board should act

according to the law, but by tradition it was commented that any attempt by the Board to follow the Constitution was deemed to be intervening in the affairs of the university. Hence, it is essential to redefine the powers allocated to the various bodies by making necessary amendments to the existing laws so that a better explanation and interpretation could be derived, thus could lead to a more effective governance exercised.

Representation

One aspect that has been raised by the interviewees was that on representation. In the current arrangement, there are eight members in the Board of Directors comprising the Chairman, Vice-Chancellor, two persons representing the Government, a person representing the community, and maximum of three persons appointed by the Minister who have the knowledge and experience to contribute to the Board. The power to appoint Board members remains with the Minister of Higher Education. Thus, members appointed are assumed to have political alignment with the ruling party. In this manner, the Government as a major stakeholder, in principle wants to ensure that polices made and actions taken are in tandem with the relevant laws and in line with government's policies and national aspiration. Such arrangement indicates that government political interest in university's affairs remains substantial. The core business of universities is basically academics; therefore, it was argued that those who know most about the job should have more representation, meaning that academics must have more representation in the governance process.

Laws on University Governance

Several laws need to be revised or abolished to suit with the current demands and challenges. The Universities and University Colleges Act 1971, in particular has been outdated and has created criticisms because the Act has been looked to create a hindrance to university advancement and students' creativity. The Board of Directors through membership from various government departments was merely a mechanism to ensure that the government's directives are followed because the public universities were regarded as legally established to serve the needs of the nation. Section 15 of the Act which prescribed the prohibition on a student or students' organizations from associating with societies except as provided by the constitution or approved by the Vice-Chancellor gave too much power to the Vice-Chancellor and this could further hinder students' awareness and critical thinking on current issues. A certain degree of freedom to give expressions or comments within the legalized framework utilizing the suitable mechanisms need to be developed to nurture the Malaysian university students.

There must be an enabling law environment which would encourage the public universities to innovate rather than to stifle innovation. For this to happen, the cumbersome bureaucratic laws, the regulations and the procedures have to be removed so that the public universities can have more flexibility and a certain degree of autonomy to determine the relevant ways to enhance their competitiveness in the global environment. This finding is indeed in line with

Salmi's view (2009) that one of the key factors of a world-class university is a favorable governance framework.

CONCLUSION

There is no magic formula to achieve a world-class. However, effective university governance can be a contributing factor to achieve such ambition. Maintaining proper balance of powers and deep understanding on the roles of governance as well as taking seriously on the issues of governance would provide the essential path towards achieving effective governance. Several concerns as pointed out by the interviewees should be considered seriously so that the Board of Directors can contribute more effectively in the governance activities. Perhaps, the current contexts have to be re-examined and evaluated carefully and the universities in Malaysia should be given more rooms to be more autonomous in their governance activities based on each strengths, resources and niche areas.

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