

# The Consequences of Culture on Shareholder Activism in Malaysia

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## Abstract

*The purpose of this paper is to reflect on the role played by minority shareholders in upholding good corporate governance within a Malaysian environment. Unlike many developed countries, the major investors in the Malaysian capital market comprise government agencies or family-owned corporations. These institutional shareholders are not always in the best position to uphold good corporate governance practices as there is a conflict of interest where the role of the owners and managers are not separate.*

*Recent corporate scandals in Malaysia have shown that minority shareholders are reactive when they should be proactive. They are not as interested in good corporate practices as in the dividends and profits that the corporation pays out. There no sense of ownership of the company or a sense of responsibility to speak up when things go wrong. The main reason for this lies in Malaysian culture, which cultivates high power distance and low individualism. It does not encourage shareholders to take action against errant managers. This paper will also discuss alternatives to the current method of challenging managers of corporations that have poor corporate governance practices.*

## Keywords

**Corporate Governance  
Minority Shareholders  
Malaysian Corporate Scandals  
Family Owned Corporations**

## Introduction

Shareholder activism is one of the mechanisms for good corporate governance. In many jurisdictions, it is institutional shareholders who are exhorted to ensure good corporate governance and this is relatively easy to comprehend as they are organised and usually have enough clout to insist that the corporation abide by their requests. There are many methods that can be used to make institutional shareholders a valuable mechanism for good governance (Romano, 2001; Rock, 1991; Schwab and Thomas, 1998; Ratnatunga and Ariff, 2005). These methods do not apply to minority shareholders who are not organised enough nor carry the weight that institutional shareholders do. There are very few cases brought by minority shareholders against directors of companies in Malaysia (Chong, 2004). This clearly shows that there is a distinction between requesting shareholders to oversee good corporate governance principles and actually putting it into practice.

The purpose of this paper is to examine whether minority shareholders can play a role in upholding good corporate governance within a Malaysian environment. Unlike many developed countries, the major investors in the Malaysian capital market comprise government agencies or family-owned corporations. The latter hold about 45% share of the large corporations in Malaysia (Gomez, 1999 p. 14). These form the majority of the institutional shareholders and (as will be related elsewhere in this paper) such shareholders are not always in the best position to uphold good corporate governance practices. This paper will focus on the role of minority shareholders comprising the Malaysian public from diverse backgrounds.

The traditional role of shareholders in maintaining good corporate governance is to query the directors at the annual general meeting of the corporation and voice their opinions. In corporations which do not practice good governance, the ultimate power they hold is to sell their shares. This

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may not be a very powerful weapon unless the efforts are synchronised between all the shareholders, such that it affects the share price. Very often shareholders are reactive when they could have been proactive and they decide to dispose of their shares when it is too late (Johnson and Mitton, 2001).

More often than not, shareholders are not as interested in good corporate practices as in the dividends and profits that the corporation pays out. Why is there no sense of ownership of the company or a sense of responsibility to speak up when things go wrong? It is our belief that the main reason for this lies in the Malaysian national culture, which does not encourage individuals to be assertive. The concept of shareholder activism is not new in Western jurisdictions. In Malaysia, it is not only new, but goes against the grain of cultural traditions that frowns upon any challenge posed to those in power which may 'rock the boat' (Martinez, 2001a).

### **The Malaysian Environment**

The corporate environment in Malaysia is similar to many other Asian countries where large corporations are family or government owned (Thillainathan, 1999; Cutler, 1994; Lang, 1999). The institutional shareholders in these corporations are the founders or their family. Some of these corporations such as Genting Berhad, YTL Corporation and the Hong Leong Group which are public listed corporations are very successful but there is little doubt that though listed, the owners who continue to hold the majority shares make the major decisions. Bursa Malaysia (the Malaysian Stock Exchange) and PricewaterhouseCoopers Corporate Governance Survey 2002 showed that many public listed companies surveyed have substantial shareholders who act as directors and are involved in the management as well. Minority shareholders under such conditions have very little say in the management, ethics and practices of these types of corporations (Reed, 2002; Thillainathan, 1999). These family owned corporations are listed for the purpose of obtaining capital, yet deny minority

shareholders a say once they have invested that capital.

Another group of substantial shareholders in public listed companies are government agencies. The Malaysian government soon after independence in 1957 established state agencies which purchased large businesses from its British owners. It then pursued a policy in the 1980s to privatise state-run services such as the National Electricity Board, telecommunications and other similar services (Crouch, 1996, p. 201). The corporations that took over these services are known as government-linked corporations (GLCs) and are listed on the main board of the stock exchange. The majority shareholders in these corporations are Malaysian government agencies like Khazanah Nasional, Permodalan Nasional Berhad (PNB) and Lembaga Tabung Haji which invest quite heavily in GLCs such as Telekom Malaysia, Malayan Banking Berhad and Tenaga Nasional. As an important institutional shareholder, the government of Malaysia can easily dictate terms to these corporations. The opinions of minority shareholders are unlikely to make much difference to the management as more often than not, the management is influenced by government policies. The most effective way for minority shareholders to voice dissatisfaction over poor corporate governance practices in these circumstances would be to dispose of their shares. They are particularly at a disadvantage as there is no separation of ownership and management in many public listed corporations in Malaysia.

### **Politics, Business and Institutional Shareholders in Malaysia**

The position of institutional shareholders in Malaysia is very different from institutional shareholders in other countries. Apart from other corporations, institutional shareholders in the United States and Australia are from pension funds or workers unions (for example, California Public Employees Retirement System (CalPERS) in the United States and the Transport Workers Union in Australia). These organisations play a role in improving corporate governance in corporations within

their portfolio by introducing proxy proposal rules, insisting on enhanced board independence and restricting executive compensation (Romano, 2001). These shareholders are independent of the government and are accountable to their members. Even when they are not a majority shareholder in the corporations that they invest in, they actively guard the interests of their members.

The main shareholders in public listed corporations in Malaysia are either family members in a family owned-corporation that has been listed or state agencies that have invested in GLCs. The shareholdings of individuals in these corporations are miniscule compared to those held by state investment bodies. Since it is normal for institutional shareholders to appoint their own candidates to the board of directors, it is not too far-fetched to assume that the candidates are selected by virtue of political influence over the state investment agencies. Where this is the case, it is unlikely that individuals who are also minority shareholders will take action if the board abuses its power; as this is not only perceived as challenging the directors but also the politicians who appoint them.

An example of interference with government linked corporations can be depicted with reference to Edaran Otomobil Nasional Berhad (EON) the national car manufacturer. Khazanah Nasional is a majority shareholder in EON and in 2004 the Malaysian Prime Minister appointed former Prime Minister Dr Mahathir Mohamed as advisor to the board despite the dissatisfaction expressed by board members. In 2005, the Prime Minister again intervened to retain the Chief Executive Officer of EON although this was opposed by the Board. This resulted in the Chairman tendering his resignation. (*The Edge*, 2005).

Directors of GLCs are usually wealthy people with a very high status who often carry royal titles or titles bestowed by the various rulers. Due to this, their views are not likely to be challenged. This factor was acknowledged by the Finance Committee which drafted the Malaysian Code of Corporate Governance 2000 (Clause 4.21).

Since the 1980s when the government followed a privatisation plan, the assets of the state run corporations have been sold or transferred to close associates of senior politicians. For example, the government privatised the national airline by handing over control to Tajuddin Ramli, a close associate of the then Finance Minister Daim Zainuddin. This was done without open bidding. The shares were purchased at 8 ringgit per share. In December 2000 Tajuddin's shares in the national airline, which was making huge losses were purchased by the Ministry of Finance at a price equivalent to 8 ringgit per share when the market value was only 3.62 ringgit. This too was undertaken without any public discussion or debate (Gomez and Jomo, 1999 p. 148-152).

A similar incident involved Renong, a government connected corporation. Renong was an investment arm for UMNO and although the political party purportedly divested itself or all its assets including Renong, the relationship between the two remained close. Renong was headed by Halim Saad a close associate of the Finance Minister at that time, Daim Zainuddin. Halim engineered a deal where United Engineers Malaysia (UEM), a subsidiary of Renong, bought Renong shares for 692 million ringgit and financed the acquisition with borrowings. None of the institutional shareholders who were state agencies objected to this move but the minority shareholders together with politicians from opposition parties demanded an explanation, and as a result, Halim granted UEM a *put option* that he would purchase the shares within a year. He was later purportedly 'permitted' by UEM to postpone the settlement and pay 100 million ringgit as a gesture of goodwill. With such strong political connections, he was *not* forced to be accountable to the shareholders nor did the Securities Commission investigate his conduct. Although minority shareholders suffered due to mismanagement at Renong, there is no record of shareholders taking action against the directors even after such deals were made public.

Neither the institutional nor minority shareholders in Malaysia took any legal action against Tajuddin Ramli or Halim Saad. The latter group was reluctant to do so because criticising these corporate figures seems pointless due to their close relationship with politicians. There seemed to be little that minority shareholders could do in light of these developments except to watch their investments closely and attempt to sell their shares as soon as they suspected that its value would be reduced. This behaviour is observable not only in relation to GLCs but also in relation to other corporations led by persons who are perceived to have connections to politicians.

This can be contrasted with countries like Australia and the United States. In the latter case, shareholders have always been very active in protecting their rights through class actions. Since 1999, there have been 339 class actions taken by shareholders in the United States against corporations (Garry *et al.*, 2004). There has been an increase in shareholder activism in Australia resulting in minority shareholders initiating actions against corporations such as GIO, Media World, Concept Sports and Sons of Gwalia claiming misleading and deceptive conduct. Minority shareholders in Australia took action against GIO when the corporation forecast a big profit and advised them against selling their stock to AMP as the latter's offer was too low. This turned out to be untrue and the shareholders suffered huge losses. They initiated a class action and were successful in suing the corporation for their losses (*Sydney Morning Herald*, 2005)

### **Minority Shareholders**

The minority shareholders in Malaysia are placed in a position where they cannot depend upon majority shareholders in family owned public listed corporations as the founding families usually retain the majority of shares, sit on the board of directors and manage the company. They also cannot depend upon large institutional shareholders in GLCs since these shareholders are often subject to political pressure and may have interests that

conflict with the interests of the minority. Will minority shareholders take action against errant corporations on their own?

In our view this is unlikely and the reason must be viewed in the cultural context in Malaysia which impacts upon how they view and address such issues; this is otherwise termed as 'mental programming' by Hofstede (2001, p. 2) who laid out a comprehensive set of factors to identify a national culture. Hofstede's definition of national culture involves studying five aspects of a nation's characteristics which are the power distance, uncertainty avoidance, individualism and collectivism, masculinity and femininity and long versus short term orientation. Two of these five factors; power distance and individualism, will be explored in depth, as these are the factors that appear to have the most impact on minority shareholder activism.

### **Power Distance and Shareholder Activism**

The concept of power distance refers to the interpersonal power of influence between two people as perceived by the less powerful (Hofstede, 2001, p. 83). When a person is invested with power, there is a tendency to identify with this power and to increase the distance between the persons with this power from those without. The greater the power distance between the two, the more the powerful person will try to increase it and less the powerless person will resist it. If the power distance between the two people or groups was never great to begin with, then the less powerful person will struggle more in order to reduce that distance (Mulder, 1977, p.28). Power distance has several dimensions. The social dimension reveals that power and inequality in society is accepted as the norm in countries with high power distance and the type of power exercised is coercive power and power based upon the power-holder's charisma (Trubek, 1972) The powerless are deferent towards the powerful and this is inculcated into society. Many relationships are divided into the more powerful and less powerful (Hofstede, 2001, p. 100).

Mattei (1997) comments upon the concept of power in a manner that reiterates Hofstede's findings. Mattei introduced the concept of the rule of political law where legal and political systems are not separate and democratic processes are not the dominant pattern. Political relationships define the legal system and although the governments pay lip service to principles of democracy, separation of powers is not practiced purportedly because it will not maintain stability. The legal system in Malaysia reflects the rule of political law at differing levels. Such legal systems do not have independent courts and are characterised by high levels of political involvement in the judicial system, high levels of police coercion, highly bureaucratised public decision making processes and drastic governmental intervention in economic policies. The rule of political law is one reason behind the increase of power in the hands of politicians and the wealthy businessmen (Gomez 2004, pp 177 - 184). Such power further reinforces the implications of power distance which is to increase power in the hands of those who already have it, with the silent acquiescence of the government.

Malaysia occupies the highest place on the Power Distance Index (PDI) Values for 53 Countries and Three Regions (PDI) with a score of 104. The average score is 57 (Hofstede, 2001, p. 87). The political dimensions of high PDI countries show that they have relatively stable and authoritarian governments. This can be contrasted with society in Australia which practices liberal democratic values and has a PDI score of 36. Although the law in Malaysia may state that everyone is equal, those who have power are entitled to privileges and use their power to accumulate more wealth and in turn more power (Jomo, 1998, p. 186-9). The less powerful are not used to enforcing their rights and expect the government to take the initiative when matters of public concern arise (Hofstede, 2001, p. 112).

The low shareholder activism in Malaysia may be attributed to the implications of a high PDI prevalent in the country. The government in Malaysia is considered by many to be authoritarian and powerful

(Means, 1998), and that there are few checks and balances on the power of politicians. The legislature is very much subject to the power of the executive. The judiciary which has been effectively weakened is unable to check the growing power of politicians (Yatim, 1995, p. 379). Society is conditioned to accept that the powerful have a right to certain privileges because of their status.

### **The Role of Status in Malaysian Culture**

Respect for status and power is embedded in the cultures of the various races in Malaysia and that is probably the main reason why shareholders do not take legal action against directors of GLCs as such persons usually have power, wealth and are politically connected.

The Malays and Chinese form the majority of the population in Malaysia and the largest businesses in Malaysia are in the hands of these two groups. Malay culture places great importance upon the status of a person. This is due to their cultural and political history where the Malay rulers wielded absolute power and brooked no disagreement. The strict hierarchy among the nobility who were free to behave as they wished as long as they were loyal to the ruler may have also contributed to this cultural trait (Emerson, 1979) The concept of power is viewed as something that consolidates one's position and which is used to help family and friends. Power is quickly personalised to the holder and not to the position which gave the power in the first place (Pye, 1985). It is for this reason that status is overwhelmingly important in the Malay culture even until today (Musa, 1999, pp. 83-95).

Malays are rarely assertive and will not uphold their rights as they find confrontations distasteful. They are not vocal about their grievances even to those of similar status. Their method of dealing with problems is completely non-confrontational (Mastor *et al.*, 2000). The defence mechanism is to make troublesome issues taboo and sweep it under the carpet. Even when making criticisms, it is preceded by praising of the person before couching

the criticism in the mildest of terms especially when the criticism is directed at the government or any person whom they perceive to have the power to make life uncomfortable for them (Mohamed, 1970, pp. 170-1; Pye, 1985, p. 257)

The Malays seldom regard criticism as constructive, preferring to regard it as a personal attack. They are overwhelmingly concerned about the effect of their words and actions on the feelings of others and how it will reflect on them (Goddard, 1997). When this is combined in a political system with statutes like the *Internal Security Act*, which permits detention without trial and has been used against critics of the government (Yatim, 1985, pp. 245-9), the effect is that almost no open and direct criticism is made by anyone except politicians. Even then, there may be repercussions. It is puzzling that it is in this type of atmosphere that the authorities are calling for increased shareholder activism among minority shareholders.

The Chinese are the second largest race in Malaysia and although probably the most Western in outlook, among the Malaysian races, they still hold strongly to Confucian, Buddhist and Taoist values (Hofstede and Bond, 1988). While Confucian values have never expressly prohibited the exercise of individual rights, it has not been part of its tradition (Finer, 1997). Finer, in his trilogy *The History of Government* traced the importance of the concept of civil and political rights in Confucianism and his conclusion was that Confucianism tends to uphold authoritarianism. There is a strong emphasis on status within Confucian culture. Finer (1997, p.461) states, '...there is never a glimmer of the notion of democracy or social equality, and secondly, not a glimmer of the notion of democracy or popular control of government...'. Many of these characteristics are present in the Chinese of today (Ismail, 1988 p.45; Lim, 2001). The Chinese can correlate the concept of a benevolent but authoritarian father with the leader of the state (Pye, 1985, p.255). Thus their culture is supportive of paternalistic and authoritarian leaders (Pan, 1990). This translates to incidents of high power distance between

corporate leaders and minority shareholders.

The brief discussion on the cultural values of the different races in Malaysia shows that status is still strongly emphasised within Malaysian culture. It is unlikely that under such circumstances, shareholders will be comfortable enough to speak out openly and critically against directors who more often than not possess a high status with several titles to their name. There must therefore be mechanisms that take this into account before shareholders can be expected to play a role in ensuring good corporate governance.

### **Individualism and Collectivism**

The second focus of this discussion is individualism as opposed to collectivism which is another dimension in Hofstede's definition of national culture. This is closely linked to a country's economic development and correlates broadly with a country's PDI. Societies are classified as individualistic when the ties between individuals are loose. Where people in society are integrated into strong cohesive in-groups, the society is classified as collectivist (Hofstede, 2001, p. 210). Malaysia has a low individual values score (IDV) of 36 indicating that it is a collectivist society where social ties and family ties are strong. The cultural influences of each of the major races in Malaysia have been highlighted earlier and reflect strong collectivist views. Nevertheless Malaysia has advanced to the status of a developing nation since the data for Hofstede's IDV was gathered in the early 1970s and since there is a correlation between economic development and IDV, Malaysian society is probably more individualistic than before (Abdullah and Gallagher, 1995) although not to the extent of Western societies (for example Australia which has a IDV score of 90) where high IDV scores are prevalent.

The purpose of the discussion on individualism and collectivism is to point out that the collectivist culture in Malaysian does not create an environment that is conducive for individuals to query

directors or hold them responsible for poor corporate governance practices. The political system is not a conducive environment for individuals to be assertive especially against the wishes of the majority. It is difficult to see how policies that encourage shareholder activism while discouraging other types of individualistic tendencies can succeed under such circumstances. Malaysian shareholders are a product of their culture which does not encourage confrontations. While shareholders may be persuaded to express their views freely in the corporation's annual general meeting, this is most likely not the case where the management of the corporation is closely associated with politicians as the criticism may be perceived as being aimed at the latter. For example, it is difficult to imagine an individual shareholder questioning the competence of the CEO of EON Berhad when his position has been endorsed by the Prime Minister and the former Prime Minister against the wishes of the rest of the Board. As stated earlier in the Malay culture for example, criticism is viewed as a personal attack.

There is a dichotomy between theories of individualism and collectivism as both have different 'starting points'. The concept of shareholder activism is suitable in Western liberal democratic countries as this concept rests upon the enforcement of individual rights. Theories of individualism state that the individual has power to enforce certain rights and the purpose of the state is to further the individual's interests. When a conflict arises between individual rights and the welfare of a group, the former can be upheld as greater value is placed on the freedom of the individual (Elfenbein, 1986). The political philosophy in liberal societies is that individual rights and liberties must be protected sometimes even at the cost of the welfare and authority of the community (Waldron, 1987). This acknowledges that an individual is entitled to be respected (Shue, 1975; Meyer, 1989; Marmor, 2003). The legal culture created is that they are not subject to the power of the state and can influence in the way the state exercises its power (Grey, 1975).

This is a lesson that most Malaysians have not learned. The method of governing in Malaysia is 'soft authoritarianism' (Means, 1998) which is a method incorporating democratic values together with strong paternalism. The government is conservative, believing in a society that has general values that should be upheld. These are usually a combination of moderate Islamic moral values (Martinez, 2001b, pp.225-242; Hussein, 2002) and economic policies where the private sector is strongly guided by the government which allows little to stand in its way (Gomez and Jomo, 1999, pp 39-53). Malaysians are used to being guided by the government and individualism is not encouraged from a political and cultural perspective as discussed earlier. Malaysian leaders prefer to stress on collective values as a whole which focus on social harmony and political stability (Zakaria, 1994; Dupont, 1996). Pye (1985, p. 26) argued that the '...belief that progress should result in even greater scope for individual autonomy is not taken as self-evident by most Asians who are more inclined to believe that greater happiness comes from suppressing self-interest in favour of group solidarity'. Asians do find satisfaction and security in knowing that their social fabric is firm and that they belong to a larger community'.

Hofstede (2001, p. 236) has identified certain personality and behaviour characteristics that exist in nations with low IDV. Some of the characteristics that are relevant to shareholder activism are: low public self-consciousness and emphasis on harmony (as confrontations are to be avoided). These elements have been discussed earlier. In addition, countries with low IDV show political systems where collective interests are supposed to prevail over individual interests (Hofstede, 2001, p. 246; Bochner, 1994; Bochner and Hesketh, 1994). State capitalism, economic monopolies and unbalanced political power is the norm with laws and rights that differ between groups according to tradition and religion. In addition, the low IDV score supports the notion that individuals due to their cultural background are usually reluctant to take personal action against powerful directors. Malaysians value

wealth and money as this gives a person status and this may be one of the reasons why shareholders usually keep silent when a company pays good dividends and maintains a good share value despite poor corporate governance.

The move to encourage shareholder activism runs counter to the current political climate where people are not encouraged to speak freely. GLCs account for 34 percent of the total market capitalisation of the Malaysian stock market which is estimated at 232 billion ringgit (*The Edge*, 2004). It is therefore unreasonable to expect minority shareholders to stand up and speak their minds except in the mildest of criticisms especially if such criticism is perceived as directed at politicians.

### **The Minority Shareholders Watchdog Group**

Minority shareholders in Malaysia are at a greater disadvantage than minority shareholders in developed countries like Australia because they not only have to contend with conflicting interests with institutional shareholders at times, but they also have to contend with government interference that at times prevents even institutional shareholders from exercising their rights as shareholders; a move which may indirectly harm minority shareholders who seldom have the clout to make themselves heard. It is therefore left up to minority shareholders to represent their own interests. They are unlikely to do this in light of the local culture and politics.

The Malaysian government has acknowledged that institutional shareholders do not always represent the interests of all shareholders and the Minority Shareholder Watchdog Group (MSWG) was established in 2000 to provide assistance to minority shareholders and to act as a watchdog over companies. The group's five founding shareholders were PNB, the Employees Provident Fund, Lembaga Tabung Angkatan Tentera (LTAT), Lembaga Tabung Haji (LTH) and Pertubuhan Keselamatan Sosial (PERKESO) which are government investment agencies. The MSWG failed to

make an initial impact partly because it ran out of funds at the end of 2003 and because it lacked a suitable business model to sustain itself.

However, in 2005, the situation became better, as the MSWG has been receiving funding in 2005 from the Capital Market Development Fund, which will finance the group's operation up to a sum of RM5 million until 2007. It has been very active since then and has set up its own website and offered services to its members including proxy voting services. The MSWG can be compared to the Australian Shareholder Association (ASA) which has been established since 1960 to advance the interests of all investors. The ASA is funded by members' subscription fees and not by any major institutional shareholder or by the government. It has sometimes been at loggerheads with institutional investors while trying to protect the rights of minority shareholders. The institution has a branch office in every state in Australia and has its own website and membership drive. It sends representatives to company meetings and raises issues that concern all shareholders and is accountable to its members via a monthly ASA journal and an annual report. The MSWG has also undertaken to be as proactive and visible as the ASA. If an issue needs to be raised, the MSWG has indicated that it is willing to approach individual minority shareholders to appoint it as a proxy to raise these issues. Given the high power distance and collective culture in Malaysia, this is an ideal situation where shareholders need not fear raising controversial issues by themselves as they have the group to represent them.

Although the MSWG is more proactive now, there are still a few drawbacks to this organisation. Its founding members who are government agencies are now treated as customers. However these members have no real need of it since these agencies are institutional shareholders in most GLCs. In addition, the board of directors of the MSWG are from these founding members. For example, the Chairman of the MSWG is from the EPF which is a state organisation. If politicians continue to



interfere in state agencies and in GLCs, it may have adverse effects on minority shareholders. Will the board of the MSWG be willing to act against the very corporations that nominated them to the MSWG?

### Recommendations

There are several ways in which the position of shareholders in Malaysia can be improved. The first method is to de-link large businesses from political influence. The Malaysian Prime Minister has taken the initial step to de-link GLCs from the Ministry of Finance and place them under Khazanah Nasional with the intention of turning the latter into a powerful investment house in the region. Although the sole shareholder of Khazanah is the government of Malaysia, its board of directors comprises representatives from the public and private sectors. This represents a change from the past and Khazanah has the ability as a large institutional shareholder to push for better corporate governance (Head, 1999). However the minority shareholders' position remains unchanged in this new environment as there are no parallel changes where the national culture is concerned as power distance is still high and collectivism is given priority over individualism. There must be steps ensure that the directors and senior management of GLCs are selected on merit and not due to political connections.

The MSWG should also ensure that its directors and chairperson are not associated with any government or state agency. The composition of the board should be from independent organisations like the board of the Australian Shareholders' Association and representatives of all groups and not just corporations. If the composition of the board is made up of representatives from state agencies it may compromise the position of the MSWG as an independent body willing to act without fear or favour.

Discussions with the MSWG prior to its new funding structure revealed that individual shareholders who hold miniscule amounts of shares in PLCs do not deem it worth their while to take legal action against

errant boards (Roy, 2004). They also perceive that the directors are powerful and a law unto themselves making legal action pointless. Roy (2004) confirmed that cultural legacy, shareholder immaturity and powerful ownership concentration discourages shareholders from being proactive in enforcing their rights. The MSWG can act as a centre where shareholders can be organised into a group to initiate action against errant corporations. The MSWG should be permitted to represent the group in a class action suit. This is especially important in light of the collective elements in the Malaysian national culture. Over time, cultural changes may occur in Malaysia which may give birth to organisations such as the South Korean People's Solidarity for Participatory Democracy (PSPD) organisation which drives Korea's successful Minority Shareholder's Campaign. Under such circumstances individual shareholders may be willing to initiate action themselves or initiate class actions without the aid of the MSWG.

In the United States lawyers specialise in class action law suits on behalf of minority shareholders against corporations and leave minority shareholders with very little compensation after the legal fees are paid (Garry *et al.*, 2004). In order to prevent this from occurring, South Korea which has similar issues pertaining to corporate governance as Malaysia has enacted a securities-related class action law which permits a minimum of 50 minority shareholders in corporations with assets over a prescribed amount to have legal recourse through class actions. Furthermore, lawyers who have represented minority shareholders in three class action suits are not permitted to represent any such shareholder for three years after the final suit is settled (Dae, 2004). A similar law should be enacted in Malaysia with similar limitations placed upon legal counsel who represent shareholders in litigation against corporations.

### Conclusion

Institutional shareholders in many GLCs and other large corporations are state

enterprises that are subject to government control and may not be able to take on the role of championing the cause of all shareholders. Other large conglomerates are family-owned corporations where the family members are directors, managers and also the institutional shareholders. The combination of these factors leads to the conclusion that it may not be realistic to expect institutional shareholders in Malaysia to be the main drivers of good corporate governance. Minority shareholders have a larger role to play in upholding good corporate governance practices but the 'soft authoritarianism' method adopted by the government and cultural values of Malaysians do not encourage individualism or enforcement of legal rights against those of a higher status. A combination of a high PDI and low IDV score shows that most Malaysians are quite complacent and compliant.

While there have been attempts to reduce the ties between the government and GLCs this is insufficient. The MSWG which has become proactive in 2005 should be seen to be independent namely by having independent directors on its Board. The MSWG should also be given power to initiate class action law suits against public listed corporations to enable minority shareholders to enforce their rights. Once an environment has been created where shareholders represented by organisations can enforce their rights without fear of repercussions, then it might in future encourage them to initiate action on their own.

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