

**Cadangan daripada Parti Keadilan Rakyat kepada JK Pilihan Khas yang berhubung dengan Penambahbaikan Proses Pilihan Raya**

- 1) Malapportionment: There is too much disparity in term of the number of voters from one constituency to another. For instance, Kapar in Selangor has over 110,000 voters and Marang in Terengganu has only 20,000 voters.

**Recommendation:** Restructure all the constituencies such that the difference between the largest and smallest seat shall not deviate more than 15% from the average electoral quota for the whole country. Hence, Article 116 Clause 4 should be reintroduced.

- 2) Police Permits are required for all ceramah during the campaign period that cause a lot of man-power being wasted in getting the venue and the speakers' particulars for the application. Since there is an Enforcement Team which is tasked with the duties of monitoring election offences and also the power to order the police to make arrest under Section 27E of the Election Offences Act, the necessity for a police permit for all ceramah is in a way redundant.

**Recommendation:** The requirement for a police permit for all ceramah during the campaign period shall be waived to avoid duplication of the role of the Enforcement Team and the Police. The candidates should only be required to give 24 hours notice to the Police who shall make arrangements to regulate traffic to ensure smooth running of any ceramah.

- 3) The members of the EC are all ex-civil servants or GLC's staff. Article 114 of the Federal Constitution provides for the appointment of any citizen above 21 years of age and not an undischarged bankrupt as well as not a member of the Dewan rakyat or Dewan Undangan Negeri.

**Recommendation:** The members of the EC should not consist of ex-civil servants or GLC's staff ONLY. The members of the EC should make up of a majority of people from civil society for it to function fairly and impartially.

- 4) EC at the moment appoint Returning Officer and Presiding Officers from people having involvement with the Government and it is difficult to dispel scepticism that EC is acting with fairly and impartially.

**Recommendation:** EC should appoint a majority of Returning Officer and Presiding Officers from civil society without having any involvement with the Government to ensure EC is discharging its duties under Section 5(1)(a) of the Elections Act where election officers are required to act with fairness, impartiality and compliance with Part VIII of the Federal Constitution and any regulations made thereunder.

- 5) The current provision of Section 11(1)(3) of the Election Offences Act provides that; "A prosecution for a corrupt practice except any corrupt practice as defined in

paragraph (d) and (e) of subsection (1) shall not be instituted without the sanction of the Public Prosecutor.”

**Recommendation:** The discretionary power of the Public Prosecutor should be removed in order to ensure no undue preference being given to anybody who has committed corrupt practices.

- 6) Booths are provided by EC on polling day for the electors to ascertain their electoral numbers in the electoral roll under Section 26A of the Election Offences Act. However, this is merely an option for the electors and may disrupt and delay polling process if an elector was to enquire stream by stream. Furthermore, the identity of an elector may be better check at the booth than inside the stream.

**Recommendation:** Section 26A of the Election Offences Act must be amended to make it mandatory for the elector to have his/her identification verified in addition to ascertaining the electoral number at the booth to mitigate personation issues as well as ensuring a smooth election process inside the stream.

- 7) PSC in its first interim report recommended that the "objection period" during the nomination of candidates is to be removed, and the "3-days cooling off" period is cancelled.

**Recommendation:** PSC must take note to recommend that nomination papers submission starts 48 hours before and close at 10am on the day fixed for nomination to allow for proper vetting by the EC. Also, PSC should also recommend that the decision of the Returning officer to accept or reject a nomination paper shall NOT be final and conclusive and may be overturned by the election court to ensure that no eligible candidate is aggrieved and no ineligible candidate is wrongly accepted.

- 8) PSC in its first interim report is recommending that there will be no serial number on the ballot papers but only on counterfoil. The respective polling agents should have a clear view to identify the incoming voters. The disable can be assisted by a person above 21 years old. The recounting process can only be allowed when the vote differences between two candidates is less than 2%, and previously it is 4%. On the marking of Ballot papers, the "X" is the only approved mark on the ballot papers, other type of marking or sign will be rejected.

*There are people in favour of removing the serial number on the ballot paper and there are others in favour of removing it. There is also suggestion to use bar code to replace the serial number.*

*PSC and EC must carefully consider the pro and con of all recommendations.*

*Firstly, for those who propose the removal of serial number on ballot paper, what will be the procedures to be put in place to remove any additional ballot papers found in the ballot box?, None that I can think off.*

*For those in favour of using bar code (assuming the bar code is printed on the ballot paper), what will be the procedures to be put in place to remove any additional ballot papers found in the ballot box? I can only think of having a bar code reader in each stream.*

*For those in favour of status quo, the downsides of the first 2 recommendations above are overcome but the possibility of someone writing the elector's roll number on the ballot paper or its counterfoil is there to enable subsequent identification of votes to voters. However, there is a practical way of overcoming this fear of vote identification by randomising the issuance of ballot paper to voters.*

**Recommendation:** As serial number serves the purpose of identifying any invalid ballot paper when there are additional ballot papers inside a ballot box, it should be retained and the issue of vote identification be overcome by an additional regulation to allow the elector the option to pick the ballot paper of his/her choice. Hence, all could be achieved by just inserting a new Paragraph 19(2A) after paragraph 19(2) of the Election (Conduct of Election) Regulations to read as follows:

“Each voter shall be given the option to pick and choose a ballot paper of his choice”

- 9) Regulation 25((7)(a) requires the Presiding Officer to reject as invalid any ballot paper which is not stamped or perforated with the official mark. However, there is no regulation after Regulation 18 on the preparation of ballot box to require the Presiding Officer to make a sample of the official mark on a form similar to SPR 753 being used in the postal voting system.

**Recommendation:** A new regulation 18A must be inserted after Regulation 18 to require the Presiding Officer to make a sample of the official mark on a form similar to SPR 753 and a copy shall be given to the polling agent.

- 10) Regulation 24((1)(c) requires the Presiding Officer to complete Section B to E of the ballot paper statement (Form 13). Section A is the total number of ballot papers received by the Presiding Officer from the Returning officer and must be recorded before polling starts. However, there is no regulation after Regulation 18 on the preparation of ballot box to require the Presiding Officer to count the number of ballot papers brought in by the Presiding Officer and complete Section A of Form 13.

**Recommendation:** A new regulation 18B must be inserted after Regulation 18 to require the Presiding Officer to show the polling agent the number of ballot papers brought in and complete Section A of Form 13. A copy of Form 13 shall be given to the polling agent.

- 11) Although there are recommendations that a recount be allowed at the main tallying center, this should not be allowed as it would entail the re-opening of all sealed envelopes with the counted ballot papers.

**Recommendation::** The existing regulation of no re-counting should stay.

12) Regulation 25(14) empowers the Presiding Officer to exercise his discretion to order a recount to satisfy himself as to the correct result of the voting. However, there were so many reports that the Presiding Officer ordered more than one recount.

**Recommendation:** Regulation 25(14) should be amended to allow the Presiding Officer to order a recount once only.

13) PSC has recommended that early voting similar to normal voting process be implemented for the arm forces and police. .

**Recommendation:** EC must ensure the Arm forces and police will allow Polling Agent, Counting Agent and Booth Observers to be appointed to monitor the process in all areas.

14) PSC has recommended to the EC to implement measures to allow any Malaysian working in private sectors overseas to vote in overseas centre.

**Recommendation:** EC can easily extend a ballot paper to any Malaysian working in private sectors overseas with the amendment of the definition of absent voter in Paragraph 2 of the Election (Registration of Electors) Regulations 2002 by inserting a new (g) "Any registered voter residing overseas who does not fall within the definition of (a) to (f) and had prior to the dissolution of the Parliament or State Assemblies opted via a prescribed form to receive the ballot paper via post".

15) The EC has committed to look into the manner that can allow the Malaysians working overseas to receive, mark and return the postal ballot papers in time for the counting.

**Recommendation:** The campaign period must be extended to allow for the printing, the issuance, the forwarding and the returning of any postal ballot paper. The feasible period is anything above 21 days.

16) EC is suffering from a huge public distrust towards them due to many issues that were seen happening in past general as well as by-elections. In order to regain the public trust the EC must be revamped with the involvement of civil society members as recommended in item (3) and (4) above and also take up the following recommendations made by many others:

- a. Free and fair media coverage during the campaign period.
- b. No usage of governmental facilities and transport vehicles by any political party during the campaign period
- c. Enforcement Team must truly function to monitor and curb election offences such as personation, treating, bribery, inducement, undue influence, other dirty politics such as the incitement of hatred among races and different faith.
- d. Public Prosecutor, Election Court, Police, and the EC themselves must act impartially and fair towards everyone.

Other pertinent matter are a clean electoral roll which we are make to believe that EC is working hard to clean up the electoral roll and we wish them success in this area.

Presented by Steven Choong Shiau Yoon, Pengarah JK Pilihan Raya PKR Johor.