

**Calls for electoral reform growing louder**  
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Calls for changes to Malaysia's election laws have resumed, starting at the MCA assembly last week. Politicians, election observers and the Election Commission tell SANTHA OORJITHAM why it's time for a review.

DATUK Zaid Ibrahim had a taste of being in the opposition when he contested the Kota Baru parliamentary seat for the first time in the 2004 general election.

In Pas-ruled Kelantan, he claims: "The state government manages the mosques and some of the imam at Friday prayers said I was anti-hudud."

When he wanted to put up banners after nomination day, he had to get permission from the authorities — which was sometimes not granted.

On the other hand, Pas candidates did not even have to apply for permission, he says. Both Kelantan and Barisan Nasional-controlled states use government machinery during the campaign, notes Zaid, who has helped in the past four national polls:

"If we do not work towards pushing for a clear separation, the result will be unfair electoral practices."

That's why the MP and lawyer is calling for a review of election legislation and a completely independent Election Commission (EC).

The EC is as old as the 1957 Federal Constitution. The Elections Act followed a year later, while the Election Offences Act dates as far back as 1954.

Fifty years later, as Malaysia draws closer to its 12th general election, stakeholders across the board are suggesting changes.

While a few are calling for major structural changes, most agree on the need for procedural reforms.

Wanita MCA has already started the ball rolling at their assembly with a resolution calling for automatic registration of new voters when they turn 21.

The Human Rights Commission of Malaysia (Suhakam), which will host a conference on "Human Rights and Election" on Sept 9, invites comments and hopes to forward "appropriate recommendations to the government", says chairman Tan Sri Abu Talib Othman.

Topping the list are calls for a fully independent EC — with many of the suggestions coming from the EC itself.

"We are strong where we are in control of the procedures," says EC chairman Tan Sri Abdul Rashid Abdul Rahman, noting that the commission only has full control of nomination of candidates, polling, vote counting and announcing results.

"We are seen to be weak where the law does not provide for us to be in charge."

The EC is not fully in control of the delineation of constituencies, for example.

All its recommendations are now subject to amendments by the prime minister before being submitted to parliament for the approval of a simple majority.

Some observers point to what they call "mal-apportionment" of votes in constituencies.

Wong Chin Huat, a resource person for the Coalition for Clean and Fair Elections (Bersih), notes that Kapar constituency in Selangor, the largest in the country, has 104,185 voters while Putrajaya has 5,079. "This means a vote in Putrajaya is worth more than 20 in Kapar."

Delimitation of constituencies should give "true effect" to the concept of one person, one vote, notes Abu Talib: "Everybody's vote should be as important as another's."

Abdul Rashid has suggested a separate, multi-party commission to review electoral boundaries and create new constituencies.

The commission cannot guarantee all candidates access to the media during the campaign.

Neither can it guarantee them permits to hold rallies, since these are issued by the police.

However, close scrutiny during the last polls helped ensure that arbitrary refusal of permits by the police was rare, if at all, the chairman reports.

Abdul Rashid has also asked for power to register political parties. Parti Sosialis Malaysia and the Malaysian Dayak Congress have yet to be registered by the Registrar of Societies.

"No political party should be barred," he stresses, noting that in most countries the power of registering parties is given to the EC.

And although the EC does receive reports of corrupt or illegal practices, enforcement is completely in the hands of the police.

Abdul Rashid has also asked for power to recruit and terminate EC staff (who are currently civil servants) and to enable the EC to clean up the electoral rolls.

After empowering the EC, next on the list is creating a level playing field for all candidates, says associate professor Norani Othman, principal research fellow at Universiti Kebangsaan Malaysia's Institute of Malaysian and International Studies (Ikmas).

Bersih's Wong, who assisted Ikmas with its Electoral System Project Phase II and is working towards his PhD on electoral systems, recommends a longer campaign period so that candidates have more time to debate their policies and platforms.

He notes that the first three elections after 1957 had five-week campaigns.

After 1969, campaigns lasted about a fortnight, but since 1986 they have been 10 days or less.

As for campaign funds, he points out that the RM100,000 "cap" for state seats and

RM200,000 for parliamentary seats only covers the candidate's expenditure and not the party. It also doesn't include "donations" of cash, labour and other resources.

He notes that some countries provide state financing for parties, based on their previous vote share.

Bar Council vice-president Ragnath Kesavan calls for a caretaker government when parliament is dissolved.

"During the election campaign, there should be no development funding and no decisions on policy," he stresses.

The caretaker government also should not pass bills or budgets and should not use government vehicles, staff or facilities for campaigning.

### **MCA's Wong Nai Chee disagrees.**

"The constitution provides that once parliament is dissolved, a general election must be called within 60 days," points out the Kota Melaka MP and lawyer.

"We have had no problems so far to necessitate a caretaker government within the interim."

Oppositionists also have their wish list.

DAP's Bukit Bintang MP, Fong Kui Lun, for example, hopes for transparency in postal balloting.

In the 2004 general election, 5,105 of the registered 65,112 voters in his constituency were postal voters.

Just over 3,000 of them were police and the rest were from the army — including their family members, he claims.

Yet, says the third-term MP: "I have not seen any police quarters in Bukit Bintang, although there is a Royal Malaysian Air Force base."

Postal votes made up 4,807 of the 39,141 votes cast in Bukit Bintang — which Fong won by just over 300 votes.

Postal voting should only be for diplomats, overseas voters and police and army personnel on active duty, Fong says. "And at least, let our polling agents witness postal votes being cast."

MCA's Wong says determining what amounts to active duty is difficult. "We need further discussion on this."

All of these suggested reforms would affect election procedures, notes Abdul Rashid.

But some Malaysians have also been comparing the country's simple, first-past-the-post structure to other countries and asking for proportional representation instead.

With the first-past-the-post system, the party which wins a simple majority can get seats

out of proportion to its percentage of the votes.

For example, in 2004, the BN won 64 per cent of the votes, which gained it 91 per cent of the seats.

**But a small swing in votes can also have a huge impact.**

In 1999, for example, when the BN's vote share in Terengganu dropped by 13.47 per cent for parliamentary seats and 13.75 per cent for state seats, its share of parliamentary seats dropped 87.5 per cent and its share in the state assembly dropped 59.38 per cent.

Bersih's Wong suggests a combination system similar to Germany — in which every voter would cast ballots for both a candidate and a party.

Half of parliament would be individuals voted in at the constituency level while the other half would be allocated to each party according to the difference between its percentage of the votes and its share of MPs in parliament.

But while Abdul Rashid supports strengthening the commission, he votes to continue with the first-past-the-post structure under which he believes parties "have to attract a cross-section of Mal-aysians".

With a proportional representation structure, he warns: "Most parties, being communal in nature, may concentrate on support from people sympathetic to their cause only."

For now, Malaysia should stay with its present structure, he says, "but we have to take care of democratising the electoral process so that we can level up the playing field".

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