

'EC's constraints complaint is self-inflicted'

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By Nigel Aw

Despite the Election Commission (EC) complaining that it is tied by constraints in improving the electoral system, the obstacles are the commission's own doing, says former Malaysians for Free and Fair Elections (Mafrel) chief Abdul Malek Hussein.

Abdul Malek said this was because the EC is responsible in making recommendations concerning the election and could have long before proposed the removal of any constraints it was facing.

"We must understand the procedure, firstly it starts from the EC which makes the suggestion, and it will then be passed to the prime minister who will then submit it to Parliament.

"Parliament will only debate the matter and pass them with a simple majority, but the idea and suggestions always starts from the EC," he told Malaysiakini when contacted.

As such, he said former EC chief Abdul Rashid Abdul Rahman should not be evasive by blaming the system for EC's shortfall which has now been inherited by the existing EC leadership.

abdul malek hussin mafrel interview 140806 lookThis, Abdul Malek (right) said, also applies to the malapportionment in the 2002 re-delineation process during Abdul Rashid's term.

The malapportionment saw Pakatan Rakyat only winning 40 percent of parliamentary seats despite garnering 51 percent of the popular vote in the May 5 general election.

"You can't say that the EC is an independent body that made recommendations for the re-delineation of constituencies then later say we have nothing to do with it after it is passed by parliament despite the suggestions wholly coming from the EC," he said.

'EC in cahoots'

While acknowledging that the EC does face pressure from the government, Abdul Malek said the EC, too, was not as innocent as it claims to be.

He gave an example where it was the EC, and not the government, which initiated the botched amendment to the Election Offences Act 1954 last year that would dilute the role of counting agents.

"I was involved in the meeting with (then-minister in the Prime Minister's Department) Nazri Abdul Aziz, in the presence of the EC secretary and legal adviser.

"It was shocking when I came to know that it (amendment) was not the government's recommendation but was wholly from the EC.

"When it was made known that the amendment's discrepancies and negative implication, the government agreed to withdraw it and the EC was unhappy about it," he said.

In the same light, Abdul Malek said the EC, then under Abdul Rashid, was responsible for the damaging amendment of Section 9A to the Election Act 1958 that disallow for judicial review of the electoral roll.

Abdul Malek lamented that the EC had 'nationalist' members who were more concerned about race and were political in their behaviour rather than administrative.

'Different commission should do re-delineation'

Likewise, in the upcoming re-delineation process, whether it is gerrymandered or not lies on the EC's shoulders, he said.

He pointed out that the mapping of the boundaries would only require a simple majority approval from Parliament while the two-thirds approval concerns exclusively on the increment of seats through constitutional amendment.

Abdul Malek said that to ensure integrity, it would be best for the recommendations of the parliamentary select committee on electoral reforms to be fully implemented before the re-delineation exercise begins.

Specifically, he said, was to allow the re-delineation exercise to be conducted by a new commission, while the management of electoral roll will also be delegated to another commission and the EC will be left only to conduct elections.

"All three functions must be separated under three commissions. This practice is

not alien and is done in many other Commonwealth countries.

"For now we have a three-in-one shampoo commission and this allows for abuse," he said.

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