

It does not take a 'superman' to handle vote buying
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EC's claim that it is not a `superman' to adjudicate (investigate, prosecute and penalise) cases of vote buying gives a false impression that the EC does not have any adjudicating powers.

The reality is that the EC in this country does hold adjudicating powers in many things, such as those under the duties of the compiling the electoral roll (eg it does investigate if voters had died, investigate objections to the electoral roll and impose RM10.00 fine on each objection which is not accepted subsequently) and others under the Enforcement Teams (parties' banners found to be objectionable can be taken down after warnings).

The issue here is: why the EC is not - in this major case of vote buying - carrying out its Constitutional duties to administer the elections on a free and fair basis?

The fact is it does not take a `superman' to handle vote buying, unless the EC takes the view that there is no case. The EC has also raised a number of questionable arguments in defense of its position:

1. The offers were made to a crowd which could include non-voters; But it only takes one voter to satisfy the requirement to establish inducement and it would be difficult for the EC to argue that there were no voters on those occasions - leaving out the media who were there recording the entire occasion;
2. The voters may not vote according to the inducer's wishes. The law does not require the bribed party subsequently to do as required by the inducer. In fact attempted bribery is enough as a crime under the Anti-Corruption Act - and the intention and the act itself was recorded and well established;
3. There is a legal precedent which provides for ministers to make allocations during elections. However there is also the Election Offences Act which prohibit inducement of voters, as well as the Anti-Corruption Act which penalises acts of corruption.

A legal precedent based on specific circumstances of a case may not constitute an exception to the Election Offences Act or the Anti-Corruption Act. There is room to investigate the particularities of the case and in fact, even a legal precedent can be overturned if the view now find such exception objectionable to current sensibilities.

So it seems that the EC was convinced that making allocations by Ministers did not constitute a violation of the laws above - as reflected by the view of the Deputy Chairman of the EC that the PM must have been legally well advised to make his offer as he did in the two by-elections.

So it was not a case that the EC can't do anything about it. Instead it was a case of `no case' according to the EC. The claim that the EC is no legal expert in this case seems odd given that the EC does hold on to a particular controversial legal position rather persistently.

Irrespective of what the law says at the very least, the practice made the election unfair, which is arguably a basis for the EC to act.

So what if the EC is not convinced that there is no legal case or that the fair conduct of election has not been jeopardised? All it takes is for the EC to call for the offending party to stop the act or risk being prosecuted under the law.

If the EC did that there would not be any more abuse of public positions to indulge in blatant vote buying in Malaysia.

After all the EC is the only body entrusted by the Constitution to administer elections on a free and fair basis. The EC have almost unfettered power as a statutory body to carry out its Constitutional duty.

All government organs, including the MACC and the prosecutor's office are obligated to offer their assistance to enable the EC to do its job. The EC does not need extra prosecuting powers to see to it that the elections are carried out on a free and fair basis. It is an international norm where the EC is given the highest authority to administer elections in a free and fair manner.

It does not require any `superman' to do that - just an EC of ordinary men (and women) with integrity.

On the other hand, it takes `superman' powers to not see to the elections being administered on a free and fair basis, and thereby expose the mockery of the international norms of electoral democracy in this country to the whole world!

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