

Indelible ink: why isn't BN protesting?
Malaysiakini.com
Mar 05, 2008
DPBM

I refer to the Malaysiakini MCPX report report Shock reversal: Indelible ink plan erased.

The chairperson of the Election Commission (EC) is wrong in saying that a constitutional amendment would be needed to implement the use of indelible ink. All that is needed is to amend Part V and VI of the Election Act, 1958 (Act 19) and the Elections (Conduct of Elections) Regulations 1981 to include the use of indelible ink as a compulsory part of the voting process.

Article 119 (1) of the Constitution states:

'Every citizen who (a) has attained the age of twenty- one years on the qualifying date; and (b) is resident in a constituency on such qualifying date or, if not so resident, is an absent voter, is entitled to vote in that constituency in any election to the House of Representatives or the Legislative Assembly unless he is disqualified under Clause (3) or under any law relating to offences committed in connection with elections; but no person shall in the same election vote in more than one constituency.'

Thus, once the use of indelible ink becomes a legal requirement, anyone trying to undermine this process would be interfering with the constitutional right of any eligible citizen to vote and so would automatically be committing an offence.

The other issue is, why didn't the EC Chairman urge Parliament to make the necessary legal amendments when the decision to use indelible ink was made in August 2007? The excuse that Parliament would not be able to pass the amendments in time cannot be accepted for two reasons:

(i) The EC chairperson would not have known the date of dissolution of Parliament and elections were not due until April 2009, and

(ii) Malaysians have witnessed how quickly an amendment to the supreme law of the land can be passed, as in the case of the extension of the tenure of the EC chairperson himself. In the case of indelible-ink use it would have possibly been much quicker since a unanimous 'yes' would have arguably been obtained from the opposition bench as well.

It comes as no surprise that the non-BN political parties have lashed out at the EC's latest decision. However, one wonders what is holding the BN back from criticising the EC as well.

Shouldn't the BN 'regret the EC's decision' considering the EC is now depriving the BN the chance of showing their rivals that they can win without resorting to foul play? Isn't the EC also taking away the BN's opportunity to re-affirm to Malaysians their claim that the elections are free and fair?

For failing to make the necessary recommendations regarding legal amendments to Parliament, and in making this last-minute U-turn (which also resulted in wastage of RM2 million for the ink's purchase), the public's confidence in the EC has been eroded. To rescue the image and credibility of the EC, its chairperson should submit his resignation to the Yang di-Pertuan Agong. Also important to note in this case is Article 114 (2) of the

Constitution, which states:

'In appointing members of the Election Commission the Yang di-Pertuan Agong shall have regard to the importance of securing an Election Commission which enjoys public confidence'.

Note that in this instance, there is no constitutional requirement for the Agong to act on the advice of the prime minister (the constitution is explicit for when the PM's advice should be sought). Thus if His Majesty can rationalise that the EC chairpersons latest move has damaged the public's confidence in the EC, it will be His Majesty's royal prerogative to have him replaced before his compulsory retirement in December 2008.

Copyright © 1999-2007 Mkini Dotcom Sdn. Bhd.
Source : <http://www.malaysiakini.com/news/79195>