

Restore the third vote in Penang
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The DAP-led Penang government should use its legislative powers enshrined under Article 113(4) of the Federal Constitution to restore the third public vote - the local government elections, which was suspended after the country's confrontation with Indonesia in 1965.
MCPX

Although the state government would run foul with the federal laws of the Local Government Act 1976 (Act 171) and the 1965 Emergency Regulations, a social activist suggested that the DAP administration should nonetheless initiate the bold move to test the law.

Since Article 113(4) provides the power to state lawmakers to authorise the Election Commission to conduct elections other than parliamentary and state legislative elections, Malaysian Voters Union coordinator B K Ong is of the opinion that the DAP-led state government has the power to enact laws to govern a municipal elections, even though it could be challenged in court.

dap pc 010208 lim guan eng Chief Minister and DAP secretary-general Lim Guan Eng said the party would seek the support of BN federal government to restore local government elections, while constitutional law experts have argued that holding local government elections would be possible only if the Emergency Regulations are revoked and Section 15(1) and Section 10 of Act 171 was repealed and amended respectively.

"Since federal laws governing the suspension of local government elections are still in force, DAP needs the support of the federal government to repeal such provisions in the Parliament," Lim told Malaysiakini recently.

It is learnt that the DAP top brass would meet Prime Minister Abdullah Ahmad Badawi on the issue soon.

However, Ong thinks otherwise.

Instead of seeking support and cooperation from the Barisan Nasional federal government, which would be a "mission impossible" anyway to restore the third vote, he pointed out that the state government should take the lead and do it in its own way to authorise the EC to conduct elections for local authorities.

"A DAP move to restore the third vote would be a populist policy and propel the party's public ratings," said Ong.

Main points in manifesto

Local government elections was the among the main points in the DAP election manifesto during the March 8 national polls, which saw the party sweeping aside all opposition and storming to power in Penang with the help of its allies, PKR and Pas.

The last local government elections in the country were held in 1963 under the Local

Government Act 1960.

However, the municipal elections were suspended after the Confrontation pursuant to the Emergency (Suspension of Local Government Elections) Regulations 1965 (Emergency Regulations) made by the Yang di-Pertuan Agong on March 1, 1965 under the Emergency (Essential Powers) Act 1964.

The Emergency Regulations were amended on Aug 9, 1965, to allow local councillors to be appointed by the state governments.

Act 171 stated that any provisions related to local government elections shall cease to have force or effect, which means the provisions under the 1960 Act related to local government elections have ceased to apply.

Article 75 of the Federal Constitution was unambiguous that federal laws would prevail in any event of conflict with inconsistent state laws.

Thus, said party insiders, any move by the state DAP was risky as it could be challenged in the court of law.

However, Ong suggested that the DAP should set aside such fears and be prepared to test its powers in the court to authorise elections for local authorities.

Therefore the country's judiciary, an essential branch of a democratic system, should be allowed to make a landmark ruling on the contentious issue.

"DAP should not worry much about its legal implication since it is a political issue.

"Let the judge decide for the people," he said.

Disservice to the people

Prior to the recent general election, 22 and 21 councillors are appointed on a yearly basis from the ranks of BN component parties in the Penang's two local authorities, namely the Penang Island Municipal Council (MPPP) and Seberang Perai Municipal Council (MPSP) respectively.

Alongside them, two and three district officers sit as councillors in the MPPP and MPSP respectively.

For the past 43 years, the post of councillors have become a political gift from BN to those members who did not get a ticket to contest in state or federal elections, besides being a training ground to groom future BN political leaders with administrative experience.

Many Penangites concurred that due to the appointment system; virtually all councillors were "sleeping on their job" because they do not need to seek the people's mandate.

The council and councillors collect and spend taxes from ratepayers, and regulate virtually everything governing laymen's daily lives.

But they are not accountable to the public. Instead they are obliged to be grateful to their political masters who had appointed them.

As the councillors were not performing, BN state assemblypersons and Members of Parliament, especially those from MCA and Gerakan, seized the opportunity to perform like de facto councillors over the years by clearing drains, cleaning roads and public parks via community projects.

They conveniently neglected their duties as state and federal elected representatives, which are to propose, debate and monitor the state and federal policies, enactments and laws, and their implementation.

Due to this, over the years, the perception of people on the responsibilities of the elected representatives has also changed, rather incorrectly.

Many people perceived that state assemblypersons and MPs shall help constituents to strike of summonses, clear garbage, unclog drains and put out neighbourhood fires than being effective and decisive lawmakers to provide check and balance to the government of the day.

"Appointment of councillors had been a disservice to the people," said Ong.

Since the DAP electoral campaign was on "Penang leads" slogan, he said the state government should take the lead in restoring the third vote, which would restore public confidence on good governance, transparency and openness.

"This was DAP's electoral battle cry. Why not put it into practice?" he commented.

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