

**Resolution By Dewan Undangan Melaka Is Against Federal Constitution**  
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**By Bersih 2.0**

On 2 July a resolution was passed at Dewan Undangan Melaka which states:

"(...) bahawa dewan yang mulia ini mengambil ketetapan mengutuk sekeras-kerasnya perhimpunan haram dan demonstrasi jalanan yang dianjurkan sesebuah pertubuhan haram yang menggelarkan dirinya sebagai bersih pada 28 April 2012." 1

BERSIH 2.0 views this resolution as irresponsible and unconstitutional.

Firstly, Article 10 of the Federal Constitution, as stated here, guarantees the right to freedom of speech, assembly and association:

ARTICLE 10.

(1) Subject to Clauses (2), (3) and (4)—

- (a) every citizen has the right to freedom of speech and expression;
- (b) all citizens have the right to assemble peaceably and without arms;
- (c) all citizens have the right to form associations.

The freedom of assembly and association, as guaranteed by the Federal Constitution, must be protected by the federal as well as state governments. This principle was aptly captured at the recent 20th session of the UN Human Rights Council, where Malaysia is a member of the Council, where the Special Rapporteur on Freedom of Assembly and Association stressed that:

"I understand that the rights to freedom of peaceful assembly and of association may be welcomed with reserve by those States that fear dissent (...)", but he stressed that such rights are essential components of democracy. "States should protect the rights of all individuals, including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists or even migrants, to assemble peacefully and associate freely." 2

The resolution by the Melaka Dewan Undangan had irresponsibly denied the rakyat their constitutional freedom. It also meant that they had blanked out the rakyat's call for clean and fair elections, a right that any accountable and responsible state government should support.

1 "(...) that this noble assembly resolves to condemn the illegal gathering and street demonstration organised by an illegal organization which called itself as BERSIH on 28 April 2012."

2 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12266&LangID=E>

Secondly, The Federal government did not declare BERSIH 2.0's rally on 28 April 2012 as illegal nor had it banned the gathering. The public announcement made by home minister Hishamuddin Hussein, which we reproduce below, bore testimony to this:

"Kerajaan tiada masalah membenarkan perhimpunan BERSIH 3.0 dilangsungkan seperti dirancang selagi penganjur mematuhi Akta Perhimpunan Aman 2011 dan tidak menimbulkan sebarang gangguan."

"Menteri Dalam Negeri Datuk Seri Hishammuddin Hussein berkata, atas semangat akta yang baru digubal itu, kerajaan tidak akan melarangnya."

Therefore, the Melaka Dewan Undangan and the state assembly representatives had completely contradicted the Federal government.

Thirdly, the severe incidents of police brutality had disappointingly been ignored by the Melaka state assembly representatives in their resolution.

A total of 250,000 BERSIH supporters had turned up on 28 April 2012 to exercise their right to peaceful assembly and to express their call for clean and fair elections. But instead they were met with unprecedented violence inflicted by the police, where they were physically assaulted with tear gas and water cannons by the police and Federal Reserve unit in an apparent attempt to 'cattle' them. In a number of unprovoked instances, civilians were deliberately targeted and beaten – hours after the rally as they were dispersing and making their way home.

BERSIH 2.0 strongly urges the state assembly representatives of the Melaka Dewan Undangan to immediately withdraw their resolution. Instead, they should table a resolution in support of the people's call for clean and fair elections before any elections are announced. This will augur well for good governance for the state of Melaka.

BERSIH 2.0 Steering Committee

The Steering Committee of BERSIH 2.0 comprises:

Ambiga Sreenevasan (Co-Chairperson), A. Samad Said (Co-Chairperson), Ahmad Shukri Abdul Razab, Andrew Khoo, Arul Prakkash, Arumugam K., Awang Abdillah (Kuching), Dominic Hii (Sibu), Dr Farouk Musa, Hishamuddin Rias, Liau Kok Fah, Mark Bujang (Miri), Maria Chin Abdullah, Niloh Ason (Kuching), Richard Y W Yeoh, Dr Subramaniam Pillay, Dr Toh Kin Woon, Dr Wong Chin Huat, Yeo Yang Poh and Zaid Kamaruddin.

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