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# Governing without a majority

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In political science, the term hung Parliament refers to a fragmented parliament in which no party or coalition secures an absolute majority. In the context of Malaysia, an absolute majority would mean 112 out of the 222 seats in the elected Dewan Rakyat.

Hung parliaments are the norm in many democracies. In Britain, hung parliaments occurred in January 1910, December 1910, 1929, 1974 and May 2010. Australia has a parliament with no clear-cut majority for any party.

A legislature with no overall control by any party can also arise when a slim government majority is eroded by deaths, resignations, by-election defeats or by defection of government MPs to opposition ranks. This happened in Britain in mid-1978 and in 1996.

What happens if there is such a stalemate after the next general election in Malaysia?

The Constitution provides very little guidance about the murky world of government formation. A few tentative generalisations about Commonwealth conventions can be made.

First, the government that took the country into the election remains in the saddle during the interim period, but only in a caretaker capacity and with the implied understanding that its job is to hold the fort and not to undertake any radical initiatives.

Second, there is no strict rule that a defeated Prime Minister must resign immediately. In 1974, Ted Heath, and in 2010 Gordon Brown, though not victorious, stayed put in Downing Street while they attempted to forge coalitions with the Liberals.

In Australia last year, Prime Minister Julia Gillard hung on despite failing to secure an electoral triumph. Ultimately, however, she

Prime Minister Datuk Seri Najib Tun Razak, when launching the Foreign Correspondents Club on Monday night, said a hung Parliament would be the worst possible result for the country. What does a hung Parliament entail?



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was able to strike a deal with independent MPs to keep her government afloat.

The Commonwealth convention seems to be that in a stalemate, the government in office gets first choice to form the government.

Third, if this effort to cobble together a new coalition fails, then the Yang di-Pertuan Agong may install a "minority government" that, while lacking a majority, will rely on ad hoc support from willing MPs to survive no-confidence motions, pass budgets and secure essential legislation.

Minority governments are, understandably, weak governments and generally lead to early dissolutions and fresh polls.

Fourth, if neither side succeeds in making an agreement with cross benches, the Yang di-Pertuan Agong may allow the caretaker PM to continue until he is defeated on the floor. In that case, a new election will be ordered.

Fifth, an untested and untried possibility is that if no party can put together a working majority, the King may exercise his influence

to bring together a unity government of all parties to run the show for an interim period pending new elections.

In such a case, the PM must be from the previous Dewan Rakyat and must cease to hold office unless he is also an MP in the new Dewan Rakyat.

In a country with a hung parliament, can the King assume political control of the nation and rule by decree during such times?

Alluring though this proposition is, one must be reminded that in our system of constitutional monarchy, the King is not expected to rule in person.

He must have an interim caretaker government to advise him on all matters other than the limited areas of personal discretion permitted under Article 40(2).

The appointment of a prime minister is one such discretionary area. The advice of the previous or caretaker PM is not binding on the King.

However, the royal discretion is not absolute. Under Article 43(2)(a), the PM must be a member of the Dewan Rakyat who in the judgment of the King is likely to command the confidence of the majority of the members of that House.

In making his choice, the King must act impartially. He is not obliged to choose the leader with the largest number of Dewan Rakyat seats if the leader of any other party is

able to forge a working majority.

In selecting the PM, the King is not required to take the percentage of electoral votes into consideration. It is the percentage of seats in the elected House that matters.

Under our winner-takes-all system, it is entirely possible that a party may have more or a majority of the popular vote, yet a minority or a lesser number of the seats in the House of Representatives.

Who decides when the new House sits? How and when is the new parliament convened?

The Constitution in Article 55(4) requires that the newly-elected parliament must be convened no later than 120 days from the date the previous parliament was dissolved.

This means that the defeated caretaker government is not obliged to throw in the towel immediately after the results. It may wait for negotiations to be completed before submitting its resignation.

New elections: After an inconclusive election result, can an immediate new election be called? Article 55(4) is explicit that after an election, parliament must be convened.

Only if the deadlocked parliament has met and the appointed PM has lost a confidence vote must the new House be dissolved and fresh elections ordered.

These are some of the issues a hung parliament may throw up. Of course, life is larger than the law and who knows what other interesting issues may crop up to challenge our imagination?

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