

**Bersih's tribunal gets EC tip-offs on likely electoral fraud**  
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**BY ELIZABETH ZACHARIAH**

From the "thousands of complaints" the Bersih People's Tribunal has received on electoral fraud so far, the surprise has been several "leads" provided by Election Commission officials.

Why this is surprising is because the EC is also being investigated by the tribunal for its conduct in the 13th General Election, said the tribunal's legal team chief, Professor Gurdial Singh (pic, 3rd from left).

The "leads" provided by the EC officers have been investigated by lawyers and the findings will be presented when the tribunal sits from September 18 to 22.

Gurdial said the tribunal is also tasked with finding out whether the EC had acted fairly and independently in carrying out their tasks in the polls on May 5.

Gurdial, who is also Professor of Law at the Law Faculty of the University of Malaya and Director of the Centre of Excellence for Biodiversity Law, said the leads were just a few from "several thousand complaints" on election malpractices the tribunal had received since June.

The tribunal was mooted in response to the public outcry and concerns of electoral fraud and irregularities in Malaysia's 13th general election.

Bersih's Datuk Ambiga Sreenevasan had said that the tribunal may not have any legal standing but will serve as a "moral force" to publicly expose electoral fraud.

"These complaints have come from various sources - observers from political parties, the public and also election petitions from both sides. They have identified themselves by names and contact," Gurdial told The Malaysian Insider today.

A team of 30 lawyers will collate all the information and investigate then follow-up on the complaints.

"We will use complaints by people who can directly attest to what had happened and not just through hearsay and where possible, with evidence such as photographs or documents."

Those who lodged complaints and had their reports verified and investigated, Gurdial pointed out, had to sign a statutory declaration, to add credibility to their statements.

"Those who are in the country will be required to come and give testimony during the proceedings," he added.

He explained that the tribunal has categorised every complaint under several categories of malpractices and it will be presented during the proceedings as such.

"We will look at systemic problems and how pervasive were these problems in the election process," the professor added.

The categories of malpractices include voter choice, or anything that prevented voters from

voting who they wanted by promises, inducement, vote-buying, threats, money politics and the abuse of the media.

Gurdial said the other category of malpractice was whether the election process was carried out properly.

"This is where complaints on the indelible ink, double voting, the integrity of the electoral rolls and the abuse of state machinery will be probed," he added.

The last category, he disclosed, was the conduct of the institution which carried out the elections - the EC themselves - that is, if they had carried out their task under the Constitution and did they respond in an unbiased and timely manner to complaints.

The law professor also noted that to be fair, the tribunal had also written to Barisan Nasional (BN) secretary-general Datuk Seri Tengku Adnan Tengku Mansor.

"Tengku Adnan had said that BN had filed 21 petitions, complaining about irregularities that caused their candidates to lose. So we want BN to have a say too," he said, adding that there was no answer yet from the BN on this.

Gurdial, who was also the chief prosecutor of the international Kuala Lumpur War Crimes Tribunal, said the panel will evaluate the evidence presented and then come up with proposals for reform.

"We are not only looking at problems but also want to recommend improvements," he said.

When asked if he thought the government would be open to the recommendations of the tribunal, Gurdial said, "this depends on whether they want to honour the commitment they made to the people or not".

"They (the government) had talked about 'dahulukan rakyat' and such. So, this is the voice of the rakyat. They should be thankful that they will get useful and constructive feedback regarding electoral practices."

The tribunal will be chaired by Yash Pal Ghai, an expert in constitutional law and Head of the Constitution Advisory Support Unit of the UN Development Programme in Nepal, former Special Representative of the UN Secretary General in Cambodia on human rights and former Chairperson of the Kenya Constitution Review Commission and Kenya National Constitutional Conference.

Other international panel members include Ramlan Surbakti (former deputy chairman of the Indonesian Election Commission) and Kraisak Choonhavan (president of the Asean Inter-Parliamentary Myanmar Caucus, a former Senator and deputy leader of the Democrat Party of Thailand).

The Malaysians on the tribunal are lawyer Datuk Azzat Kamaludin (former administrative and diplomatic officer with the Ministry of Foreign Affairs Malaysia), Dr Mavis Puthuchearay (former associate professor from the Faculty of Economics and Administration, University of Malaya) and Rev Dr Hermen Shastri (general secretary of the Council of Churches of Malaysia). - September 7, 2013.

Source:

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