

Date: 25th November, 2011

**Honourable Datuk Chairman,
Parliamentary Select committee,
Kota Kinabalu, Sabah.**

RE: The Postal Voting Debate

Postal voting describes the method of voting in an election whereby ballot papers are distributed or returned by post to electors, in contrast to electors voting in person at a polling station or electronically via an electronic voting system.

It is of benefit to people who may not be able to attend a polling station in person, either through a physical disability or absence from the locality. This method of voting is available to voters upon application (sometimes with restrictions) in statutory elections in many democratic nations.

On the other hand, concerns about postal voting have been raised as to whether it complies with the requirements of a secret ballot, in that people cast their vote outside the security of a

polling station, and whether voters can cast their vote privately free from another person's coercion. There have been cases of electoral fraud with postal votes in the United Kingdom (including in Birmingham at the 2004 European and local government elections in the UK)

Postal voting can be a way to prevent manipulation of an election through "get out the vote" efforts, for instance, in state conventions of a society, in which supporters of a cause or candidate transport in their supporters by bus in order to vote and then bus them home again.

The Deputy Chairman of the Election Commission has recently sought to explain the so-called "logistical nightmare" of giving Malaysians overseas the vote.

Over 115 countries and territories in the world allow external voting, and two thirds of these allow external voting by all citizens. Given that 51 years has passed since the concept of absent voting was first provided for in our Federal Constitution, one would have thought that the EC would have studied what is done in other countries and come up with a workable system by now.

In simple terms overseas voting can be made to work.

Firstly, any Malaysian wishing to vote from overseas will need to be registered with their overseas address as an absent voter or other kind of postal voter. There is no question of the EC having to "trace" voters who have not registered.

(For this to work effectively, there should either be an expedited route for voters to switch between ordinary and absent voters under the 2002 (Registration of Electors) Regulations, or overseas voters must be gazetted as postal voters under the 2003 (Postal Voting) Regulations, and must be able to apply to be postal voters in advance of an election. Both of these require amendments to the relevant rules.)

Once nominations have closed and ballot papers have been printed, returning officers should issue the postal ballots in front of candidates' election agents and seal them in envelopes divided up by consulate, which should be sent via the EC to each Malaysian consulate overseas by diplomatic pouch. Only

one pouch needs to be sent to each Malaysian consulate overseas.

Once postal ballots are received by a Malaysian consulate, it should summon election agents of each political party to witness the envelopes being unsealed and to witness that all the postal ballots are placed into the local postal system.

(The 2003 Regulations already allow the EC to provide for the method of despatch of postal ballots. Provision may have to be made for the official appointment of overseas election agents by political parties.)

In order to vote, each voter will have to receive the postal ballot at his home address, fill out and sign a declaration of identity in front of a witness, and then mark the ballot paper and return the postal ballot together with the declaration of identity to the Malaysian consulate. This can either be returned by post or in person to the Malaysian consulate.

Each Malaysian consulate should have 27 sealed ballot boxes, 13 for state elections and 14 for federal elections. Upon receipt of each ballot, it should be placed into the relevant ballot box.

After the close of polling on polling day, each ballot box will be unsealed in front of counting agents from each party, and the ballots will be sorted into constituencies. Once sorted, they can be counted and the results tabulated on one form for each of the 27 ballot boxes. These forms will record, e.g.:

“MALAYSIAN HIGH COMMISSION, LONDON
NEGRI SEMBILAN (STATE ELECTION)

N1: BN-45, PKR-47, Ind.-2;

N2: BN-22, PAS-18, Ind.-1, spoilt-1;

N3: ... etc.”

These forms can then be faxed to the EC in Malaysia, who will then fax them to individual returning officers to be added to the constituency tally.

(Allowing counting of postal ballots to take place in Malaysian consulates overseas will require amendments to the 1981 (Conduct of Elections) Regulations. The consulate should then be the only place where overseas postal ballots are counted.)

Postal voting for overseas Malaysians need not be excessively expensive. Australia manages to conduct overseas voting for A\$1.2 million out of

a total election expenditure of A\$75 million. In any case, the EC already has to send overseas postal ballots to government servants and students overseas, so the additional cost of including postal ballots for other Malaysians overseas will surely be marginal.

All Malaysian citizens have a constitutional right to vote. Given that overseas voters represent 1 million out of a total electorate of 15-16 million Malaysian voters, the additional cost and effort of overseas postal voting is surely justified.

Under Malaysian election laws, postal voting is mainly allowed for police personnel, members of the armed forces and Election Commission workers who are on duty on polling day. Six days before polling day, postal votes will be issued through a procedure which can be witnessed by agents from all contesting parties. The ballot papers are inserted into envelopes with an acknowledgment form attached to be 'posted' to the voters concerned.

Don't be fooled by the name, though. In actual fact, only a very small number of overseas votes are sent by post. The postal votes for police personnel and members of the armed forces are

dispatched by police and military officials respectively to designated police stations and army camps, whereas Election Commission workers are required to collect their own postal votes from the issuing centre.

Upon arrival at the issuing centre, the EC workers have a choice of either voting on-the-spot (a polling station as in the normal voting procedure will be set up for them), or to take the ballot papers back and return them later. The postal voting station will be open for six days until polling day.

Questions which immediately arise are: if the EC workers can come in person to collect their postal votes, why can't they just vote on-the-spot under the normal voting procedure? Why the additional choice of issuing ballot papers in envelopes which involves more steps and makes the system more prone to abuse? Why should the EC workers be allowed to bring the ballot papers back while ordinary voters do not enjoy this privilege? Why do they need six days to return the ballot papers? Is it to wait for God's vision of who to vote for?

Such is the leniency given by the EC to postal voters. Not only did police personnel and members of the armed forces enjoy the privilege of casting postal votes, it was also extended to their spouses! Meanwhile, Malaysians abroad do not have such luck.

In addition to that, a registered voter who is eligible for postal voting can apply to be a postal voter up until 3pm the day before polling day. This is to say that less than 24 hours is required for the EC to process the application. Doesn't such efficiency sound all too ridiculously amazing considering that the EC needs three to six months to process the registration of an ordinary voter like you and I?

The EC's decisions caused the number of postal voters to skyrocket in the last few days before the Sarawak State Elections, as can be seen in the constituency of Kota Sentosa (Kuching), which saw an increase from 1,800 postal voters to a whopping 3,000 and Peiawan (Sibu) from 14 voters to about 300 voters. As party workers, we had no choice but to compare the list of newly-added postal voters with the electoral roll

and cross out the names of the postal voters from the electoral roll in order to prevent double-voting, and to be sleep-deprived in the process!

Postal votes can be regarded as a 'fixed deposit' for the incumbent government. This can be seen in the constituency of Senadin, where the PKR candidate was leading by a substantial number of votes but was eventually overcome by postal votes in favour of the BN candidate, causing the PKR candidate to lose the election by a mere 58 votes. In Dudong, one of constituencies in which the DAP contested, the election battle with SUPP, the other party contesting the seat, was close. The counting of the votes was a very tensed affair until, at least for a short while, the DAP finally took the lead by about a thousand votes. At that time, the counting of postal votes — which numbered about 700 in that constituency — had yet to be completed. Just as the DAP was about to celebrate its unofficial victory, a blackout occurred in the counting centre of the postal votes (one can only guess what can happen to the ballot papers in the dark!). Fortunately, the matter was resolved amicably between the leaders of both parties without unnecessary chaos.

Postal votes also make vote-buying easier, as its complicated process is more prone to loopholes and abuses. As the ballot paper can be taken out of the voting station unlike normal voting, it is easy for the voter to show an 'interested party' his or her vote in return for a monetary reward. On the second day after the postal votes were issued, a DAP polling agent in Sibuan caught on video a group of people purportedly involved in vote-buying. A man was seen giving three or four ladies orange papers similar to postal ballot papers along a building staircase. When they realised that the 'transaction' was being recorded, they quickly dispersed into the crowd. Although the ladies later denied any wrongdoing when contacted, their actions remain highly suspect and demonstrate the vulnerability of the system.

Party workers need to go along with the ridiculous system and try their very best to prevent any dirty tricks. In Sarawak, agents were sent to postal voting centres to ensure that postal votes were issued according to the official list. They stayed at these centres from 8am to 5pm for six days to ensure that the votes were picked up by the voters themselves and to stare at the ballot box to make sure that it was not

moved or stuffed with extra papers. For those votes that are despatched to army camps or police stations, they tailed the car escorting the ballot boxes to ensure that the boxes did not get 'lost' along the way.

But that is only as much as we can do. Until the Election Commission decides to get smarter, we will all need to do it the brain-less way.

Thank You

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