

**Press Statement: 16 January 2012**

## **BERSIH 2.0: Review of the PSC's recommendations and EC's responses**

The Parliamentary Select Committee for Electoral Reform (PSC) ended its final public hearing last week on 12 January 2012. BERSIH 2.0 has compiled a table of comparison between BERSIH 2.0's recommendations for key areas of electoral reform, the PSC's recommendations in its interim report and the areas which the EC has committed to implement (see attached).

Out of the 41 recommendations made by BERSIH 2.0 on our 8 demands, election observation and constituency redelineation; the PSC in its interim report has fully adopted only four of our recommendations which are:

1. Thorough and independent audit of the electoral roll
2. Allow eligible voters living overseas to vote as absent voters
3. Adopt advance voting for service voters
4. Use of indelible ink

The PSC has partially adopted another four of BERSIH 2.0's recommendations which are:

1. Display of supplementary electoral roll to be extended from 7 days to 14 days, instead of the BERSIH 2.0 recommendation of 30 days.
2. Removal of RM10 objection fee and limit on number of objections allowed per person. However, PSC did not pick up BERSIH 2.0's further recommendation for any voter, regardless of constituency, to make objection and extension of 7-day notice to 14 days for objected person to attend public inquiry. Most alarmingly, the PSC completely ignored BERSIH 2.0's demand for transparent revision of principal or supplementary electoral rolls after certification, on which the EC holds unchecked power.
3. Establish a Royal Commission of Inquiry (RCI) to investigate allegations of non-citizens obtaining citizenship and participating as voters at Sabah. BERSIH 2.0 recommended for the establishment of an RCI to investigate all allegations of giving citizenships to non-citizens in exchange for votes.
4. Extend absentee voting to East Malaysians living at West Malaysia and West Malaysians living at East Malaysia. BERSIH 2.0 recommended for postal voting to be extended to all eligible Malaysians expected to be out of their constituency and at least 250km away from closest absentee voting centre.

Disappointingly, the EC has publicly committed to three reforms, which correspond to only three of BERSIH 2.0's recommendations, which were also recommended by the PSC. These are:

1. Use indelible ink in the 13<sup>th</sup> General Elections (GE-13)
2. Implement advance voting for service voters
3. Audit of electoral roll by engaging MIMOS Berhad

Other recommendations made by the PSC that are of deep concern to BERSIH 2.0 are the removal of objection period of nomination of candidates and removal of serial numbers on ballot papers. If implemented, the removal of serial numbers on ballot papers will open possibilities of ballot stuffing. To ensure secrecy of the ballot, BERSIH 2.0 recommends to maintain the serial numbers but also to distribute the ballot papers to voters at random. With regards to removal of objection period, BERSIH 2.0 disagrees with giving EC full discretion over eligibility of candidates. Voters should be allowed to express any objections they may have to any nominated candidate.

Overall, BERSIH 2.0 is of the view that the PSC interim report should have included all substantial recommendations to ensure that key reforms are implemented by the EC immediately. We are disappointed that the PSC made only a few recommendations despite having heard substantial recommendations from BERSIH 2.0 and other groups and individuals.

The EC's apparent lack of commitment and pro-activeness in implementing not only BERSIH 2.0's recommendations but also the PSC's recommendations indicates a serious lack of political will in facilitating deeply needed reforms in the electoral system. As the constitutional institution that is entrusted to manage electoral processes and uphold the rights of voters, the EC appears to be unwilling to fulfil its constitutional duties. BERSIH 2.0 reminds the EC that it is not answerable to any political master but to ALL citizens of Malaysia. The EC has therefore abandoned its constitutional role and responsibility to ensure electoral reform and good governance be practised and implemented before any elections can take place.

Electoral injustice in Malaysia has continued for far too long. Malaysians are increasingly aware of the flaws and injustice in the electoral system and taking a proactive roll to monitor the performance of the EC. If the EC intends to gain the confidence of the people of Malaysia, it must stop making excuses and immediately start taking steps to reform the electoral system to ensure free and fair elections in Malaysia.

The EC and the Najib Administration must recognise a clear fact: Malaysians will not accept anything less than a thorough and sincere reform of the electoral process. The 50,000 brave Malaysians who marched through the streets of Kuala Lumpur on 9 July 2011 in defiance of police violence and arrests have made their stand. Any false attempt of reform – like the Peaceful Assembly Bill – will invite not praises, but only backlash.

Salam BERSIH 2.0!

Steering Committee

Coalition for Clean and Fair Elections (BERSIH 2.0)

The Steering Committee of BERSIH 2.0 comprises:

*Dato' Ambiga Sreenevasan (Co-Chairperson), Datuk A. Samad Said (Co-Chairperson), Ahmad Shukri Abdul Razab, Andrew Khoo, Arul Prakash, Arumugam K., Dr Farouk Musa, Liau Kok Fah, Maria Chin Abdullah, Richard Y W Yeoh, Dr Subramaniam Pillay, Dato' Dr Toh Kin Woon, Dr Wong Chin Huat, Dato' Yeo Yang Poh and Zaid Kamaruddin.*

**Comparison between BERSIH 2.0's recommendations on key electoral reforms, the PSC's recommendations in its interim report and the EC's responses**

<b>Issues</b>	<b>BERSIH 2.0's recommendations</b>	<b>PSC's response/ recommendations</b>	<b>EC's response</b>
<b>Cleaning the electoral roll</b>	Automatic voter registration		
	Automatic removal of deceased voters and former citizens via updates from NRD database		
	Automatic removal of multiple registrations of service voters including simultaneous display of military/police IC and civilian IC in electoral roll		
	Listing of newly naturalised citizens on electoral roll		
	Implementing online voter registration and online tracking system to monitor progress of application (interim measure before implementing automatic voter registration)		
	Monthly revision of supplementary electoral roll		
	Display of supplementary electoral roll online and on location for minimum 30 days (currently displayed for only 7 days). All names not objected to should immediately proceed for certification.	Extend display of supplementary roll to 14 days.	
	Removal of unnecessary restrictions to objections a. Objection fee of RM10 should be refundable if objection is allowed, remove limit to no. of objections b. Allow any voter regardless of constituency to make objection c. Extend 7-day notice to 14 days for person to whom objection is being made to attend public inquiry.	PSC recommended:  a. Removal of objection fee of RM10 and limit of number of objections. b. Amend regulations to allow objections on principle electoral roll.	

	<p>Transparent revision of principal or supplementary electoral rolls after certification including restriction of power of Chief Registrar of Electors to modify electoral rolls and amending the EOA to make illegal alteration of electoral rolls by EC officials an offence.</p>		
	<p>Set up independent electoral roll auditing committee</p>	<p>EC to appoint MIMOS Berhad to conduct audit of electoral roll to verify the following issues and to report the findings to the EC:</p> <ul style="list-style-type: none"> <li>a. Two voters with same IC</li> <li>b. Deceased voters in electoral roll</li> <li>c. Voters above the age of 90</li> <li>d. Non-citizen voters</li> <li>e. Multiple registration of voters under a single address</li> <li>f. Voters who lost eligibility to vote</li> </ul> <p>However, no long term mechanism is proposed.</p>	<p>EC will meet with MIMOS Berhad to discuss verification of authenticity of voters</p>
	<p>Electoral rolls should be made available to political parties, civil society groups and research institutions at marginal cost</p>		
		<p>EC to conduct verification of the Sabah electoral roll.</p>	
	<p>Form a Royal Commission of Inquiry (RCI) to investigate claims of giving citizenship to foreigners in exchange of votes</p>	<p>In the longer term, form a Royal Commission of Inquiry to investigate allegations of non-citizens obtaining citizenship and participating as voters at Sabah.</p>	

<b>Absentee voting</b>	Eligibility: All Malaysian registered voters expected to be overseas on polling day.	Make necessary amendments to existing regulations to include eligible voters living overseas in the category of absent voters.	
	Eligibility: All Malaysians expected to be out of their constituency and at least 250km away from closest absentee voting centre.	Make necessary amendments to existing regulations to allow East Malaysians living at Peninsula Malaysia and West Malaysians living in East Malaysia to vote via absentee voting.	
	Process: Absent voters must apply for absentee ballots two weeks before polling day.		
	Process: Advance voting (1 day before polling day) for service voters and overseas voters (except in Singapore and Brunei).	Advance voting to be used for military voters and their spouses, and police voters.  Advance voting to include Election Officers, doctors, nurses and journalists on duty on polling day.	Advance voting to be implemented for military personnel and their spouses, general operation force personnel and their spouses, and police officers.
	Process: Distance voting for service voters, domestic absent voters and overseas voters in Singapore and Brunei.		
	Process: Postal voting for other overseas voters.	Any military or police voters (excluding spouses) unable to attend advance voting due to posting at rural areas should apply for postal voting.	Postal voting to be available for service voters who are unable to attend advance voting.
	<b>Indelible ink</b>	Implement indelible ink and make necessary amendments to relevant regulations to facilitate the implementation.	Implement indelible ink for GE-13. EC should speed up process of amending necessary regulations to facilitate implementation.

<b>Meaningful campaign period</b>	EC to stipulate campaign period of not less than 21 days.		
	Amend EA to institutionalise minimum campaign period of 21 days.		
<b>Free and fair access to media</b>	Amend EA to compel state-owned media to provide reasonably equal free airtime to contesting parties and candidates.		
	Televised prime ministerial public debates shall be televised.		
	Amend EOA to ensure fair access to private media for all contesting parties and candidates including paid advertisements, news and fair reporting. Any media outlets that practise discrimination in access to advertising should be prosecuted.		
	Amend EOA to make and offence any deliberate denial of any contesting party or candidate to the right to reply to any accusations made against then or him/her.		
	Establish code of conduct for media on election coverage.		
	Amend Printing Presses and Publications Act 1984 and Communications and Multimedia Act 1998 to remove restrictions of content regulation and to prevent media ownership monopolies.		
	Abolish Sedition Act 1948, Official Secrets Act 1972 and Internal Security Act 1960.		
<b>Strengthening public institutions</b>	Membership of the EC should be expanded to include more than just senior civil servants including representatives of other segments of society.		

	EC should use its powers under Article 113(5) of the Federal Constitutions to make rules to prohibit use of public institutions or government machinery by the government of the day in their political and election campaigns.		
	Adopt a practice of a caretaker government where the party in government relinquishes decision-making powers to a caretaker administration for the duration of the election campaign.		
	Implement a cooling-off period whereby senior civil servants shall not be permitted to join political parties within a specified period upon resignation or retirement.		
		Explain to the public that EC is independent and not influenced by any parties.	
		Provide adequate powers to EC to enforce election laws and increase human resource and financial capacity of the EC to reduce dependence on other agencies.	
<b>Ending corruption</b>	Empower EC to penalise, if not disqualify, those who engage in vote buying.		
	Establish vigilant monitoring mechanisms before and during elections on vote buying and set up a reporting system to allow public with evidences to report vote buying.		
	Disallow announcement of development projects close to and/or during elections unless for emergency and disaster purposes.		

<b>Ending dirty politics</b>	EC to enforce both existing and further enhanced rules against dirty politics during an election campaign. A handbook of the rules should be published and disseminated.		
<b>Election observation</b>	EC to make immediate arrangements to invite international election observers and to institutionalise this practice as a norm.		
<b>Constituency redelineation</b>	EC must abide the requirement of 'approximately equal' apportion stipulated by the Federal Constitution and abandon its malapportionment guide.		
	Amend S.2, Part I of the 13 <sup>th</sup> Schedule of the Federal Constitution to add a new principle that "a state constituency must not be larger than half of the smallest parliamentary constituency in the same state" to check on the malapportionment trend.		
	Amend S.2, Part I of the Thirteenth Schedule of the Federal Constitution to add three new principles that a. constituencies should not cross the boundaries of local authorities b. no arbitrary combination of local communities is allowed c. no arbitrary partitioning of local authorities is allowed.		
	Amend S.10, Part 2 of the Thirteenth Schedule of the Federal Constitution the effect that the redelineation proposal needs to be approved with two-third majority.		