



**ELECTION OBSERVATION REPORT
OF THE 14TH MALAYSIAN GENERAL ELECTION**

PEMANTAU
pilihan raya umum 14

Election Observation Report of the 14th Malaysian General Election

by PEMANTAU

The Coalition for Clean and Fair Elections (BERSIH 2.0)

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List of Abbreviations

1MDB	1Malaysia Development Berhad
ASEAN	Association of Southeast Asian Nations
BN	Barisan Nasional
DAP	Democratic Action Party
EC	Election Commission
GE12	General Election 12
GE13	General Election 13
GE14	General Election 14
NGO	Non-Governmental Organisation
MACC	Malaysian Anti-Corruption Commission
MCA	Malaysian Chinese Association
MIC	Malaysian Indian Congress
PAS	Parti Islam Se-Malaysia (Pan Malaysian Islamic Party)
PH	Pakatan Harapan
PKR	Parti Keadilan Rakyat (People's Justice Party)
PPBM	Parti Pribumi Bersatu Malaysia (United Indigenous Party Malaysia)
Pusat KOMAS	Pusat Komunikasi Masyarakat
RELA	People's Volunteer Corps
RoS	Registrar of Societies
SUARAM	Suara Rakyat Malaysia
UDHR	Universal Declaration for Human Rights
UMNO	United Malays National Organisation

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The BERSIH 2.0 Steering Committee members for the GE14 PEMANTAU initiative were:

- Shahrul Aman Mohd Saari – Acting Chairperson
- Rama Ramanathan – National Steering Committee Member
- Farhana Abdul Halim – National Steering Committee Member
- Ng Geok Chee – National Steering Committee Member
- Jay Jay Denis – Vice Chair (Central Region)
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- Safwan Anang – Vice Chair (Eastern Region)
- Beverly Joeman – Vice Chair (Sabah)
- Ann Teo – Vice Chair (Sarawak)

Executive Summary

This PEMANTAU report combines the documentation and monitoring work of BERSIH 2.0 from May 2013 and the observation mission of the PEMANTAU initiative from the dissolution of Parliament on 7 April 2018 until polling day on 9 May 2018.

BERSIH 2.0 believes it is necessary to include findings from before the start of the election period as there were continuous attempts to undermine the integrity of GE14 throughout the five years preceding it.

The PEMANTAU initiative was launched on 30 October 2017, together with SUARAM and Pusat KOMAS. The initiative trained 100 coordinators throughout the country to verify reported incidents in 30 zones nationwide. These coordinators, together with the BERSIH 2.0 Secretariat and Steering Committee, held nationwide briefings and public awareness campaigns to encourage citizens to become PEMANTAU Rakyat. PEMANTAU Rakyat volunteers could contribute by lodging reports of any incidents of electoral fraud or misconduct to PEMANTAU, online, via WhatsApp or through a telephone hotline.

The details of the findings are summarised here. SUARAM and Pusat KOMAS have also produced reports as part of the PEMANTAU initiative on political violence and human rights violations (SUARAM) and racism during the election period (Pusat KOMAS).

Existing Pre-Election Conditions

1. Independence of the Election Commission

Between 2013 and 2018, five new Commissioners were appointed to the EC, including the Chairman and Deputy Chairman. All those appointed were previous civil servants. The new Chairman, Mohd Hashim Abdullah was the personal aide to UMNO information chief Annuar Musa from 1990 until 1999. It was clear that since their appointments, the EC did little to improve the integrity of GE14 and instead worked to ensure a victory for the Barisan Nasional coalition.

2. Re-Delineation

The EC undertook re-delineation exercises for Sarawak (2015) and Sabah and Peninsular Malaysia (2016-2018). Through malapportionment and gerrymandering, these exercises were designed to assist BN in capturing more marginal seats at both the state and federal level. The constitutional process was often side-lined in order to achieve this objective. It was also discovered that constituency boundaries had been officially altered even before the constitutionally required process had even begun.

3. Limitations on Voter Registration and Manipulations of the Electoral Roll

From GE13 until GE14, BERSIH 2.0 detected ongoing efforts to alter the electoral roll in favour of BN, especially in marginal seats, such as Lembah Pantai, Wangsa Maju, Sungai Besar, Bera, Segamat and Bagan Datuk. There were also restrictions put on voter registration for political parties and NGOs. Still, BERSIH 2.0 discovered BN-linked NGOs and component parties were able to conduct voter registration drives unimpeded. UMNO also carried out an effort to block the registration of non-Malay voters in the state of Selangor from 2015 onwards.

4. Political Financing

In 2015, the 1MDB scandal revealed the extent political financing is open to abuse and corruption. However, no progress was made on reforms to the financing of political parties and campaigns. This resulted in Najib Razak claiming that over RM100 million in cash found in his properties after the election was intended to fund the BN election campaign.

5. Free and Fair Access to Media

Mainstream media ownership is predominantly controlled by component parties of BN or by individuals with close links to these parties. Controls on the licencing of media remain in place. The crackdown on the media from 2015 onwards, including the introduction of the Anti-Fake News Act days before the dissolution of Parliament, had a chilling effect on media freedom.

Short Term Incidents and Action by Public Institutions

1. The Dissolution of Parti Pribumi Bersatu Malaysia and the Failure to Register the Pakatan Harapan Coalition

Pakatan Harapan faced continuous obstacles to registering as a formal coalition after submitting their application in July 2017. On 5 April 2018, the Registrar of Societies (RoS) announced it was provisionally dissolving PPBM, the party led by opposition leader Mahathir Mohamad, and that it would not register the Pakatan Harapan coalition.

2. Weekday Polling Day

The EC announced the dates of the General Elections on 10 April 2018, setting polling day on Wednesday, 9 May 2018. While Prime Minister Najib Razak subsequently declared the day to be a public holiday after public outcry, the mid-week polling day was an attempt to prevent voters who work or study in urban areas from returning to their more rural constituencies to vote. Analysis of previous voting trends show these voters based in urban areas are largely more likely to vote against BN than those that stay in rural areas. The EC provided no explanation as to why a weekday polling day was set as oppose to a weekend.

3. 11-Day Campaign Period

The EC set the shortest allowable campaign period for GE14. This inevitably favours the incumbent, but also did not provide enough time for postal votes to be dispatched and returned. This was especially the case for overseas voters, considered a largely anti-BN voting bloc.

4. Last Minute Conditions on Campaign Materials

On 24 April 2018, four days before nomination day, the EC announced new conditions on campaign materials. These conditions restricted the individuals that could be featured on campaign materials to the candidate, party president and deputy president. It also only allowed the logo of contesting parties, or component parties of registered coalitions, to feature. This was a clear attempt to prevent Pakatan Harapan leader Mahathir Mohamad from featuring on campaign materials after his party was dissolved by the RoS earlier that month.

5. International and Domestic Election Observation

The EC announced on 10 April 2018 that it had appointed 11 NGOs, three public universities and 14 countries to observe GE14. The Human Rights Commission of Malaysia (SUHAKAM)'s application to be an accredited observer was rejected. Observers from Azerbaijan, India, Indonesia, Cambodia, Kyrgyzstan, Maldives, Pakistan, Thailand and Uzbekistan only

arrived two days before polling day. The EC did not provide any further update or information with regards to the scope, terms of reference, and status of the observers. Accredited domestic observer Majlis Belia Malaysia was seen holding campaign events throughout the country for Barisan Nasional.

6. Disqualification of candidates on nomination day

Two potential candidates for Pakatan Harapan were illegally disqualified on nomination day. Incumbent Chua Tian Chang (Tian Chua), PH candidate for Batu, was disqualified by the returning officer for being sentenced to a RM2000 fine in March 2018. This was despite a Federal Court decision stating that a fine must be more than RM2000 in order to disqualify a Member of Parliament. PH candidate for the state seat of Rantau in Negeri Sembilan was prevented from entering the nomination centre because he did not have an official EC pass. This was in contravention of EC guidelines, which state a pass is not necessary for candidates to file their nomination papers. In other constituencies, candidates and other individuals were able to enter the nomination centre without such a pass.

Findings of PEMANTAU Incident Reports

1. Bribery and vote buying

PEMANTAU recorded 46 incidents of bribery and vote buying throughout the country during GE14. This involved any cash given to voters in order to sway them to vote for a certain candidate or political party.

2. Treating and gifts

PEMANTAU recorded 196 incidents of treating or gifts being given out in order to influence voters in the election. These incidents included free food at campaign events, discounted groceries and basic provisions as handouts.

3. Use of government machinery

PEMANTAU recorded 105 incidents on the use of government machinery, including using government events for campaign purposes. These incidents breached the convention of caretaker governments, by allowing candidates to use their positions of power for political purposes.

4. Undue government handouts or inducements

PEMANTAU recorded 150 incidents of government handouts by politicians or political parties after the dissolution of the respective legislatures. The total handouts announced or given out by federal and state governments after the dissolution of the legislative bodies amounted to over RM5 billion.

5. Excessive spending

PEMANTAU findings suggest the spending cap is largely ignored by candidates and spending accounts do not match the total campaign expenditure for candidates. Lavish dinners were held by both Pakatan Harapan and Barisan Nasional on behalf of candidates during the campaign period and such events would likely have cause these candidates to exceed the spending limit of RM100,000 for state assembly seats and RM200,000 for parliamentary seats.

6. Biased behaviour by public institutions and election officials

PEMANTAU recorded 20 incidents of biased behaviour during the election. This includes election observer Majlis Belia Malaysia conducting campaign events for BN candidates. In addition, top ranking civil servants, such as the Director General of the Ministry of Health and the Kedah RELA director were observed campaigning for BN. Biased behaviour by election workers on polling day was also reported.

7. Irregularities and challenges with Advance Voting and Postal Voting

PEMANTAU recorded 200 incidents involving advance voting and postal voting. The majority of these reports (157) were related to the late arrival of postal ballots. There were also incidents of duplicate ballots issued to postal voters, voters being registered as postal voters without their knowledge and problems with the security of postal vote ballot boxes. For advance voters, PEMANTAU observed that retired military and police personnel were allowed to vote as advance voters in contravention of regulations. There were difficulties in monitoring the security of the advance votes ballot boxes as well.

8. Conduct of elections on polling day

PEMANTAU recorded 274 incidents in relation to the conduct of elections on 9 May 2018. Seventy-two complaints were received on incorrect labels on ballot boxes or printing mistakes on ballot papers. Twenty-four complaints were received over election workers not properly stamping ballot papers and there were 23 reports of ballot papers with markings on them. Thirty-five reports were received on election workers not striking names off the electoral roll according to regulations. Impersonation of voters occurred throughout the country, with 25 verified incidents recorded by PEMANTAU and another 19 police reports filed in Kelantan. Long queues prevented voters from casting their ballots before the close of polls at 5pm and persons with disabilities, voters with children, pregnant women and the elderly reported problems while voting or in accessing polling stations. Seventeen reports were received from candidates' polling or counting agents, 12 of which related to problems receiving crucial signed copies of the final tally forms, Form 14. However, there were marked improvements in the use of indelible ink and the prevention of campaigning on polling day as compared to GE13.

Main Recommendations

1. For the current EC Commissioners to resign or be removed in accordance with the Federal Constitution by way of a Tribunal and for the appointment of new Commissioners through a reformed appointment process.
2. For the Federal Constitution to be amended to prevent future malapportionment and gerrymandering of constituencies in re-delineation exercises and for such an exercise to be conducted by an Independent Boundaries Commission.
3. For the implementation of automatic voter registration, the repeal of Section 9A of the Elections Act to allow legal challenges to discrepancies of the electoral roll and the establishment of an Electoral Roll Auditing Committee under the EC.
4. For the enactment of a Political Parties Act to control the funding and expenditure of political parties and for political parties to come under the purview of an independent EC.
5. For reforms to media licensing and the development of a code of conduct for the media to allow for free and fair media coverage before, during and after elections.
6. For the strengthening of laws relating to corrupt practices in elections and the criminalisation of the use of government resources and machinery for political purposes.
7. For the implementation of regulations on the conduct of caretaker governments.
8. For the abolition of domestic postal voting and limitations on overseas postal voting, to be replaced with a more transparent and secure advance voting process.
9. For regulations to set a minimum campaign period of 21 days.
10. For reform to the process of appointing election observers, to ensure transparency, competency and accountability in election observation missions.

Chapter One: Introduction

This PEMANTAU Report on Malaysia's 14th General Elections seeks to put on record instances of breaches of the principles of free and fair elections. It assesses the impact of these breaches on the outcome of the elections and on the right to vote. Furthermore, the report makes recommendations to ensure such incidents do not recur in the future.

The report focuses on:

1. The existing conditions that ran contrary to the principles of free and fair elections before the dissolution of Parliament;
2. Findings of the GE14 PEMANTAU observation mission from the dissolution of Parliament until polling day.

Background

The 14th General Elections in Malaysia (GE14) took place at a time of heightened tensions in the political landscape.

The IMDB Corruption Scandal

In 2015, Prime Minister Najib Razak was accused of having received RM2.6 billion from the sovereign wealth fund 1Malaysia Development Berhad (1MDB). The Wall Street Journal published a series of exposés on how money from 1MDB was channelled into the private bank accounts of Najib and his close associates.¹ Najib admitted he had received US\$681 million and used it for the 13th General Election, but claimed it was a donation from a member of the Saudi Arabian royal family.² Najib was also alleged to have received RM42 million from 1MDB subsidiary SRC International.³

Since the revelations emerged in 2015, investigations into money laundering and corruption have begun in several countries, including the United States, Switzerland and Singapore.⁴ In Malaysia, however, the 1MDB corruption scandal resulted in a shake up of key institutions and a shrinking of democratic space.

A taskforce was set up in 2015, consisting of the Malaysian Anti-Corruption Corruption (MACC) Chief Commissioner, the Attorney-General, the Inspector-General of Police and the Governor of the Central Bank.⁵ In July 2015, Najib replaced the Attorney-General and sacked the Deputy Prime Minister Muhyiddin Yassin. On the same day, Najib also moved four members of the Parliamentary Public Accounts Committee (PAC) into the Cabinet.⁶ The PAC was at the time conducting a separate investigation into 1MDB and the transfers had the effect of removing these Members of Parliament from the investigation. In August 2015, officers from the MACC were arrested.⁷ The newly-appointed Attorney-General subsequently cleared Najib of all corruption charges in January 2016.⁸ In early 2016, two other members of the original taskforce, the MACC Chief Commissioner⁹ and the Governor of Bank

1 (Wright & Clark, 2015)

2 (Ahmad, 2015)

3 (Channel News Asia, 2016)

4 (Chandran, 2018)

5 (The Malaysian Insider, 2015)

6 (Teoh, Najib sacks DPM, four ministers and A-G, 2015)

7 (The Star Online, 2015)

8 (Teoh, 2016)

9 (Free Malaysia Today, 2016)

Negara¹⁰, opted to retire and Najib appointed their successors.¹¹

In 2015, the National Security Council Act passed through Parliament and came into force on 1 August 2016. The law gives power to the Prime Minister to declare any area or areas of the country as 'security areas', under which broad powers are granted to the police and armed forces to take action with impunity. The Malaysian Bar stated the way in which the Act came into force and its contents have 'all the hallmarks of authoritarianism'.¹²

These series of events in the three years preceding GE14, showed Najib's willingness to exercise the enormous power vested in the hands of the Prime Minister and how he moved to increase the scope of that power in order to protect his position.

Persecution and prosecution of Opposition politicians

Leading up to the 14th General Elections, there were concerns some politicians would be disqualified from contesting due to criminal charges against them. Article 48(1)(e) of the Federal Constitution disqualifies any person from contesting in an election if they have been fined more than RM2000 or sentenced to more than one-year imprisonment.

Most prominently, former Opposition leader Anwar Ibrahim was still serving a five-year jail term after being imprisoned for trumped-up sodomy charges in February 2015. The United Nations Working Group on Arbitrary Detention found Anwar's detention to be arbitrary and had called for his immediate release.¹³

PKR politician Rafizi Ramli was disqualified from contesting after being sentenced to 18 months in prison for charges under the Official Secrets Act. Rafizi was found guilty of exposing contents of the audit report into IMDB, which had been classified as an official secret by the Auditor-General.¹⁴

Between 2013 and March 2018, numerous Opposition politicians also faced the possibility of disqualification after being charged for offences that could have seen them disqualified if their sentenced exceeded one-year imprisonment or a fine of RM2000. The majority of these charges were under the Peaceful Assembly Act, for attending peaceful protests, or under the

10 (The Borneo Post, 2016)

11 Under the Federal Constitution, the Attorney-General, the Governor of Bank Negara, the Chief Commissioner of the MACC and Election Commissioners are appointed by the King on the advice of the Prime Minister. Following a Constitutional amendment in the 1980s, the King is now bound to follow the advice of the Prime Minister in these making these appointments.

12 (Thiru, 2016)

13 (United Nations Working Group on Arbitrary Detention, 2015)

14 (Maizatul, 2017)

Sedition Act, for criticising public institutions or the ruling government.¹⁵

While only two cases resulted in clear disqualification of potential candidates (Anwar and Rafizi), the multitude of charges created a lot of uncertainty amongst the Opposition on who would be eligible to contest in the General Elections. In one case, the DAP candidate for Kapayan state seat in Sabah, Jannie Lasimbang, faced a court decision on a potential fine of up to RM10,000 two days before nomination day.¹⁶

BERSIH 2.0 from 2013 to 2018 – Leading the way on Electoral Reform

Between 2013 and 2018, BERSIH 2.0 took on the role of a people’s movement pushing for democratic reform.

As part of the push for institutional reforms, BERSIH 2.0 maintained committed to reforms of the electoral system. From 2014, BERSIH 2.0 worked together with NGO ENGAGE on the Delineation Action Research Team (DART) to build public awareness and understanding of the process of re-drawing election boundaries. DART assisted in numerous legal challenges against the re-delineation process from 2015 onwards in attempts to create boundaries that abided by constitutional provisions (See page 25-35 for more information).

BERSIH 2.0 also worked on proposals for reforms of political financing and the cleaning up of the electoral roll (See page 43 for more information).

In 2017, BERSIH 2.0 launched its Memorandum on Electoral Reforms for the 14th General Elections, in an urgent attempt to fix the pervasive problems in the electoral system before the General Elections. BERSIH 2.0 submitted the Memorandum to the Election Commission and held meetings with both the Malaysian Human Rights Commission (SUHAKAM) and Minister in the Prime Minister’s Department Senator Paul Low. However, BERSIH 2.0 never received any response from the EC and no action on the proposals were taken.

15 (Human Rights Watch, 2015)

16 (Patrick, 2018)

Framework

The PEMANTAU initiative's framework is based upon:

1. Domestic laws
2. International obligations and principles

In Malaysia, the laws governing elections are:

1. The Federal Constitution, in particular, Part VIII of the Constitution and the Thirteenth Schedule
2. The Election Offences Act 1954
3. The Elections Act 1958
4. The Election Commission Act 1957

The election offences detailed in the Election Offences Act include some internationally accepted best practices, including offences for bribery, treating, excessive spending and breaches of vote secrecy.

However, there are numerous loopholes that exist in domestic law which have prevented effective enforcement of the principles of free and fair elections. In addition, domestic law does not have any mention of various acts that would affect the fairness of elections, including the role of caretaker governments, the use of government machinery, government handouts during elections and the role of election observers.

BERSIH 2.0 therefore believes, in order to report on breaches of principles of free and fair elections, these principles must also make reference to international obligations and standards.

Malaysia's International Obligations

The Universal Declaration of Human Rights (UDHR) has become customary international law and is binding on all member states of the United Nations. Article 21 of the UDHR states:

“The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.”

Malaysia also voted in favour and welcomed the adoption¹⁷ of the United Nations Millennium Declaration 2000. Article 25 of the Millennium Declaration states:

17 (Hasmy, 2011)

“We resolve therefore:

- To respect fully and uphold the Universal Declaration of Human Rights.
- To strive for the full protection and promotion in all our countries of civil, political, economic, social and cultural rights for all.
- To strengthen the capacity of all our countries to implement the principles and practices of democracy and respect for human rights, including minority rights...
- To work collectively for more inclusive political processes, allowing genuine participation by all citizens in all our countries.”

In addition to the United Nations, Malaysia is a member state of ASEAN and is therefore bound by the ASEAN Human Rights Declaration, in which Article 25 states the right to free and fair elections.

International Best Practices and Principles

There are clear internationally accepted frameworks and conditions for free and fair elections.

The PEMANTAU initiative made reference to the Inter-Parliamentary Union’s Declaration on the Criteria for Free and Fair Elections¹⁸ and the Bangkok Declaration on Free and Fair Elections.¹⁹

The Bangkok Declaration 2012 was developed at the Asian Electoral Stakeholders Forum and took particular notice of the challenges to free and fair elections in Asia. Its signatories include Electoral Management Bodies from Indonesia, the Republic of Korea, Timor Leste, Mongolia, the Philippines and Sri Lanka. It is also endorsed by civil society groups and internationally renowned election experts such as The Carter Centre.²⁰

Key issues affecting Malaysian elections

BERSIH 2.0 included in its PEMANTAU initiative contraventions of domestic law and international principles that have particular relevance in Malaysia. Some of these contraventions are ongoing and systemic problems in the electoral system, such as Electoral Management Bodies (the Election Commission) independence and the integrity of the voter list (electoral roll). Other contraventions were anticipated to occur after the dissolution of Parliament up until polling day.

18 (Inter-Parliamentary Union, 1994)

19 (Asian Electoral Stakeholder Forum, 2012)

20 (Asian Electoral Stakeholders Forum)

The PEMANTAU initiative therefore took into account three aspects of breaches in the principles of free and fair elections:

Existing pre-election conditions. These are pervasive weaknesses in Malaysia's electoral system that affected the integrity of GE14 before the dissolution of Parliament.

Short-term incidents and actions by public institutions, including the Election Commission, affecting the integrity of GE14. This refers to actions and decisions in the lead up to GE14 that contravened the principles of free and fair elections.

Incidents of electoral fraud, manipulation or misconduct from the dissolution of Parliament until polling day.

For existing pre-election conditions, PEMANTAU considered domestic laws and international principles on the independence of the Election Commission, the drawing of electoral constituencies (re-delineation), preparation of the electoral roll, controls on media freedom and political financing.

For the monitoring of incidents, PEMANTAU focused on eight main areas of election offences. The eight areas were defined based on the findings of previous election observations, in particular the 13th General Elections and the 11th Sarawak State Elections. Using domestic laws, the IPU Declaration and the Bangkok Declaration as guidance, PEMANTAU identified the factors that most affected Malaysia's elections in the past and were expected to recur in GE14.

Methodology

Ongoing Monitoring since GE13

Since the 13th General Elections in 2013, BERSIH 2.0 monitored the electoral system and processes for any improvements or regressions in the move towards freer and fairer elections.

The areas of focus were:

1. The independence and composition of the Election Commission
2. Delineation
3. Voter registration and the electoral roll
4. Media freedom
5. Political financing

The findings of these monitoring efforts are presented in Chapter Two, under "Existing Pre-Election Conditions."

GE14 PEMANTAU Observation

BERSIH 2.0 had been part of domestic election observation missions in both GE13 (2013) and the 11th Sarawak State elections (2016).

In GE13, BERSIH 2.0 worked with Pusat KOMAS and Malaysians for Free and Fair Elections (MAFREL) to train and mobilise of 3000 volunteer observers in 89 parliamentary constituencies. The volunteers monitored the elections from nomination day until polling day and completed observation forms for all events and incidents covered.

In the 2016 Sarawak State Elections, 90 volunteers were trained and mobilised to cover five selected state seats. Hard copy forms were again used for any events or incidents monitored.

Learning from these experiences, BERSIH 2.0 worked with Pusat KOMAS and SUARAM to adapt the PEMANTAU initiative to improve documentation of election offences and breaches of the principles of free and fair elections.

The PEMANTAU initiative, launched on 30 October 2017, trained over 100 coordinators to cover 30 zones throughout the country (Appendix 1). Trainings were conducted for these coordinators on election offences, the reporting system, verification processes, the PEMANTAU code of conduct and safety and security during their observation.

These PEMANTAU coordinators, together with the BERSIH 2.0 Steering Committee and Secretariat, conducted 15 public briefings throughout the country involving more than 700 volunteers to encourage the public to monitor and report any election offences they witnessed. Unlike the both GE13 and the Sarawak State Elections, it was not required for these “PEMANTAU Rakyat” observers to attend any trainings or follow a Code of Conduct. Anybody, including candidates, polling and counting agents and election workers, could become a PEMANTAU Rakyat observer, by submitting incident reports to PEMANTAU teams. This was aimed at increasing public involvement in observing and documenting election offences, especially in the local areas where the PEMANTAU Rakyat are residing in. However, all incident reports submitted by PEMANTAU Rakyat are independently verified by the trained PEMANTAU coordinators.

Reporting System

The PEMANTAU initiative had three methods of receiving reports from PEMANTAU Rakyat:

1. Online through the PEMANTAU website, www.pemantau.org
Via WhatsApp
2. Via telephone calls, through three hotlines (two mobile phones and one landline)

The public online reporting tool²¹ was a simple form, which required the complainant to enter their personal details, the location of the incident and a brief summary of the incident. There was also an option to upload any photographs or videos as evidence.

In the form, the complainant could choose from twelve categories of offences to report on:

1. Bribery and Vote buying
2. Treating and gifts
3. Undue government handouts/inducement
4. Use of Government Machinery
5. Excessive spending/lavish events
6. Biased behaviour by public institutions (e.g. SPR/police)
7. Advance Voting and Postal Voting
8. Electoral roll problems
9. Problems on voting day
10. Racial politics e.g. hate speech and racial discrimination
11. Political violence, intimidation, and harassment during campaign
12. Others

Screening and verification of PEMANTAU Rakyat reports

Once received, the PEMANTAU Rakyat reports would undergo thorough screening and verification to ensure their authenticity and accuracy.

Any spam, irrelevant or duplicate reports were immediately removed from the reporting system.

Remaining reports were assigned to the relevant PEMANTAU head coordinator to organise verification of the report.

PEMANTAU coordinators would contact the PEMANTAU Rakyat complainant to establish the validity of the complaint. Verification would require the complainant to provide information on the individuals involved in the incident, their role or how they came to know about the incident and any proof they had of the incident.

Once the PEMANTAU coordinator was satisfied that the report was accurate and verified, they would fill out a detailed verification form, accessible only to PEMANTAU coordinators via the online reporting tool.

²¹ <https://aduan.pemantau.org>

Figure 1 depicts the PEMANTAU Structure. BERSIH consisted of the Steering Committee members and the staff and volunteers operating from the BERSIH Operations Centre.



Figure 1: PEMANTAU Structure

Additional Observation Methods

Social Media Monitoring

The PEMANTAU initiative also used a team of volunteers to monitor and input reports of verified incidents from social media accounts of candidates. It was common for candidates to upload photos and videos of their daily campaigning activities, many of which showed them breaching the principles of free and fair elections, in particular in relation to bribery, treating, the use of government machinery and undue government handouts. Information was only taken from social media accounts that were run by the candidates or their campaign team, or if social media postings could be corroborated with information from news reports.

Media Monitoring

PEMANTAU received bi-weekly reports from the University of Nottingham from the dissolution of Parliament until polling day. These reports included information on news coverage of any election offences that had been reported in major media outlets throughout the country.

Monitoring of incidents exacerbating racial or religious tensions

As part of the PEMANTAU initiative, Pusat KOMAS monitored news and social media for reports of individuals, candidates, political parties or authorities using race or religion during the campaign period. Pusat KOMAS also made use of reports submitted through the PEMANTAU online reporting tool and their own App. The full report by Pusat KOMAS is titled “Racial and Religious Politic in the 14th General Election”.

Monitoring of human rights abuses, particularly political violence, intimidation and harassment

SUARAM monitored GE14 for any incidents of human rights abuses from the dissolution of Parliament until polling day. Given the experience of GE13, particular focus was given to police actions and political violence, intimidation and harassment. SUARAM also made use of information gathered through the PEMANTAU online reporting tool, together with their own monitoring, to make their findings. The full report on SUARAM’s findings is titled “SUARAM GE14 Monitoring on Police Actions”.

Chapter Two: Findings

Existing Pre-Election Conditions

These findings detail the obstacles to the 14th General Elections that existed before the dissolution of Parliament.

The Independence of the Election Commission

Appointment

Article 1 of the Bangkok Declaration asserts that the “fearless independence” of election management bodies must be guaranteed by a state’s Constitution and other legal frameworks. It also says the appointment process should be “fully transparent and depoliticised.”

The constitution and appointment of the Election Commission are detailed in Article 114 of the Federal Constitution. Article 114(1) states:

“The Election Commission shall be appointed by the Yang di-Pertuan Agong after consultation with the Conference of Rulers, and shall consist of a chairman, a deputy chairman and five other members.”

Article 114(1) must be read together with Article 40(1) of the Federal Constitution:

“In the exercise of his functions under this Constitution or federal law the Yang di-Pertuan Agong shall act in accordance with the advice of the Cabinet or of a Minister acting under the general authority of the Cabinet, except as otherwise provided by this Constitution; but shall be entitled, at his request, to any information concerning the government of the Federation which is available to the Cabinet.”

In effect, therefore, the appointment of the EC is made by the King, but on the binding advice of the Prime Minister. Article 114(2), however, also requires consideration to be given to the “importance of securing an Election Commission which enjoys public confidence.”

The Courts have also held the Election Commission to be the “custodians of free and fair elections.”²² It is therefore imperative for free and fair elections that the independence of the EC is upheld.

The constitutional process of appointment does not provide any check

22 [Harris Mohd Salleh v Ismail Bin Majin, Returning Officer & Ors [2001] 3 MLJ 433]

on the Prime Minister's power to ensure an independent EC. Historically, members of the Commission have had close ties with the ruling coalition. In 2012 it was revealed that both the then Chair and Deputy Chair of the EC were UMNO members.²³

Since GE13, five new Commissioners have been appointed to the Election Commission²⁴:

1. Mohd Hashim Abdullah: First appointed as Deputy Chairperson in 2014 and promoted to Chairperson in January 2016. Hashim served as personal aide to UMNO information chief Annuar Musa for nine years from 1990 until 1999.
2. Othman Mahmood: Appointed as Deputy Chairperson in August 2017. From 2007 until July 2017, Othman worked in the Prime Minister's Department. From 2011 until July 2017, he served as Senior Deputy Chief Secretary in the Prime Minister's Department under Najib Razak.
3. Sulaiman Narawi: Appointed as a Commissioner in January 2015. Sulaiman served as the Secretary of the Public Services Commission in Sarawak from 2002 until 2012.
4. Bala Singam Karupiah: Appointed as a Commissioner in November 2016 after serving in the Ministry of Information, Communications and Culture for 12 years.
5. Leo Chong Cheong: Appointed as a Commissioner in April 2017 after serving in the Special Branch of the Royal Malaysian Police Force for 16 years. He was Special Branch Deputy Director II for seven years, from 2009.

The process of appointment for these five commissioners was opaque, with no public consultation. Four of the five appointments came from the civil service, while one was from the police force. The announcements that the King had 'consented to the appointments' were made by the Chief Secretary of the Federal Government.²⁵

The appointments of EC Commissioners failed to uphold the independence and integrity of the institution. In particular, the appointment of the former personal aide to a leading politician as the chair of the Commission severely compromised the appearance of neutrality in the Commission.

23 (Malaysiakini, 2012)

24 (Suruhanjaya Pilihan Raya, 2018)

25 (Fairuz, 2016)

Budget

International standards dictate that Electoral Management Bodies must have fiscal independence to prevent the funds for activities being controlled by political motivations.

The salary and allowances of the Election Commissioners are detailed in Schedule of the Election Commission Act 1957. However, the budget for the Election Commission falls under and is controlled by the Prime Minister's Department. According to then Minister in the Prime Minister's Department Azalina Othman Said, the budget allocated to the EC for GE14 was RM402 million, below the RM450 million requested by the EC.²⁶

Independence from Political Interference

Section 10 of the Election Commission Act 1957 makes it an offence for a person to influence or attempt to influence any decision of the Election Commission. This law should provide the EC with protection from any political interference. However, Section 5 of the same act makes communications between the EC and the Government, Minister or any public officer privileged. This prevents any public knowledge of political interference in the EC by Government officials. It is therefore possible for EC Commissioners to easily collude with the Government with impunity.

Re-Delineation

In the 13th General Election, the Barisan Nasional (BN) coalition won just 47% of the votes, compared to the Opposition coalition's 51% of the vote. Due to unequal distribution of voters in constituencies, however, BN still won 60% of Parliamentary seats.

International Standards on Election Boundaries

The principle of universal and equal suffrage under the UDHR and the ASEAN Human Rights Declaration indicates the value of every citizen's vote must carry the same power.

²⁶ (Yeap, 2018)

Article 2(6) of the IPU Declaration states:

"Every voter is entitled to exercise his or her right equally with others and to have his or her vote accorded equivalent weight to that of others."

Constitutional Conditions for re-delineation

The process for the re-drawing of election boundaries is detailed in Article 113 and the Thirteenth Schedule of the Federal Constitution.

Article 113 of the Federal Constitution empowers the Election Commission to undertake reviews of federal and state electoral constituency boundaries, not more than once every eight years. The EC must make recommendations in order for boundaries to comply with provisions in the Thirteenth Schedule.

Section 2 of the Thirteenth Schedule contains the following criteria for re-delineation:

1. Constituency boundaries ought not to cross State boundaries. State constituencies ought not to cross federal constituency boundaries.
2. Regard ought to be given for the administrative facilities in each constituency for voting and the registration of voters.
3. The number of electors within each constituency in a State ought to be approximately equal except that, having regard to the greater difficulty of reaching electors in the country districts and the other disadvantages facing rural constituencies, a measure of weightage for area ought to be given to such constituencies.
4. Regard ought to be had to the inconveniences attendant on alterations of constituencies, and to the maintenance of local ties.

The process of re-delineation is also laid out in detail in the Thirteenth Schedule, including requirements for public displays of the proposed recommendations, local inquiries for objectors to the proposals, the submission of the report to the Prime Minister, the passing through Parliament with a simple majority and the making of the Order by the King.

The Election Commission is also bound by Article 46, which sets the number of seats in Parliament at 222 and allocates the number of seats to each state.

Malapportionment between states

Before the re-delineation of Sarawak boundaries (2015) and Peninsular Malaysia boundaries (2016-2018), Parliament did not amend Article 46 of the Federal Constitution. Therefore, the existing distribution of seats by state would remain for the 14th General Election.²⁷

As Table 1 shows, inter-state malapportionment remained a factor for GE14:

State	Average Number of Voters per Parliamentary Constituency	Value of votes compared to Malaysian Average
Selangor	94,469	0.65
Terengganu	83,693	0.73
Melaka	76,108	0.80
Kuala Lumpur	71,673	0.85
Kedah	69,630	0.88
Negeri Sembilan	69,642	0.88
Kelantan	67,185	0.91
Penang	66,750	0.92
Johor	63,428	0.96
Perak	58,647	1.04
Pahang	52,859	1.16
Perlis	45,699	1.34
Sabah	39,829	1.54
Sarawak	35,779	1.71
Malaysia (excluding Putrajaya and Labuan)	61,200	1.00

Table 1: Inter-State Malapportionment in GE14

Selangor voters are severely under-represented in the current allocation of seats to states, while Perlis, Sabah and Sarawak voters are heavily over-

²⁷ (Wong, Yeong, & Ooi, 2016), p.10

represented.

Seat allocations to Sabah and Sarawak have been viewed as a matter of state rights and autonomy. There have long been demands for at least 33% of Parliamentary seats to be allocated to Sabah and Sarawak.

However, this distorts the principle of ‘one man, one vote, one value’ and fails to recognise international standards of equal suffrage.

It also does not consider the original purpose and design of the Senate (Dewan Negara), which was originally constituted to give states a role in checking the powers of the Lower House (Dewan Rakyat). In 1963, the majority of Senators were nominated by the State Legislative Assemblies in the Federation, but this has since been amended to allow just two Senators per state to be nominated by the states (a total of 26 out of 70 Senators). The remaining 44 Senators are appointed by the King, on the binding advice of the Prime Minister.²⁸

The result of this shift in power in the Senate has led to a misplaced focus on the allocation of Lower House seats.

The division of federal seats between the States of Malaya has historically been done on the basis of political expediency by Barisan Nasional. Up until 2008, BN was able to amend the Federal Constitution, and thus the number of seats in Parliament, at will, courtesy of its two-thirds majority. Terengganu and Kelantan, states with strong support for opposition party PAS, have been under-represented, while states that are BN strongholds, such as Perlis and Pahang have been allocated more seats than is proportional to the states’ electorate.

As a result of BN no longer holding a two-thirds majority in the Dewan Rakyat, no attempts were made to amend the Federal Constitution before the re-delineation exercises between 2015 and 2018, despite the existing inter-state malapportionment.

Sarawak (2015) and Peninsular Malaysia (2016-2018) Re-delineation

In November 2014, the Sarawak Legislative Assembly increased the number of state seats from 71 to 82. Following this, the EC published its first recommendations on 5 January 2015. After an unsuccessful legal challenge by PKR state assemblyperson See Chee How and others on the lack of information provided to the public, the new State and Parliament boundaries for Sarawak were passed through Parliament on 3 December 2015.

The first proposals for changes to constituency boundaries for Peninsular Malaysia were displayed by the EC in September 2016. Over ten legal challenges

28 (Faruqi, 2012)

were taken up against the EC's proposals for failing to adhere to the conditions of the Thirteenth Schedule. These legal cases were either withdrawn or dismissed by the courts. The Federal Court ruled that it was not the role of the judiciary to interfere in the work of the Election Commission and it was up to Parliament to decide on the constitutionality of the proposals. No ruling was made on the substantive claims of failing to adhere to the conditions of the Thirteenth Schedule.

However, the judgment of the Kuala Lumpur High Court, in the case of the Selangor Government vs the EC, did state that there was no evidence provided by the EC to refute the allegations of malapportionment and gerrymandering.²⁹

The final boundary changes were passed through Parliament on 28 March 2018 and the Order was made by the King on 29 March 2018, ten days before the dissolution of Parliament.

BERSIH 2.0 identified seven areas where the EC either acted in contravention of the Federal Constitution or attempted to minimise the necessary public participation in the process. Five areas were procedural in nature, while two, malapportionment and gerrymandering, impacted the outcomes of GE14.

Procedural Failures by the EC in Re-Delineation

1. Pre-delineation boundary changes

According to the Federal Constitution, changes in constituency boundaries can only be done through the process detailed in the Thirteenth Schedule.

However, maps obtained by the Penang Institute from the Department of Survey and Mapping Malaysia (JUPEM) from 2005 and from March 2016 showed substantial illegal and unconstitutional changes had been made to constituency boundaries. For example, in Perak, 23 of the 24 parliamentary constituencies had boundary changes and in Johor, 21 out of the 26 parliamentary constituencies had boundary changes without going through the re-delineation process. These changes were instead covertly made to official maps. Figures 1 and 2 have a clear illustration of the changes to one parliamentary constituency, P065 Ipoh Barat, between 2005 and March 2016.³⁰

For example, the western most point of N30 Buntong has a markedly different shape in 2005, compared to the map provided in March 2016. Similarly, the northern boundary of Ipoh Barat is almost a straight line in the March 2016 map, but in the 2005 map, there is a large section of land that is assigned to P063 Tambun. As an urban constituency, located in the capital of Perak, these

²⁹ Judgment number WA-25-186-10/2016, para. 17-18

³⁰ Data and analysis by Dr Wong Chin Huat

boundary changes resulted in considerable changes in the voting population of the constituency.

The EC claimed³¹ the changes were made during 'locality correction exercises' under Section 7(2) of the Elections Act.³² While this section allows the EC to alter polling district boundaries within a constituency for administrative purposes, there is no provision to alter constituency boundaries except through the Constitutional process of re-delineation.

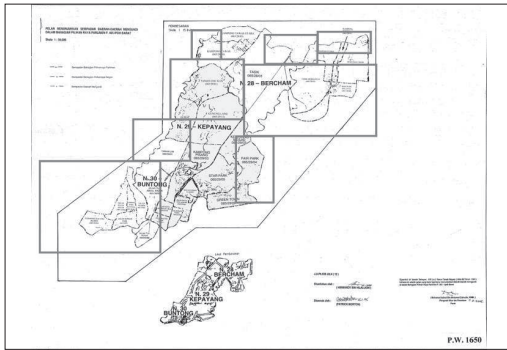


Figure 1. Map of Ipoh Barat (2005)

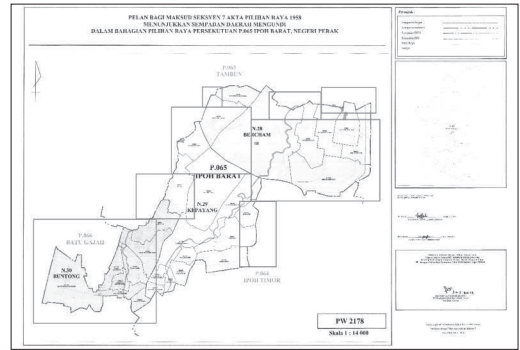


Figure 2. Map of Ipoh Barat (2016)

2. Failure to provide adequate information in the notice and public displays

Section 4 of the Thirteenth Schedule requires the EC to publish a notice stating the effects of the proposed changes and allow inspection of recommendations within each affected constituency.

The Malaysian Bar has rightly stated that in order to illustrate the effects of the proposed changes the EC must show how the EC remedied the existing non-compliance with the conditions of electoral boundaries set out in Section 2 of the Thirteenth Schedule.³³ Adequate access to such information should also have been provided, with detailed maps so voters could view the exact locations of the boundary changes in order to make informed representations to the EC.

The EC did not provide such information. Instead of showing the changes made to boundaries, the EC only gave information on the new boundaries. It was therefore impossible for voters to understand the effect and changes that had been made without access to the previous maps. This information

31 (Kow, 2016)

32 Section 7(2), Elections Act: The division of a constituency into polling districts under subsection (1) may be altered by the Election Commission as occasion may require, and upon any such alteration being made, the Commission shall publish in the Gazette a notice specifying in relation to that constituency the particulars mentioned in paragraph (1)(d).

33 (Malaysian Bar Council Constitutional Law Committee, 2017), p.8

was only provided by civil society initiatives such as DART. There was also no information on how the changes corrected non-compliance with Section 2 in the Thirteenth Schedule.

No information of the land mass of the new constituencies was provided. Land mass data is a critical part of assessing the compliance with Section 2(c) of the Thirteenth Schedule. Section 2(c) allows for a weightage for area to be given to remote constituencies in the determining the number of electors. Without the land mass data, voters would not be able to assess the weightage that has been accorded to these remote constituencies and judge if such weightage is in compliance with the Federal Constitution.

The maps provided also did not have sufficient detail. Only estimates on the exact locations of boundaries could be made based on the maps and voters near the boundaries would have been unable to determine which constituency they would be situated in.

3. Failure to hold required local inquiries

Under Section 5 of the Thirteenth Schedule, the EC is required to hold local inquiries if representation objecting to the proposed changes are made by the state government, local authorities or any group of 100 voters from the affected constituency. These 100 voters must be registered on the current electoral rolls for that constituency.

The EC initially rejected representations from the constituencies of Segambut, Setiawangsa and Bandar Tun Razak, despite the representations fulfilling these conditions. Once cases were filed in court against these rejections, the EC agreed to hold local inquiries.

As Table 2.1 shows, after the Second Display of proposals for the state of Selangor, the EC received 748 representations objecting to the proposals, 738 of which came from groups of 100 or more voters. However, the EC only held 59 local inquiries and rejected 689 representations.³⁴ The voters and local authorities of the rejected representations were not informed of the status of their representations until after the final report by the EC had already been submitted to the Prime Minister. The EC rejected the representations on the basis that their constituencies were “not affected” by the re-delineation exercise. At the same time, the final report submitted by the EC to the Prime Minister showed that they considered and accepted 457 ‘supporting’ representations from similar constituencies in Selangor.³⁵

34 (Hong, 2018)

35 (Suruhanjaya Pilihan Raya Malaysia, 2018), p.168

State	Total	Local Inquiries Held	Local Inquiries not Held	Objections Accepted by the EC (or accepted in part)	Objections Rejected by the EC
Kedah	14	6	8	3	3
Kelantan	106	59	47	42	17
Terengganu	110	80	30	73	7
Pulau Pinang	12	3	9	2	1
Perak	72	45	27	16	29
Pahang	49	18	31	13	5
Selangor	283	116	167	94	22
WP Kuala Lumpur	22	19	3	15	5
Negeri Sembilan	34	15	19	12	3
Melaka	36	31	5	25	6
Johor	64	38	26	22	16
First Display Total	804	430	374	317	114
Kedah	3	3	0	2	1
Kelantan	37	36	1	6	30
Terengganu	15	15	0	4	11
Pulau Pinang	2	1	1	0	1
Perak	16	15	1	0	15
Pahang	10	7	3	5	2
Selangor	748	59	689	11	48
K. Lumpur	9	8	1	2	6
Negeri Sembilan	8	7	1	2	5
Melaka	11	8	3	4	4
Johor	22	11	11	4	7
Second Display Total	881	170	711	40	130

Table 2.1: Objections received by the Election Commission for the Peninsular Malaysia Re-Delineation Proposals³⁶

³⁶ (Suruhanjaya Pilihan Raya Malaysia, 2018)

4. Failure to use the current electoral roll

Section 3 and Section 5(b) of the Thirteenth Schedule of the Federal Constitution requires the EC to use the current electoral rolls for the re-delineation exercise.

When the EC first published its proposals for Peninsular Malaysia in September 2016, the current electoral roll was the First Quarter 2016 electoral roll. However, the EC used Quarter 4, 2015. This failed to account for over 170,000 changes in the electoral roll in Q1 2016. There were over 88,000 newly registered voters, 23,000 voters that changed their address and 60,000 voters who were removed from the roll.

The EC also failed to recognise representations that were not based on the Q4 2015 electoral roll. Yet, the EC did not make this roll available to the public. The only way to check if voters were registered in a constituency by September 2016 was by running a check of the Q1 2016 electoral roll on the EC website.

5. Failure to delineate based on voters' addresses

Hundreds of thousands of voters listed in the electoral rolls for the re-delineation exercise for Peninsular Malaysia did not have any address recorded. For example, in Selangor, 136,000 voters had either incomplete or missing addresses in the electoral roll. The EC maintained the addresses were not a necessary part of re-delineation and instead relied on locality information. It is, however, questionable how the EC can accurately assign voters to the correct constituencies without complete addresses.

Substantial failures of the EC impacting GE14

1. Failure to reduce malapportionment

Under Article 113(2) of the Federal Constitution, the EC must make recommendations in order for constituencies to comply with the Thirteenth Schedule. Section 2(c) of the Thirteenth Schedule requires constituencies within a state to have “approximately equal” number of electors, with a weightage for area for rural constituencies.

Tables 3.1 and 3.2 illustrate the EC’s failure to abide by this condition in the 2015 Sarawak re-delineation.

Parliament Constituency	Number of Voters	as % of average
P195 Bandar Kuching	81,992	229.16%
P219 Miri	74,132	207.19%
P212 Sibü	66,375	185.51%
P196 Stampin	58,111	162.42%
P217 Bintulu	57,887	161.79%
P211 Lanang	57,477	160.64%
P194 Petra Jaya	51,987	145.30%

Table 3.1: Under-represented Constituencies in Sarawak re-delineation 2015³⁷

Parliament Constituency	Number of Voters	as % of average
P207 Igan	18,082	50.54%
P222 Lawas	18,138	50.69%
P206 Tanjong Manis	19,627	54.86%
P203 Lubok Antu	19,819	55.39%
P210 Kanowit	19,862	55.51%
P200 Batang Sadong	20,977	58.63%
P209 Julau	22,932	64.09%

Table 3.2: Over-represented Constituencies in Sarawak re-delineation 2015³⁸

The ratio between the smallest constituency and the largest constituency was 1:4.53. The exception for a weightage for area to be given to rural constituencies could not be used to justify this malapportionment. Remote rural constituencies such as P220 Baram had far more voters than those listed in Table 3.2, but also had far larger land mass. Baram (31,476 voters) had a land mass of 22,075 square kilometres, while Igan (18,082 voters) had a land mass of just 2,206 square kilometres.³⁹

Table 3.3 again illustrates the EC repeated this failure in the 2018 re-delineation exercise for Peninsular Malaysia. In some states, the malapportionment ratios were worsened because of the re-delineation.

37 (Wong, Yeong, & Ooi, 2016), p.62

38 Ibid.

39 Ibid.

State	Ratio of Smallest Constituency to Largest Constituency
Perlis	1.20
Kedah	2.70
Kelantan	2.42
Terengganu	1.45
Penang	1.68
Perak	3.43
Pahang	2.93
Selangor	4.05
WP Kuala Lumpur	1.45
Negeri Sembilan	2.18
Malacca	2.50
Johor	3.17

Table 3.3: Peninsular Malaysia Ratio of Smallest Constituency to Largest Constituency within States⁴⁰

2. Gerrymandering and failure to maintain local ties

In order to comply with Section 2(d) of the Thirteenth Schedule, the EC should have given regard to the maintenance of local ties in determining boundaries. This would mean that, as far as possible, boundaries should not divide local villages or community groups. In order to not inconvenience local councils, efforts should have been made to ensure the dividing of local councils was minimised.

However, the boundaries in the final report frequently crossed over multiple local authority boundaries and cut through local communities.

Instead of considering local ties, EC chairman Mohd Hashim Abdullah stated that ethnicity was one of the criteria considered during the re-delineation exercise.⁴¹ Race and ethnicity are not mentioned within the criteria of the Thirteenth Schedule. As Tables 4.1 and 4.2 show, the use of race to determine boundaries resulted in 15 Parliamentary Constituencies, which were previously mixed constituencies before re-delineation, transforming into eight Malay-dominant constituencies and seven Chinese-dominant constituencies.⁴²

⁴⁰ Analysis by Dr Wong Chin Huat, Penang Institute

⁴¹ (Malay Mail, 2018)

⁴² (BERSIH 2.0, 2018)

CONSTITUENCY		Malay	Chinese	Indian	Others
P59 BUKIT GANTANG	Before	67.5%	22.9%	9.3%	0.3%
	After	72.4%	18.9%	8.4%	0.3%
	Changes	+4.9%	-4.0%	-0.9%	-0.0%
P74 LUMUT	Before	54.0%	32.9%	11.8%	1.3%
	After	72.0%	15.0%	11.4%	1.6%
	Changes	+18.0%	-18.0%	-0.3%	+0.3%
P101 HULU LANGAT	Before	54.1%	32.8%	10.9%	2.2%
	After	65.0%	22.1%	10.4%	2.5%
	Changes	+10.9%	-10.8%	-0.5%	+0.4%
P107 SUBANG	Before	47.5%	38.5%	11.8%	2.2%
	After	65.3%	21.6%	10.7%	2.3%
	Changes	+17.8%	-16.9%	-1.1%	+0.2%
P109 KAPAR	Before	54.6%	30.9%	13.7%	0.8%
	After	70.7%	14.8%	13.6%	0.9%
	Changes	+16.1%	-16.1%	-0.1%	+0.1%
P121 LEMBAH PANTAI	Before	57.0%	21.8%	18.8%	2.4%
	After	62.1%	18.9%	16.3%	2.7%
	Changes	+5.1%	-2.9%	-2.5%	+0.3%
P124 BANDAR TUN RAZAK	Before	53.8%	36.5%	8.3%	1.4%
	After	61.1%	29.1%	8.3%	1.5%
	Changes	+7.3%	-7.4%	-0.1%	+0.1%
P137 BUKIT KATIL	Before	55.0%	38.6%	5.6%	0.8%
	After	62.4%	31.1%	5.7%	0.8%
	Changes	+7.4%	-7.4%	+0.1%	-0.0%

Table 4.1: Ethnic-based transfer of voters, creating new Malay-dominant constituencies

CONSTITUENCY		Malay	Chinese	Indian	Others
P68 BERUAS	Before	34.2%	50.7%	14.9%	0.2%
	After	26.3%	59.3%	14.1%	0.4%
	Changes	-7.9%	+8.6%	-0.9%	+0.1%
P103 PUCHONG	Before	39.2%	44.2%	15.2%	1.4%
	After	36.8%	52.0%	10.0%	1.1%
	Changes	-2.4%	+7.8%	-5.1%	-0.0%
P104 KELANA JAYA	Before	37.1%	43.0%	17.9%	2.0%
	After	26.6%	56.5%	15.2%	1.7%
	Changes	-10.5%	+13.5%	-2.7%	-0.1%
P110 KLANG	Before	33.6%	45.0%	19.7%	1.8%
	After	26.4%	55.3%	17.1%	1.2%
	Changes	-7.1%	+10.3%	-2.6%	-0.3%
P117 SEGAMBUT	Before	33.4%	53.4%	11.1%	2.2%
	After	27.5%	58.9%	11.8%	1.8%
	Changes	-5.8%	+5.5%	+0.7%	-0.2%

Table 4.2: Ethnic-based transfer of voters, creating new Chinese-dominant constituencies

BERSIH 2.0 also detected attempts to sway the results of GE14 in marginal seats by transferring polling districts between constituencies based on voting pattern.

In Melaka for example, five polling districts with strong opposition support were transferred out from P137 Bukit Katil (a marginal constituency) and packed into P138 Kota Melaka (an opposition stronghold). Based on a re-simulation of GE13 voting patterns with the new boundaries after re-delineation, P137 Bukit Katil would have switched from an opposition constituency into a ruling government constituency. Similar gerrymandering, especially packing of opposition supporters into super-sized constituencies, was also discovered in several other states such as Perak, Selangor, and Johor. Preliminary analysis showed that, if voting patterns had remained the same for GE14, the changes would have had a material effect on several marginal Parliamentary Constituencies across the country.

Impact of malapportionment and gerrymandering on GE14

The results of GE14 confirmed that Pakatan Harapan and PAS voters had overwhelmingly been “packed” into excessively under-represented super-constituencies. Voters for Barisan Nasional, on the other hand, were highly over-represented and spread throughout smaller constituencies.

Analysis by Andrew Loh Zhu An found the following⁴³:

1. Out of the 79 seats that BN won, 70 of those were from the smallest 122 seats.
2. Out of the 18 seats won by PAS, 16 were from the largest 100 seats and just two were from the smallest 122.
3. The seats won by PH had an average of 77,943 voters compared to an average of 46,836 voters for seats won by BN. Seats won by PAS had an average of 84,693 voters.
4. Seats won by Pakatan Harapan were won with ‘super majorities’. The average margin of victory for a PH MP was 21,385 votes. This figure was 9,037 for PAS and just 5,475 for BN.

Sabah Re-delineation

In August 2016, the Sabah State Assembly increased the number of state seats from 60 to 73. This meant the EC needed to re-delineate the state of Sabah into 73 constituencies. The EC announced its recommendations for the state of Sabah in September 2016. It completed the process of displays and inquiries and submitted its final report to the Prime Minister on 21 February 2017.⁴⁴

Section 9 of the Thirteenth Schedule requires the Prime Minister to “as soon as may be after the Election Commission have submitted their report to the Prime Minister under section 8...lay the report before the House of Representatives.”

However, this report was never tabled in the Dewan Rakyat. On 29 March 2018, Deputy Prime Minister Zahid Hamidi said Prime Minister Najib had exercised his discretionary power not to table the report before Parliament.⁴⁵ While no reason was given for not tabling the report, it is likely due to an unforeseen shift in the Sabah political landscape in 2016 and 2017. A newly formed party,

43 (Loh, 2018)

44 (Vanar, 2018)

45 (Daily Express, 2018)

Parti Warisan Sabah, led by former UMNO leader Shafie Apdal, was capturing support in historically BN strongholds and would have benefitted from the proposed changes by the EC.

The result was the 14th General Elections was held with 60 state constituencies for Sabah, despite the Sabah State Constitution stating there should be 73 seats in the State Assembly. Najib's unconstitutional refusal to table the report also demonstrated the unaccountable power the Prime Minister wielded over the preparation for the 14th General Elections.

Limitations on Voter Registration and Manipulations of the Electoral Roll

According to Article 119 of the Federal Constitution, every Malaysian citizen above the age of 21 and is a resident in their constituency has the right to vote in that constituency, once registered to do so. However, Malaysians must proactively register themselves as voters once they reach the age of 21 in order to be included on the electoral roll.

Process of Voter Registration

The process of voter registration is laid out in the Elections (Registration of Electors) Regulations 2002 and conducted by the Election Commission.

1. Eligible citizen applies to be a voter or to change their voting address via a Registrar or an Assistant Registrar Officer (ARO) appointed by the EC. According to Form A, the voter's address must follow the address on their National Registration Identity Card (IC).
2. The Registrar can make any inquiries into the accuracy of any application to register as a voter in a constituency, including the validity of an address. The Registrar can omit any name from the electoral roll if the evidence on the accuracy of the information is not been provided.
3. Each quarter, the Election Commission publishes and displays a draft supplementary electoral roll and allows 14 days for objections to any names in the roll to be made. Individuals can also make a claim if they have registered as a voter or changed their address, but this change is not reflected in the draft roll.
4. Objections against any name can be made by any registered voter in that constituency, provided sufficient information is provided to warrant an objection.
5. Once the Registrar allows an objection, the voter who has been objected to will be informed of the objection and required to appear at a public inquiry to confirm their eligibility to be a registered voter in that constituency.

6. The voter who objected to the inclusion of the name must also be present and provide prima facie proof as to why a name should not be included. If the objector fails to provide such proof, the voter will still be included in the electoral roll even if the person fails to attend the public inquiry.

The quarterly supplementary electoral roll is then certified and a notice is published in the Gazette. Under Section 9A of the Elections Act, once a roll has been certified, it may not be challenged in court. However, the Chief Registrar is empowered to correct any errors or omissions in the electoral roll before the dissolution of Parliament or the State Legislative Assembly.

Limits on AROs

After GE13, the EC announced political parties and many NGOs would no longer be appointed as Assistant Registrar Officers (AROs). Voter registration could be done via the post office, at any Election Commission Office, district offices and via a number of selected government departments and individuals. In 2017, there were only 205 AROs appointed nationwide, compared to 5,720 in 2011.⁴⁶

At the time of GE13, there were 4.2 million eligible unregistered voters. Great efforts needed to be made to encourage voter registration and drastically reduce this figure by GE14. Political parties before GE13 had proven to be effective agents for voter registration, registering over one million voters in 2011.

The limits on AROs from 2013 made it much harder to conduct voter registration exercises. Not only were very few non-government individuals appointed to carry out voter registration drives, the number of available forms was also limited to 50 forms per ARO at one time. This meant that each voter registration drive by an ARO could only register a maximum of 50 people at a time. These unexplained restrictions led to 3.8 million eligible citizens still unregistered at the time of GE14.

In 2015, BERSIH 2.0 also discovered a trend in those appointed to be AROs having close links to Barisan Nasional. On the Malacca Election Commission website, there were two lists for AROs, those for UMNO and those for IPF (both component parties of BN). This list was still available two years after the restrictions on political parties conducting voter registration was introduced. No other AROs were listed on the website. For the state of Johor, BERSIH 2.0 found 36 of the 52 AROs appointed by the EC under government department JASA were members of Barisan Nasional component parties or BN-linked NGOs.⁴⁷

⁴⁶ (Free Malaysia Today, 2017)

⁴⁷ (BERSIH 2.0, 2015)

Malicious and Systematic Objections to Voter Registration in Selangor

From 2015 through to December 2017, BERSIH 2.0 monitored and reported mass systematic objections to voter registration in Selangor along racial lines. These objections were filed by UMNO against non-Malay voters in the state, in particular Chinese voters. DAP MP for Serdang, Ong Kian Ming, published detailed findings into the objections submitted. He found that from Quarter 1 to Quarter 3 2016, 4694 objections were filed and 94% were objections in Selangor. Of the 4427 objections in Selangor, 92.8% were made against Chinese voters, 5.8% were against Indian voters and 1.2% were against Malay voters.

In addition, instead of the objections containing sufficient detail to warrant a public inquiry, most of the objections just included the words “Doubtful Voter”. Once the inquiries were called in Selangor, these were not open to the public. The inquiries were held on weekdays at the State EC office in Shah Alam. Many voters had to take time off work and travel from across the state to these public inquiries in order to confirm their registration, despite the lack of evidence that their details were inaccurate. Many voters also did not receive any letter notifying them of the objection and inquiry.

The Selangor EC made no attempts to curb the abuse of the objection process and maintained the burden of proof lay with the voters.

Many voters in Selangor were unaware of this objection process. Therefore, after they made the application to be a registered voter, they assumed their name would be added to the electoral roll. During GE14, PEMANTAU received 34 complaints from voters stating they had applied to be a registered voter, but their name was not on the roll for GE14.

Systematic Shifting of Voters to Marginal Seats

From 2015 until 2017, BERSIH 2.0 monitored and documented systematic mass movements of voters into marginal seats.

A process was in place where BN supporters would have their IC address changed via the National Registration Department to an address within the marginal constituency and, at the same time, an application would be made to change their voting address to that constituency.

In some cases, voters would have their IC address and voting constituency changed without their knowledge.⁴⁸ PEMANTAU received 19 complaints from voters after the dissolution of Parliament that upon checking their voting status, found they had been moved to a distant constituency without their knowledge.

48 Report ID 45

Falsifying information submitted to the National Registration Department is an offence under Regulation 25 of the National Registration Regulations 1990.

Lembah Pantai, Kuala Lumpur

In GE13, PKR Vice President Nurul Izzah Anwar beat then Federal Minister Raja Nong Chik by a slim majority of 1,874 votes.

In Quarter 3 and Quarter 4 of 2016 alone, BERSIH 2.0 detected suspicious movements of at least 1,020 voters into Lembah Pantai. These 1,020 voters were registered to four low-cost apartment blocks. The voters were divided into separate units, with four to ten voters allocated per apartment unit. However, sample ground checks at these addresses found no voters by these names were ever resident in these units.

Sungai Besar, Selangor

In GE13, Sungai Besar was won by Barisan Nasional by a slim margin of 399 votes.

In Quarter 1 of 2017, DAP state assemblyperson Ng Suee Lim found 519 Indian and Chinese voters had registered in the constituency under the address 'Jalan Parit 8'. However, when he checked these addresses, no such voters could be found.⁴⁹

Sungai Besar UMNO Division leader Jamal Yunos also confirmed they were spending millions of ringgit to transfer 7000 voters with "UMNO DNA" into the constituency.⁵⁰

Wangsa Maju, Kuala Lumpur

In GE13, PKR won the Wangsa Maju seats by 5,511 votes, while in GE12 in 2008, the seat was won by just 150 votes.

In Quarter 3 and Quarter 4 of 2016, the Malaysian Electoral Roll Analysis Project (MERAP) found a sudden spike in new voters and voters changing their address into the constituency. Similar to the case of Lembah Pantai, many of these new additions were located in low-cost flats and a sample check of 662 of these voters could not locate them at the stated addresses.

Police reports and complaints to the EC were made over these voters, but no action was taken.

On polling day, over 500 forms on Declaration of identity (Form 11) were issued in Wangsa Maju over voters who were not resident in that constituency turning up to vote. Some of these voters admitted to polling agents that they had been paid to change their address to Wangsa Maju.⁵¹

49 (Koh, 2017)

50 (Low, 2017)

51 Report ID 727

Army Camps

Thousands of army voters were discovered to have been registered to three army camps still under construction in key constituencies in Quarter 3, 2017.

In the constituency of Bera, where Federal Minister Ismail Sabri won by 2,143 votes in GE13, 1,234 army voters were transferred to the construction site for Bera Camp.

In the constituency of Bagan Datuk, won by Deputy Prime Minister Zahid Hamidi by 2,108 votes in GE13, 1,411 army voters were transferred to the construction site for Hutan Melintang Camp.

In the constituency of Segamat, won by Federal Minister S. Subramaniam by 1,217 votes in GE13, 1,079 voters were transferred to the construction site of Segamat Camp.

Despite confirmation that these voters were not resident at the construction sites and appeals to the EC and court challenges, these voters remained on the electoral roll for these constituencies in GE14.

Claims on Missing Names

After the display of the draft electoral roll for Quarter 1, 2017, it was discovered by DAP MP Ong Kian Ming that a total of 28,000 army and police voters had been listed as making claims that their names had been erroneously excluded from the draft roll.

This was highly suspicious as it would mean that throughout the country, the EC had accidentally misplaced the registration forms of 28,000 voters. These voters would all have then had to sign a complaint form and provide a copy of their registration form as proof that they had applied to be a voter.⁵²

Non-Citizens and Deceased Persons On the Electoral Roll

In December 2014, the Report of the Royal Commission of Enquiry into Immigrants in Sabah confirmed there were non-citizens on the electoral roll as a result of fraudulent Identity Cards handed out to immigrants in the 1980s and 1990s.⁵³

Despite the findings of the Royal Commission, no action was taken by the EC since 2014 to remove these names of non-citizens from the electoral roll.

While these voters, estimated to be over 50,000, originally registered in Sabah, they are now spread throughout the country.

⁵² (Ong, 2017)

⁵³ (Shim, 2014), pp.307-308

In the constituency of Klang, polling agents for DAP candidate Charles Santiago were given a list of names and IC numbers of those identified as having falsified citizenship documents. These IC numbers had been classified as “Not Recognised” by the National Registration Department in 1996.

On polling day, at Klang Vocational College polling station, 20 voters with IC numbers categorised as “Not recognised” were escorted by EC officers, without explanation, into the polling station allowed to vote.⁵⁴

PEMANTAU received 14 complaints from former citizens that their names were still on the electoral roll. In addition, there were 84 complaints of deceased voters still on the electoral roll, despite passing away before 31 December 2017. These errors occurred even though the EC has direct links with the National Registration Department to ensure non-citizens and deceased persons are immediately removed from the electoral roll.

On the other hand, PEMANTAU also received 38 complaints from voters who had previously been on the electoral roll, but their names had been removed without their knowledge. In one instance, a voter who went to the EC to complain was told his name was removed because he had passed away.⁵⁵

BERSIH 2.0 and ENGAGE also detected 2,015 cases of voters who were registered for the 2008 General Elections, had their names removed before GE13, but were re-registered for GE14. These re-additions did not appear on any supplementary roll between GE13 and GE14.⁵⁶

Voters registered without their knowledge or consent

PEMANTAU received 178 complaints from the dissolution of Parliament from both citizens and former citizens that their names appeared on the electoral roll despite never having registered to vote.

Especially suspicious was the high number of complainants that lived overseas. It appeared that there was systematic registration of overseas Malaysians, who would be unlikely to check their voting status and turn up to vote on polling day. More concerning is the need to have access to data from the Immigration Department in order to identify these overseas Malaysians and then be able to fraudulently use this data to register these individuals as voters.

54 Report ID 728

55 Report ID 160

56 (BERSIH 2.0 and Engage, 2018)

Free and Fair Access to Media

There was little improvement in the media landscape between GE13 and GE14.

The Report of the People’s Tribunal on Malaysia’s 13th General Elections found that in 2013, “Malaysian mainstream print and electronic media are clearly biased against opposition parties.”⁵⁷

Ownership of the media by political parties remained a factor in GE14. Mainstream newspapers such as The Star and Utusan Malaysia remained in the control of Barisan Nasional component parties, including MCA and UMNO.

Government television and radio stations also remained under the tight control of the Home Ministry and gave overwhelmingly positive coverage to the ruling coalition between 2013 and 2018.

Alternative online media that gave focus to the 1MDB scandal faced harassment and intimidation. Various websites reporting on the 1MDB scandal, including Sarawak Report and The Malaysian Insider, were blocked by the Malaysian Communication and Multimedia Commission (MCMC). The Edge Daily and The Edge Financial Daily were suspended under the Printing Presses and Publications Act for three months in 2015 for their coverage of the 1MDB story. Also in 2015, The Edge’s publisher Ho Kay Tat, The Malaysian Insider’s chief executive officer Jahabar Sadiq and editors Lionel Morais, Amin Iskandar and Zulkifli Sulong were arrested under the Sedition Act.

On 2 April 2018, the Anti-Fake News Bill was passed through the Dewan Rakyat and the Dewan Negara passed the Bill the following day. The Anti-Fake News Act received Royal assent and was published in the Gazette on 11 April 2018. The Deputy Communications and Multimedia Minister Jailani Johari stated that any information on 1MDB that had not been verified by the Government would be considered ‘fake news’.⁵⁸ The Malaysian Bar raised concerns that the Act does not have any definition of what should be considered ‘false’ news and therefore would stifle freedom of expression.⁵⁹ During the campaign period, a number of Pakatan Harapan politicians were investigated under this Act, including PH leader Mahathir Mohamad⁶⁰ and candidate for Bentong Wong Tack.⁶¹

The controls on media freedom inevitably had a chilling effect on coverage of the 14th General Elections, especially when covering the 1MDB corruption scandal.

57 (Report of the People’s Tribunal on Malaysia’s 13th General Election, 2014), p.43

58 (Sivanandam, 2018)

59 (Varughese, 2018)

60 (The Star Online, 2018)

61 (The Star Online, 2018)

On the night of 9 May, the Malaysian Communications and Multimedia Commission (MCMC) ordered internet service providers to block independent news portal Malaysiakini and their live results websites, www.undi.info and live.undi.info. This was allegedly due to the portal publishing ‘inaccurate’ results, but no evidence was provided for this and all accounts show the results by Malaysiakini were in fact accurate.⁶²

Political Financing

Edmund Terence Gomez’ studies on the financing of political parties and elections in Malaysia have found the existing structures and mechanisms continue to be an obstacle to free and fair elections. Gomez highlights unlimited anonymous donations to parties, the unequal access to funds by parties and funding from government-linked companies at both state and federal level as areas of concern.⁶³

Despite calls from civil society⁶⁴ and from within Cabinet⁶⁵ to regulate political financing before GE14, no reforms were introduced. This once again led to the opaque financing of political parties during the elections.

The impact this had was evident when former Prime Minister Najib Razak’s properties were raided in the wake of the elections and 72 bags of cash were found, he claimed they were donations to fund the Barisan Nasional election campaign.⁶⁶

Short-term incidents and actions by public institutions

BERSIH 2.0 found certain actions and decisions by public institutions in the lead up to GE14 contravened the principles of free and fair elections.

Dissolution of Parti Pribumi Bersatu Malaysia and Failure to Register the Pakatan Harapan coalition

Political parties in Malaysia fall under the purview of the Registrar of Societies (RoS) and all parties that wish to use their logo and have candidates

62 (Malaysiakini, 2018)

63 (Gomez, 2018)

64 (Shagar, 2015)

65 (Mariah, 2015)

66 (Jayamanogaran & Prakash, 2018)

in an election must be registered as societies. The Registrar of Societies is a department under the Home Ministry and Section 5(1) of the Societies Act gives the Home Minister “absolute discretion” to declare a society illegal. The Home Minister from 2013 until GE14 was the Deputy Prime Minister Zahid Hamidi.

The Opposition coalition, Pakatan Harapan, had applied to be formally registered with the RoS in July 2017.⁶⁷ This would allow the coalition to contest under a single logo in the General Elections and ensure its leaders could be on election posters throughout the country, in the same way the ruling Barisan Nasional coalition contests in elections.

However, the RoS repeatedly stated the application could not be processed for numerous reasons, including irregularities in DAP’s internal party elections and Opposition party Parti Pribumi Bersatu Malaysia’s Annual General Meeting.⁶⁸ In 2017, the RoS ordered the DAP to hold a re-election of party elections held in 2012, five years previously, which they subsequently did. The RoS then instructed PPBM to hold an AGM, which was held in December 2017. On 23 March 2018, the RoS stated the registration of Pakatan Harapan could not be processed because has the component party PPBM had yet to provide all the information and documents required to RoS, including minutes of division, branch and central meetings as well as the party’s financial statement.⁶⁹ PPBM’s President Muhyiddin Yassin stated it was not possible to provide audited financial accounts within the 30-day deadline set by RoS and that minutes of branch meetings could not be handed over because such branches had not been established yet.⁷⁰

On 5 April 2018, two days before the dissolution of Parliament, the RoS announced it was provisionally dissolving PPBM and the party would be permanently dissolved in 30 days. The RoS also confirmed it would not process the application to register the Opposition coalition Pakatan Harapan.⁷¹

On the other hand, UMNO, the party of then Prime Minister Najib Razak, had been accused of failing to hold party elections in the required time stated in the party’s constitution, but no action was taken by the RoS.⁷²

On 23 April 2018, five days before nomination day, the Kuala Lumpur High Court put a stay on PPBM’s dissolution. The High Court judge found there was an arguable case of bias and prejudice, given that Zahid Hamidi had “asked RoS to not just initiate an investigation but to step up its probe.”⁷³

67 (The Star Online, 2018)

68 (Arfa, 2017)

69 (The Star Online, 2018)

70 (The Sun Daily, 2018)

71 (Azura, Irwan, & Zanariah, 2018)

72 (Ho, 2018)

73 (Arukesamy, 2018)

The political nature of the registration process was clear. For instance, when the DAP was ordered to hold a re-election for its party polls, the Home Minister Zahid Hamidi, said he had met with the director-general of RoS before a decision was reached, instructing them to “act professionally.”⁷⁴ Even more clear, on 16 May, one week after Pakatan Harapan’s victory in GE14, the coalition’s registration application was approved and the status of PPBM was restored.⁷⁵

Weekday Polling Day

On 10 April 2018, the EC announced that polling day would be held on Wednesday, 9 May, 2018. This was the first time since 1982 that the General Elections would be held in the middle of the working week. Since 2004, all General Elections and State Elections had been held on a weekend.

On 11 April, then-Prime Minister Najib Razak declared 9 May a public holiday. However, this still put restrictions on voters who were working or studying away from their constituency returning home to vote. The EC did not provide an explanation for their decision, but the political motives were apparent. Urban voters had tended to vote against the BN coalition, while rural voters were the stronghold of BN.⁷⁶ Voters who work or study in urban areas, returning to rural constituencies to cast their ballots, would likely be more inclined to vote against BN. In fact, when then-Deputy Prime Minister Zahid Hamidi was asked what voters residing in Singapore should do if they were not allowed to take time off work to return to vote, he remarked that it was “best not to vote.”⁷⁷

While the EC was correct in stating there was no legal requirement not to set polling day on a weekday, the decision went against efforts to try and encourage high voter turnout for the election.

In Sabah and Sarawak, the two states that have a high proportion of voters working or studying in Peninsular Malaysia, voter turnout was just 73.75%⁷⁸, compared to 82.32% for the whole country. While this lower turnout for East Malaysia can be due to a number of factors, including socioeconomic factors and the absence of state elections in Sarawak, the weekday polling would have been another inhibitive factor.

74 (The Sun Daily, 2017)

75 (Free Malaysia Today, 2018)

76 (Pakiam, 2018)

77 (Malaysiakini, 2018)

78 Figure obtained from data harvested from the GE14 results on the Election Commission website.

11-Day Campaign Period

Section 3(1) of the Elections (Conduct of Elections) Regulations 1981 sets a minimum campaign period from nomination day until polling day of 11 days. On 10 April 2018, the EC announced nomination day would be held on 28 April 2018 and polling day would be on 9 May 2018, a total campaign period of 11 days.

BERSIH 2.0 had long demanded for a minimum campaign period of 21 days to give voters adequate time to assess the candidates in the constituency and make informed decisions.

More significantly, eleven days was not enough time for overseas postal ballots to be printed, issued, delivered and returned. Postal ballots were issued between 30 April and 2 May 2018. In some cases, this left seven days (five working days) for ballots to be dispatched, marked and returned to the returning officer by 5pm on polling day. PEMANTAU received 157 complaints from postal voters, both overseas and domestic, who did not receive their ballots in time to return them to their respective Returning Officer by 5pm on 9 May. More details on the problems experienced with postal votes are found on pages 65-70.

Last Minute Conditions on Campaign Materials

After the refusal by the RoS to register Pakatan Harapan as a formal coalition before GE14, PH leader Mahathir Mohamad announced on 6 April 2018 that all the component parties would contest under the PKR logo in Peninsular Malaysia.

On 24 April, the EC announced new conditions on campaign materials. Unlike previous elections, where no restrictions were placed on who could feature on campaign materials, the EC announced strict limitations:

1. Only pictures of two political party leaders, namely the president (or its equivalent) and deputy president (or its equivalent) (based on the use of logo/symbol of political party registered by the candidate during the Nomination Day) can be used on campaign materials;
2. Pictures of other officials of the contesting parties, other than the president (or its equivalent) and the deputy president (or its equivalent) are not permitted;
3. Pictures of both political party leaders can be either combined or placed separately on campaign materials;
4. Only a combination of the pictures of the party's president (or its equivalent), the deputy president (or its equivalent), the party liaison chairman (or its

- equivalent), the Menteri Besar/Chief Minister and candidates (based on the use of logo/symbol of political party registered by candidate during the Nomination Day) is permitted to be used on campaign materials;
5. Other party post than those mentioned above is not permitted; Candidates contesting for political parties and want to adopt the party's logo/ symbol are required to ensure that the party's logo/symbol are registered with the EC; and,
 6. The logo/symbol of the political party for the candidate contesting and the logo/symbol of the component party registered as the coalition represented by the candidate are allowed to be displayed either jointly or separately at the constituency where the candidate is contesting.⁷⁹

No explanation or reason was given by the EC for these extra conditions. It meant that PH leaders such as designated Prime Minister candidate Mahathir Mohamad, imprisoned PKR de facto leader Anwar Ibrahim and DAP leader Lim Kit Siang were not allowed to feature on any campaign materials outside of the constituencies they were contesting in. It also prevented the logos of Pakatan Harapan, PPBM, DAP and Amanah appearing on campaign materials in Peninsular Malaysia.

For BN, on the other hand, because the coalition was a registered with RoS and all candidates were standing under the BN logo, the faces of BN Chairman Najib Razak and Deputy Chairman Zahid Hamidi were allowed on campaign materials. In addition, the leaders and logos of all the component BN parties were also permitted. It also prevented non-politicians, such as Najib's wife Rosmah Mansor, from appearing on campaign materials.

The announcement was made four days before nomination day, when all the campaign materials for candidates had been prepared and printed.



⁷⁹ (Bernama, 2018)

These arbitrary restrictions led to the EC's enforcement teams cutting out the photographs of Mahathir on banners throughout the country. There was also clear bias in enforcement of these conditions. While Mahathir's photograph was consistently removed from banners, photographs and banners of BN leaders that contravened the EC's conditions remained untouched. For example, Federal Territories Minister and candidate for Putrajaya Tengku Adnan did not qualify as one of the leaders specified in the EC's conditions, but advertisements with his photograph and the BN logo were seen throughout Kuala Lumpur. In addition, while Pakatan Harapan logos were prohibited with the exception of PKR, other Government logos, in particular the Federal Government's Malaysia logo, were consistently printed on BN banners and allowed by the EC.

International and Domestic Election Observation

Article 18 of the Bangkok Declaration highlights the importance of professional and independent election observers to the integrity of elections:

“Well-trained, dedicated and non-partisan election observers are a key tool for promoting the quality and integrity of the entire electoral process, and accreditation allows them to function more effectively. EMBs, subject to their prevailing laws, should ensure that all well-trained and non-partisan observer groups are permitted to observe all stages of election processes including observing the entire polling and counting processes at any polling station.”

BERSIH 2.0 wrote to the EC on 17 January 2018 to apply for accreditation as an election observer, but never received a response. There was no transparency in the selection of election observers and no criteria for domestic observers was provided. EC chair Hashim Abdullah did say in an interview with the New Straits Times that they would invite ‘politically neutral NGOs’ to observe the elections.⁸⁰

For international observers, the EC announced it would invite Commonwealth and ASEAN countries that had invited the Malaysian EC to conduct observations during their elections.

On 10 April, the Election Commission announced it had appointed 11 NGOs, three public universities and 14 countries to observe GE14. The list of NGO observers included Majlis Belia Malaysia and Dewan Perniagaan Bumiputera Sabah. The international observers the EC confirmed were invited were Indonesia, Thailand, Maldives, Timor Leste, Azerbaijan, Cambodia, Kyrgyzstan,

80 (Babulal, 2018)

Bosnia Herzegovina, Uzbekistan, India, Pakistan and New Zealand.⁸¹

The Human Rights Commission of Malaysia (SUHAKAM)'s application to be an accredited observer was rejected, with the EC stating it could not be overseen by another statutory body in Malaysia. In rejecting SUHAKAM's application, the EC said:

"[The] EC views SUHAKAM's involvement as election observers as unnecessary as the EC has invited overseas observers and also appointed several independent and neutral parties without any interest to observe and monitor the GE14 process."⁸²

However, BERSIH 2.0 confirmed with both the National Commission for Election Timor Leste and Secretariat for Electoral Administration Technical (STAE) in Timor Leste that they had not been invited as election observers by the EC. It was unclear which organisations or individuals from these countries were invited by the EC.

Observers from Azerbaijan, India, Indonesia, Cambodia, Kyrgyzstan, Maldives, Pakistan, Thailand and Uzbekistan only arrived two days before polling day on 7 May 2018.

From the list of domestic observers, the criteria of being neutral and non-partisan did not apply. Majlis Belia Malaysia was seen holding campaign events throughout the country for Barisan Nasional. The BN candidate for DUN Galas in Kelantan made a thank you video to Majlis Belia Malaysia for being part of his machinery and helping him win the seat.⁸³

These election observers appointed by the EC should come under Section 5(1)(a) of the Elections Act, which requires the EC to "enforce on the part of all election officers fairness, impartiality and compliance" with election laws.

Disqualification of candidates on nomination day

A number of potential candidates were disqualified from contesting in the election on nomination day. Some were disqualified for not having their registered address within the state (a condition for contesting state seats) or for being declared bankrupt.

In two cases, candidates were illegally prevented from being nominated as candidates.

81 (Azura, 2018)

82 (The Edge Markets, 2018)

83 Report IDs 651, 725, 274 and 432

Pakatan Harapan candidate for Rantau, S. Streram

The Returning Officer for Rantau, Negeri Sembilan, Amino Agus Suyub refused to allow Streram to enter the nomination centre because he did not have an official EC pass. The EC pass to enter the nomination centre is an administrative requirement and not required under any law or regulation. The EC's own guidelines state that having no pass should not prevent the nomination of a candidate. In fact, a Pakatan Harapan candidate for the seat of Kuala Kubu Baru in Selangor was able to enter the nomination centre despite not having a pass.

Video evidence from the nomination centre shows police officer physically restraining Streram to prevent him from filing his nomination papers. This video evidence contradicts the Inspector-General of Police (IGP) Mohamad Fuzi Harun's denial that the police blocked Streram from entering the nomination centre.

Pakatan Harapan candidate for Batu, Chua Tian Chang (Tian Chua)

Returning Officer of Batu, Anwar Mohd Zain decided that incumbent MP Tian Chua was disqualified from contesting the seat because he had been sentenced to a fine of RM2000 by the Shah Alam High Court on 2 March 2018.

While Article 48(1)(e) of the Federal Constitution disqualifies a Member of Parliament if they have been sentenced to a fine of 'not less than RM2000', the Federal Court has interpreted this to mean a person is disqualified if the fine is more than RM2000. In a previous case, a judge had ruled that Tian Chua's fine of RM2000 would not disqualify him from being an MP and the Dewan Rakyat Speaker had also respected this court judgement and not declared the seat vacant.

Despite this, the Returning Officer used his own arbitrary discretion to disqualify Tian Chua.

Section 7(5) of the Elections (Conduct of Elections) Regulations 1981 states the decision of a returning officer shall be 'final and conclusive' and shall not be brought into question by any court. A disqualified candidate can therefore only challenge their disqualification through an election petition after the election results have already been published in the Gazette.

Lack of transparency in the nomination of BN Ketari candidate Lau Hoi Keong

The address on the Identity Card for BN candidate for Ketari Lau Hoi Keong was not registered to an address in the state of Pahang, a requirement for candidates of state assembly seats. However, Lau insisted the address on the electronic chip had been changed to a Pahang residential address. Bentong Returning Officer Azhar Arshad refused to allow other candidates to inspect the

IC and instead allowed two officers from the National Registration Department to enter the polling station to confirm the address of the BN candidate. Again, the slip from the NRD officers confirming the candidate's address was not shown to the other candidates or their agents present.

Findings of PEMANTAU Incident Reports

Summary of PEMANTAU Incident Reports

Incident/Offence	Number of reported cases
Bribery and vote buying	46
Treating and gifts	196
Undue government handouts/inducement	150
Use of government machinery	105
Excessive spending/lavish events	12
Biased behaviour by public institutions (e.g. SPR/police)	20
Irregularities with Advance Voting and Postal Voting	200
Problems on voting day	274
Total	1003

Table 5.1: Summary of PEMANTAU Incident Reports

Bribery and vote buying

PEMANTAU defined bribery as any monetary handouts given out before, during or after the election in order to influence voters to support a candidate or political party. This money could be given by anyone for the purpose of persuading voters to vote for a certain candidate or party or in exchange for voters attending a campaign event.

Bribery is classified as an offence under Section 10 of the Election Offences Act 1954. The Act states:

“10. The following persons shall be deemed guilty of the offence of bribery:

(a) every person who, before, during or after an election, directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or to endeavour to procure, any money or

valuable consideration to or for any elector or voter, or to or for any person on behalf of any elector or voter or to or for any other person, in order to induce any elector or voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of such elector or voter having voted or refrained from voting at any election."

However, the Federal Court has ruled in the case of *Ustaz Akmal Hj Kamarudin v Dato' Mohamad Daud* [2014] that for an offence under Section 10, there must be a close and direct nexus between the act of bribery and the inducement of voting. In other words, there must be proof that the bribe influenced the vote of an individual voter. An element of bargaining must also be proven, where voters promise to vote for a candidate in return for money or gratification.

The PEMANTAU initiative maintains international standards must apply in the case of bribery and vote buying. Article 8 of the Bangkok Declaration makes clear reference to the need to eliminate vote buying in order to have free and fair elections.

The Malaysian Anti-Corruption Commission deputy chief commissioner (operations) Datuk Azam Baki also clarified in September 2017 that offering voters any form of inducement in the form of cash or gifts is bribery. He also gave the example of paying voters 'travel allowances' in order for them to return home to vote as a form of bribery under the law.⁸⁴

PEMANTAU recorded 46 verified incidents of bribery and vote buying during GE14, covering 28 parliamentary constituencies.

Bribery came in a number of different forms. For example:

- House visits by candidates or their agents.
- Money distributed by the village head (ketua kampong).
- Money handed out at party operations centres.
- Money handed out during campaign events.
- Funds donated to local community and religious associations.

Often the bribes were couched in terms of 'charity', 'aid' or 'travel allowances'. However, cash aid and any allowances given by candidates during the campaign period is a clear attempt at swaying voters to vote for them.

Some notable examples were:

84 (The Star Online, 2017)

- P105 Petaling Jaya (10 April): A voter's workshop was damaged in a fire. The next day, Petaling Jaya Selatan (PJS) Umno division vice-chief Abdul Mutalif Abdul Rahim visited his shop and asked him to vote for BN. He said if BN wins, he would give the shop a licence. He also offered the voter RM3000.⁸⁵
- P015 Sungai Petani (23 April): BN candidate Shahanim Mohamad Yusof gave out envelopes with cash to voters during a campaign event. She defended her actions saying it was part of her allocation as a Senator and it was done before nomination day.⁸⁶
- N21 Sungai Acheh, Pulau Pinang (16 April): PKR candidate for Sungai Acheh Zulkifli Ibrahim visited storm victims together with JKKK officers and gave them personal 'donations'.⁸⁷
- P191 Kalabakan (9 May): Voters in Kalabakan queued at UMNO Kalabakan Office to receive travel allowances up to RM100 per person, after showing the indelible ink on their finger.⁸⁸
- P093 Sungai Besar: On multiple occasions, UMNO Sungai Besar division chief Jamal Yunos promised bribes or gave out bribes at campaign events. This included promises of RM2000 and RM1000 to voters if BN won the seat. He also handed out RM25,000 cash to a lucky draw prize winner, after confirming the winner would vote for BN.⁸⁹



Figure 3: Voters line up outside UMNO Kalabakan Office to receive cash on polling day

85 Report ID 174

86 Report ID 266

87 Report ID 294

88 Report ID 689

89 Report IDs 428, 472 and 700

These cases are similar to those reported in the GE13 PEMANTAU report.⁹⁰ A repeat of these instances shows no progress was made by the EC, MACC, police and Federal Government in enforcing and tightening election laws to prevent overt vote buying throughout the election. This is despite a much-publicised announcement by the EC and MACC on 9 April 2018 that a taskforce had been established to combat political corruption during GE14.⁹¹

Treating and gifts

PEMANTAU defined treating as the giving out of food, drinks, gifts, or any provisions or supplies anyone for the purpose of persuading voters to vote for a certain candidate or party, or in exchange for voters attending a campaign event.

Treating is classified as an offence under Section 8 of the Election Offences Act 1954. The Act states:

8. Every person who, corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly gives or provides or causes to be given or provided, or is accessory to the giving or providing, or pays or engages to pay wholly or in part, the expense of giving or providing any food, drink, refreshment or provision, or any money or ticket or other means or device to enable the procuring of any food, drink, refreshment or provision, to or for any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at such election or on account of any such person or any other person having voted or refrained from voting or being about to vote or refrain from voting at such election, and every elector or voter who corruptly accepts or takes any such food, drink, or refreshment or provision or any such money or ticket or who adopts such other means or device to enable the procuring of such food, drink, refreshment or provision shall be guilty of the offence of treating.

Similar to court judgements on bribery, the Federal Court found in the case of *Wong Hua Seh v Ding Kuong Hiing* [2009] that the following principle applies:

"For to prove treating to be corrupt it is necessary to prove that some person has been thereby corrupted and induced by such treating to vote for the sitting member."

⁹⁰ (Pemantau Pilihan Raya Rakyat, 2014), pp.34-36

⁹¹ (NSTP Team, 2018)

This implies that for a person to be found guilty of treating, there must be evidence that the act of treating affected the voting intentions of a registered voter.

Again, the PEMANTAU initiative considers the spirit of the law and the intention of the Act was to prevent candidates from using any such handouts as an attempt to influence voters. Giving out any free food, drink, provisions or supplies to voters is a breach of the principles of free and fair elections and has been recorded as such.

PEMANTAU recorded 196 verified incidents of treating during GE14, covering 68 parliamentary constituencies.

The most common cases of treating were coordinated programs by Barisan Nasional throughout the country, including:

- Handing out free reading glasses to voters;
- Programs giving massive discounts on groceries, including the 'Jualan Sentuhan Rakyat' program;
- Free petrol and engine oil for motorcyclists. PAS and PKR candidates also held such events, but it was not seen on such a wide scale by these parties.
- Candidates from Pakatan Harapan and PAS also engaged in frequent treating, including giving out free breakfasts and goodie bags. Also common was the distribution of wheelchairs to the elderly or impaired by both Pakatan Harapan and Barisan Nasional.

Some other notable examples of treating were:

- Lucky draws were held during campaign events by Pakatan Harapan, PAS and Barisan Nasional. Prizes at these events included motorcycles, televisions, fans, bicycles and hampers.
- Basic necessities, such as cooking oil and rice, were handed out by Pakatan Harapan, PAS and Barisan Nasional.
- Free food was frequently provided at campaign events throughout the country. In some cases, the cost of this food would have contributed to a significant proportion of the candidate's spending limit.

As shown in the PEMANTAU Report for GE13, lucky draws and the handing out of basic goods, such as rice, during elections is not unique to GE14.⁹² In fact, it has become so much a part of the Malaysian election landscape that voters have come to expect these handouts from candidates.



Figure 4: Pakatan Harapan hosts a campaign event at Equatorial Hotel, Penang with free dinner for attendees

Use of government machinery

As a Westminster system of parliamentary democracy, governments in Malaysia are bound by the convention of caretaker governments after the dissolution of Parliament and the respective State Legislative Assemblies.

Once the dissolution of Parliament and the Legislative Assemblies had been announced, BERSIH 2.0 sent Caretaker Government Guidelines (Appendix 2) to all major political parties, to remind them of the obligations not to abuse state resources for political purposes. These guidelines were adapted from the same guidelines published by BERSIH 2.0 in 2013 and were based on Australian Capital Territory 2012 General Election on Guidance on Caretaker Conventions and London Cabinet office on General Election Guidance 2010.

Reference to the use of government machinery for electioneering is also found in the IPU Declaration (Article 3(3) and 4(1)) and the Bangkok Declaration.

Article 4(1) of the IPU Declaration asserts:

"States should take the necessary legislative steps and other measures, in accordance with their constitutional processes, to guarantee the rights and institutional framework for periodic and genuine, free and fair elections, in accordance with their obligations under international law. In particular, States should...ensure the separation of party and State..."

Article 11 of the Bangkok Declaration asserts:

"When government resources are used to promote political interests during an election, the campaign process cannot be fair and the legitimacy of the result is called into question."

⁹² (Pemantau Pilihan Raya Rakyat, 2014), p.33

PEMANTAU recorded 105 incidents on the use of government machinery for political campaigning.

Eight of these incidents took place before the dissolution of Parliament or the State Legislative Assemblies, but were still included as the government resources were used to gain a political advantage. For example, in October 2017, the Federal Territories Ministry held an UMNO-themed event for school children in Putrajaya. The school was adorned with UMNO flags and the children sang UMNO songs.⁹³ In January 2018, Penang Chief Minister Lim Guan Eng politicised a Penang State Government event by having children sing an anti-GST song at a program by Penggerak Komuniti Muda Pulau Pinang (PEKA).⁹⁴

After the dissolution of Parliament and the State Legislative Assemblies, federal and state government agencies and government-linked companies were used as campaign tools by political parties.

The Kelantan State Government, for example, was used to hold a campaign event for PAS in the state of Pahang.⁹⁵ Eight reports were received on the Community Development Department (KEMAS) holding campaign events for BN throughout the country and the Ministry of Finance communications pages on social media became campaign pages for BN.⁹⁶ Television screens in government offices also displayed BN propaganda.⁹⁷

The majority of cases, however, featured the use of official government functions by candidates to promote themselves and their credentials. In most cases, there was open campaigning by candidates at these events. After dissolution, though, it still goes against the principles of free and fair elections for candidates to attend these public launches in their official capacity. By speaking at government launches and ground breaking events, especially in their constituency, it gives candidates a clear unfair advantage over others. While the event may be apolitical, candidates should avoid such functions while a caretaker government is in place, to ensure a clear separation between party and State.

PEMANTAU reported examples of all state and federal governments breaching this convention:

- P050 Jelutong (12 April 2018): Housing, Town and Country Planning Committee chairman Jagdeep Singh Deo, Jelutong MP Jeff Ooi and ADUN for Sungai Pinang Lim Siew Khim launched a new lift at Taman Sungai

93 Report ID 27

94 Report ID 36

95 Report ID 105

96 Report ID 66

97 Report ID 667 and 209

Pinang. The banner said “Terima Kasih Kerajaan Pakatan Harapan Pulau Pinang”.⁹⁸

- The Penang Island City Council organised the Program Riang Ria Bayan Baru together with Bayan Baru Women’s Brigade. Councillor and future Pakatan Harapan candidate Gan Ay Ling hosted the event with a PKR and Pakatan Harapan banner.⁹⁹
- Top BN politicians, including Zahid Hamidi and Najib Razak, spent much of the time from the dissolution until polling day at government functions throughout the country, which they used for campaigning. For example, on 29 April, Najib launched a new building at the Sekolah Kebangsaan Bahagia in Batu Sapi, Sabah, and used the event to receive UMNO membership forms from 754 former Parti Warisan Sabah members.¹⁰⁰



Figure 5: Caretaker Minister Noh Omar and MP for Hulu Selangor P Kamalanathan visit the construction of a new bridge in Kuala Kubu Bharu with JKR.

While government vehicles, including government-owned jets were used by caretaker government, the Selangor and Penang State Governments returned their official cars after the dissolution of the state assemblies. This was an improvement upon the situation in GE13, where the then-Selangor Menteri Besar Khalid Ibrahim was observed using the official car belonging to the state government to campaign.¹⁰¹

Undue government handouts or inducements

Government handouts are defined as anything handed out by government agencies, ministries or departments or any public institutions, during a campaign event or in an attempt to persuade voters to vote for a certain candidate or party. This offence applies to both federal and state government bodies.

While there is no specific mention of this offence in the Election Offences Act, many such handouts would also come under the offences of bribery and treating as detailed above, with the attempt to disguise such offences as

98 Report ID 114

99 Report ID 273

100 Report ID 426

101 (Pemantau Pilihan Raya Rakyat, 2014), p.56

government aid. The real intention of these handouts would be to bribe and treat voters and influence their vote in the upcoming election. In addition, it is an abuse of government funds for political purposes.

Any handouts of government aid and allocations which had been announced or decided before the dissolution of the legislature, but are due to be handed out after dissolution, should be distributed by apolitical civil servants in government departments or ministries, not by election candidates.

Announcements of aid or allocations after dissolution is a breach of the conventions of a caretaker government, as these costs and expenditure will have to be borne by the incoming government. Also, with the dissolution of the legislative bodies, there is no oversight or check on such spending.

These announcements must be differentiated from legitimate campaign promises of expenditure or development after the election. Official government announcements that are binding on future governments are not considered as campaign promises and is a breach of the convention of caretaker government. However, promises to allocate funding for projects if the party forms government is a legitimate form of campaigning. It is then up to voters to decide and determine if such allocations are a sign of good governance or wasteful spending.

PEMANTAU recorded 150 incidents of undue government handouts or inducements after the dissolution of Parliament and the respective state assemblies. PEMANTAU could verify at least RM5 billion of taxpayers' funds were either announced during campaign events or distributed by candidates or political parties after the dissolution of the legislative bodies. This figure does not include amounts that could not be ascertained, such as handouts from the SEDIC program for the Indian community or cheques given out to FELDA settlers at campaign events.

The largest pay out was made by Caretaker Prime Minister Najib Razak at the launch of the BN manifesto, the same day Parliament was dissolved.¹⁰² Najib announced payments under the Bantuan Rakyat 1Malaysia (BR1M) scheme would be doubled for the rest of 2018 and more people would be eligible to receive payments. This amounted to an additional RM3.71 billion¹⁰³ in government spending, making this commitment on behalf of any future government. With no allocations for such funds from the Federal Budget, there was no parliamentary oversight for the pay out and was clear abuse of power by a caretaker Prime Minister during a campaign event.

102 Report ID 68

103 (The Star Online, 2018)

Other announcements by the Federal Government included:

- RM100 million in additional funding to be channelled to target groups comprising poor and low income households in 2018, through Amanah Ikhtiar Malaysia. The announcement was made by Najib in his constituency of Pekan.¹⁰⁴
- RM100 million for a new water treatment plant in Lanchang, Pahang, announced by Sharkar Shamsudin, Barisan Nasional Temerloh chair.¹⁰⁵
RM30 million for a pay out of RM500 to every worker at DRB Hi-Com, distributed on 30 April 2018. The announcement was made by Najib in his constituency of Pekan.¹⁰⁶
- RM53.6 million for the 1Malaysia Taxi Assistance Card (Kad Bantuan Teksi 1Malaysia). Najib announced 67,000 taxi drivers would receive the aid worth RM800 each.¹⁰⁷

In addition to these announcements, previously allocated government funds were also handed out by candidates and political parties:

- On 14 April 2018, in a campaign event in her constituency of Pengerang, Caretaker Minister Azalina Othman Said gave out RM5000 cheques to 360 FELDA settlers on behalf of Federal Land Development Agency (FELDA).¹⁰⁸
- On 9 April 2018, Caretaker Minister Nancy Shukri handed out BR1M payments to 341 residents in her constituency, totalling RM266,800.¹⁰⁹
- BN component party MIC held registration drives at campaign events for the Special Investment Scheme for Indian B40 Families, under the Federal Government's SEDIC program.¹¹⁰
- On 11 April 2018, Penang Caretaker Chief Minister Lim Guan Eng was accompanied by political party leaders which have no roles or positions in the state government, including Amanah president Mohamad Sabu and candidate for Permatang Pauh Nurul Izzah while handing out an additional RM17.5 million to Islamic education institutions in Penang.¹¹¹
- On 15 April 2018, Selangor Caretaker Menteri Besar Azmin Ali gave out

104 Report ID 164

105 Report ID 321

106 Report ID 393

107 Report ID 139

108 Report ID 157

109 Report ID 180

110 For examples, Report ID 261, 360 and 381

111 Report ID 84

RM11.5 million to schools in Selangor at an event attended by other state caretaker executive councillors, including Elizabeth Wong, Nik Nazmi, Ean Yong and Teng Chang Khim.¹¹²

Constituency development allocations were given out by candidates throughout the country. These annual allocations are given to Barisan Nasional Members of Parliament to conduct activities in their constituency. Such funds are not given directly to other MPs that are not part of BN. These allocations also feature at the state level. For example, in Selangor, the State Government allocated RM800,000 to state assemblypersons from the then-Pakatan Rakyat coalition and just RM200,000 to Opposition state assemblypersons. For 2018, when it was clear PAS would contest against the Pakatan Harapan coalition, the Selangor State Government only gave four out of the 13 PAS assemblypersons their annual allocations before the General Election.¹¹³ It is clear that these constituency allocations, given directly to elected officials, are often used as a way of diverting government funds to political activities.

Apart from handing out of government funds, treating also took place under the guise of government assistance. Government-funded provisions and supplies were given out and lucky draw events attended by candidates were also funded by state and federal governments. Some examples include:

On 8 April, at the event organised by the Kelantan State Government in Pahang, mentioned on page 57 under use of government machinery, televisions, fans and hampers were handed out by the Kelantan Menteri Besar Ahmad Yakob.¹¹⁴

On 15 April 2018, Sabah Caretaker Chief Minister Musa Aman gave out 155 motorcycles to entrepreneurs in the event “Majlis Penyerahan Mobilepreneur @ KKLW Giatmara Negeri Sabah” at UMNO Youth Headquarters in Taman Fajar, Sandakan. The event was a program by the Ministry of Rural and Regional Development.¹¹⁵

On 10 April 2018, in his constituency of Seberang Jaya, Penang State Government caretaker executive councillor Afif Bahardin officiated the Hari Ladang Peringkat Kawasan Khidmat Seberang Perai Tengah (SPT) 1, where he handed over a rice machine and hampers.¹¹⁶ Afif was also reported handing out fertiliser to a farming community in Kampung Pertama in his constituency as part of a Penang State Government program.¹¹⁷

112 Report ID 169

113 (Arumugam, 2018)

114 Report ID 105

115 Report ID 171

116 Report ID 166

117 Report ID 100

Land titles and grants were frequently handed out by incumbent candidates during the campaign. There were PEMANTAU reports on these incidents by the Caretaker Menteri Besars of Selangor¹¹⁸, Johor¹¹⁹ and Negeri Sembilan¹²⁰, the Caretaker Chief Minister of Sabah¹²¹ and Sembrong candidate Hishamuddin Hussein.¹²²

Excessive spending

Section 19 of the Election Offences Act sets a spending cap of RM100,000 for candidates for state assembly and RM200,000 for candidates for Parliament. This spending cap applies from the date of the publication of the notice of the election in the Gazette and includes any spending by the candidate or his election agent for the conduct of the election.

Section 15A of the Election Offences Act also makes it an illegal practice for any person other than the candidate or their election agent, to incur any expenses with a view of promoting or procuring the election of a candidate, unless they have the written permission of the election agent and are included in the candidate's statement of expenditure. However, a loophole in this section is that it only applies during the campaign period and not from the date of the publication of the notice of the election in the Gazette.

Controlling expenditure during elections is necessary to ensure a level playing field for all candidates, regardless of access to large funds. Controls on spending are one of the conditions to ensure competition in elections on an equitable basis.

Despite the caps on spending, a number of candidates were seen campaigning in lavish events that would have likely caused them to exceed the spending limit. Most of these offences were also treating of a large number of voters to free food. For example:

- P153 Sembrong: Hishamuddin Hussein, together with MCA Sembrong, organised free meals for over 500 people on 2 May.¹²³ Hishamuddin held another campaign dinner for over 500 people on 3 May.¹²⁴ In addition, restaurants in Sembrong were paid RM100 per day to advertise BN campaign materials.¹²⁵
- On 4 May 2018, Pakatan Harapan candidates, including Abdul Halim

118 Report ID 134

119 Report ID 225

120 Report ID 284

121 Report ID 403, 598 and 528

122 Report ID 522

123 Report ID 554

124 Report ID 551

125 Report ID 523

Hussein, A. Kumaresan, Gooi Hsiao-Leung and Saifuddin Nasution in Pulau Pinang held a dinner for over 500 voters at the five-star Equatorial Hotel.¹²⁶

- P121 Lembah Pantai: Advertisements for Barisan Nasional were reported throughout Lembah Pantai. The cost of advertising on electronic billboards is approximately RM30,000 per month.¹²⁷
- P122 Seputeh: On 28 April 2018, free food was provided for approximately 600 people from local community organisations at the launch of BN candidate Chan Quin Er's manifesto.¹²⁸ The event was organised by the Sunrise Education Fund, but as the event was held to promote the candidate, this would fall under Section 15A of the Election Offences Act.

Biased behaviour by public institutions and election officials

Section 5(1)(a) of the Elections Act requires the Election Commission to “enforce on the part of all election officers fairness, impartiality and compliance” with the Federal Constitution and election laws and regulations.

Regulation 21(1) of the Public Officers (Conduct and Discipline) Regulations 1993 also prevents an officer in the Top Management Group and Managerial and Professional Group from taking part in politics. In particular, these civil servants may not make any statement that would adopt partisan view, publish or circulate political party articles, canvass for a political party, become an election agent, stand for election for any political post or hold any post in any political party.

According to the Public Service Department, it is even prohibited for officers from the Top Management Group and Managerial and Professional Group to Like, Share or retweet political related articles on social media.¹²⁹

Most importantly, the heads of government departments, the police, military and judiciary should all refrain from taking part in any campaign activities.

PEMANTAU recorded 20 incidents of biased behaviour by election officials, civil servants or public institutions. These 20 incidents include the actions of the Returning Officers in preventing the nomination of candidates in Batu and Rantau (see page 49-50), the removal of Pakatan Harapan banners with pictures of Mahathir Mohamad (see page 47) and the biased behaviour by accredited election observers (see page 49).

126 Report ID 610

127 Report ID 464

128 Report ID 455

129 (Public Service Department, 2013)

In addition, PEMANTAU recorded the following cases of bias:

- Armed Forces Chief Raja Mohamed Affandi Raja Mohamed Noor urged both troops and police to be grateful and loyal to the government led by Prime Minister Najib Abdul Razak at a dinner for 460 army and police personnel.¹³⁰
- Pakatan Harapan politicians, including Mohamad Sabu¹³¹ and Ngeh Koo Ham¹³², were blocked from entering Sarawak by the Sarawak State Government.
- Johor Bahru City Council¹³³ and Padawan Municipal Council¹³⁴ were observed taking down party flags belonging to Pakatan Harapan parties while allowing Barisan Nasional flags in the same vicinity to remain in place. In contrast, ordinary citizens were arrested in Kuala Lumpur for taking down BN flags before nomination day.¹³⁵
- Dr Noor Hisham Abdullah, Director General of the Ministry of Health retweeted Najib Razak's tweets campaigning for BN.¹³⁶ The Ministry of Health Facebook page also uploaded a BN campaign video.¹³⁷
- At the BN campaign event, 'Perjumpaan Pemimpin Bersama Anggota Rela Parlimen Jerlun', Ahmad Abdul Wahab, the state director for RELA in Kedah, gave a speech. His speech was made behind a BN flag.¹³⁸
- PEMANTAU received three complaints that elderly voters were instructed by election workers in their polling station to vote for BN. This occurred in P119 Titiwangsa¹³⁹, P031 Kuala Krai¹⁴⁰ and P036 Kuala Terengganu.¹⁴¹



Figure 6: Noor Hisham Abdullah, DG of the Ministry of Health, retweets Najib Razak's campaign tweet

130	Report ID 48
131	Report ID 62
132	Report ID 614
133	Report ID 61 and 86
134	Report ID 603
135	(Farik, 2018)
136	Report ID 427
137	Report ID 322
138	Report ID 501
139	Report ID P1089
140	Report ID P1160
141	Report ID P1308

In a positive development, before the day of advance polling, both the Inspector-General of Police and the Royal Malaysian Navy Chief publicly assured their personnel that their votes would remain secret and navy and police personnel were free to vote for the candidates of their choice.¹⁴² Nevertheless, after receiving praise from Mahathir Mohamad for his statement, Navy Chief Ahmad Kamarulzaman Ahmad Badaruddin said his words had been twisted and subsequently included the hashtag '#Hebatkan Negaraku' in a Tweet, the slogan for Barisan Nasional's election campaign.¹⁴³

Irregularities with Advance Voting and Postal Voting

Section 16(2)(n) of the Elections Act 1958 gives the Election Commission the power to make regulations prescribing "the facilities to be provided for voting by post and the persons entitled to vote by post." The regulations governing postal voting are Elections (Postal Voting) Regulations 2003.

The procedures for advance voting are detailed in Regulations 27A, 27B and 27C of the Elections (Conduct of Elections) Regulations 1981.

The PEMANTAU initiative, however, does not just assess the adherence to these regulations but also considers if there were any other contraventions of free and fair elections in the processes, including ballot secrecy, safe custody of ballots and the right of every eligible citizen to vote.

Article 16 of the Bangkok Declaration asserts that "where the financial and technical resources exist, countries should strive to allow citizens to vote from abroad with as little difficulty and inconvenience as possible."

PEMANTAU recorded 200 incidents over problems or irregularities with the postal and advance voting processes.

As mentioned on page 46, 157 of these complaints related to the late delivery of postal votes, making it impossible for voters to return their votes before the polling day deadline. One voter in Saudi Arabia only received their ballot on 22 May, 13 days after polling day.¹⁴⁴ BERSIH 2.0 had recorded a similar such incident in the Sarawak State Election in 2016, where voters in Australia did not have time to return their ballots.¹⁴⁵ However, no action was taken by the EC to remedy this situation and resulted in the global disenfranchisement of many postal voters. Some postal votes were only delivered in time by voters crowdfunding for flight tickets to fly a person back to Malaysia and deliver ballots by hand to various Returning Officers throughout the country.

142 (Chew, 2018)

143 (Malaysiakini, 2018)

144 Report ID P1448

145 (BERSIH 2.0, 2016), p.45

Postal Voting

Under Section 3 of the Elections (Postal Voting) Regulations 2003, those eligible for postal voting can apply to the EC and the EC shall inform them of the status of their application. The EC must notify the voter if the application is approved or rejected and if it is rejected, the EC must state the reason for the rejection. Voters could also apply to be postal voters by registering as an “Absent Voter”¹⁴⁶ on the electoral roll, but this type of application would take a minimum of three months to be processed as it would be a change reflected in the quarterly supplementary electoral roll.

The EC opened applications for overseas postal voters on 23 January 2018 and the deadline for applications was set as the day Parliament dissolves.¹⁴⁷ Because the deadline was not a fixed, known date, this created a lot of confusion amongst overseas voters. Furthermore, the deadline was set before the date of the election was established, so overseas voters would not have known if they would be in Malaysia or overseas at the time.

The Prime Minister announced on Friday, 6 April, that Parliament would be dissolved the following day. This created a rush of applications for postal votes on the day Parliament was dissolved. Many overseas Malaysians missed the deadline because they only inquired about the process for postal voting once the timeframe for the election was known.¹⁴⁸

For domestic postal voters, they could apply by filling out Form 1A (military and police personnel, EC officers and media personnel on duty) or 1C (other categories of eligible postal voters from the civil service) and submitting it via fax, email, post or by hand to the Election Commission Headquarters in

146 Section 2 of the Elections (Registration of Electors) Act 2002 defines an “Absent voter” as a citizen who has attained the age of twenty-one years on the qualifying date and is-

(a) a serving member of any regular naval, military or air force of Malaysia, the Commonwealth or other country;

(b) the spouse of a serving member of any force referred to in paragraph (a), who elects to become an absent voter;

(c) in the public service of the Government of Malaysia or of any State or in the service of any local authority or statutory authority exercising powers vested in it by Federal or State law, who is on duty outside the boundaries of Peninsular Malaysia or Sabah or Sarawak;

(d) the spouse of a person in the public service of the Government of Malaysia or of any State or in the service of any local authority or statutory authority exercising powers vested in it by Federal or State law who is living with her or his husband or wife outside the boundaries of Peninsular Malaysia or Sabah or Sarawak at the date of application for registration as a Parliamentary or State elector,

(e) engaged in full-time studies at any university, training college or any higher educational institution outside the boundaries of Peninsular Malaysia or Sabah or Sarawak; or

(f) the spouse of a person engaged in full-time studies at any university, training college or any higher educational institution outside the boundaries of Peninsular Malaysia or Sabah or Sarawak who is living with her or his husband or wife at the date of application for registration as a Parliamentary or State elector.

147 (Razak, 2018)

148 Report P1469

Putrajaya. The application deadline for military and police personnel was set as on the nomination day (28 April 2018) and for other domestic postal voters was set as five days before nomination day (23 April 2018).

For overseas voters, application forms were made available on the EC website and could be emailed back to the EC. The EC would then use this email address to update the voter on the status of the application. For domestic postal voters, no notification on the status of their application was sent. This meant there was no security in the application process. PEMANTAU received three complaints of voters registered as postal voters without their knowledge. A voter living in America never applied to be a postal voter, but a vote was sent to their address in Malaysia.¹⁴⁹ In another incident, a voter turned up to vote on polling day, but was informed they had been registered as a postal voter despite never making such an application. This voter also never received a postal vote, so questions must be raised over whether another person applied to be a postal voter and voted in this person's name.¹⁵⁰

The third incident saw two voters receive domestic postal votes that they had never applied for. These voters had been registered as "Absent Voters" in the electoral roll before the 12th General Election (GE12) in 2008, but had never received postal votes before. They had attempted to vote in both GE12 and GE13, but were turned away as they were noted down as postal voters. GE14 was the first time they had received postal votes delivered to their house address despite not applying for them.¹⁵¹

There also appeared to be no measure to prevent voters submitting more than one application and then appearing on the postal voter list more than once. PEMANTAU recorded two complaints of voters receiving two sets of ballot papers in the post.¹⁵² While Section 18 of the Regulations makes provisions for the accidental receipt of two ballots within the same envelope, it does not guard against two complete sets of ballots being delivered to voters. While only two reports were made of accidental receipt of double votes, PEMANTAU received five complaints from candidates' agents that voters' names were duplicated on the list of postal voters. In P074 Alor Setar, a candidate's agent detected 766 duplicate names on the list of postal voters and was able to prevent double ballots being issued to those voters. However, another 97 duplicate names were only detected after the votes had already been issued.¹⁵³

Other issues with postal voting included voters not being updated on the status of their application (seven recorded cases) and voters' names not being included on the list of postal voters, despite being informed of a successful

149 Report ID P553

150 Report ID 716

151 (Looi, 2018)

152 Report ID 591 and 613

153 Report ID 574

application (four cases). In one incident, a person applied to be a postal voter, but never received confirmation from the EC so instead went to vote in person. The voter was prevented from voting as they were recorded as a postal voter. The person's ballot only arrived at their address the day after polling day.¹⁵⁴

Two voters had their applications rejected without clear reasons, the reply from the EC just stated their application had been rejected and they can vote in person on polling day.¹⁵⁵ This is in violation of Section 3(4) and Section 3(5) of the Elections (Postal Voting) Regulations 2003.

PEMANTAU also recorded seven complaints from voters who received their ballot papers, but no address was given on the return envelope (envelope B), so voters did not know where to send their postal votes. Two complaints were received that the address on the return envelope was not correct. In P117 Segambut, the address on the postal ballot was Jabatan Kesihatan KM4. When a person went to deliver postal ballots to this address, they found it closed with no information. He was able to call the EC and was informed he should deliver the ballots to a polling station in Bukit Damansara instead. He reported that others, including courier delivery services, were turning up at the stated address to deliver ballots and leaving because the place was closed.¹⁵⁶

BERSIH 2.0 had repeatedly raised concerns with the EC over the secrecy and security of postal voting ballot papers. All postal voters are required to complete Form 2 and return it together with their ballot. Form 2 is a Declaration of Identity, to confirm the person completing the ballot is the person listed on the electoral roll. While the ballot is kept separate from Form 2 in Envelope A, Form 2 requires the ballot paper serial number to be recorded. With Form 2, records of which ballot paper belongs to which voter are kept and ballots can therefore be traced back to individual voters. This undermines the basic principle of a secret ballot stated in the Universal Declaration for Human Rights.

PEMANTAU also received a complaint from P072 Tapah that during the issuance of postal votes, it was reported that agents from BN and PAS were recording down the ballot paper serial numbers next to the names of postal voters, in violation of Section 5(6)(b) of the Election Offences Act. When an objection was made to the EC officer in charge, the officer allowed the agents to continue recording these serial numbers.¹⁵⁷

Sections 10, 13 and 14 of the Elections (Postal Voting) Regulations 2003 also have clear conditions on the safe storage of postal votes. Section 10 requires the returning officer to provide empty numbered ballot boxes at the issuance of postal votes, which are sealed and signed by the returning officer and the candidates'

154 Report ID P1300

155 Report ID P788 and P958

156 Report ID P1214

157 Report ID 466

agents present. The returning officer is then responsible for the safe custody of these ballot boxes. Section 13 requires the returning officer to immediately place any received postal ballot into the sealed ballot box, provided the ballot is received before 5pm on polling day. Section 14 lays out the procedures in which these ballot boxes may be opened in the presence of candidates' agents.

However, in P115 Batu, a person delivering postal ballots saw election officers place these ballots in an open cardboard box. This box was in an open room, which any person was able to access. When the person asked about the secured ballot box, the officers replied that the box was delayed.¹⁵⁸

The impact of these failures in the postal voting process is magnified by the increased number of people eligible for postal voting in GE14. The EC allowed workers on duty on polling day from the Fire and Rescue Department, the Immigration Department, members of the Police Volunteers Reserve, health workers in hospitals and government clinics, members of the Malaysian Maritime Enforcement Agency, Civil Defence Force members, Prison Department members and the National Disaster Management Agency (NADMA) to apply for postal voting. A total of 212,834 voters in GE14 voted through this flawed and easily manipulated system.

Advance Voting

Advance voting for military and police personnel and their spouses took place on 5 May 2018. Serving police and military personnel and their spouses are required to be advance voters under Section 27A of the Elections (Conduct of Elections) Regulations 1981. If they are unable to vote on the day set for advance voting, they can apply to be postal voters. There were 278,590 registered advance voters for GE14.

BERSIH 2.0 and ENGAGE reported before GE14 that it had detected 3,525 retired police officers were still classified as advance voters, including the two immediate former Inspectors General of Police (IGP).¹⁵⁹ This is despite the regulations stating that only serving members can qualify as advance voters.

On 5 May, it was observed that special counters were set up at polling stations for retired service personnel.¹⁶⁰ This was open violation by the EC of the regulations governing advance voting.



Figure 7: The open box used to keep returned postal ballots in P115 Batu.

158 Report ID P1364

159 (BERSIH 2.0 and Engage, 2018)

160 Report ID 572

PEMANTAU recorded a number of incidents on Advance Polling Day:

- A voter in Bukit Aman, P121 Lembah Pantai, was informed they was not allowed to vote because their name had already been crossed off the electoral roll.¹⁶¹
- In P110 Klang, a polling agent was not allowed to enter the voting room until 9.15am, over one hour after voting had already begun.¹⁶²
- In P194 Petra Jaya, attendance of all advance voters was recorded before voters were allowed to proceed to the official EC booth.¹⁶³
- Thirteen voters who were classified as postal voters appeared to vote as advance voters in P185 Batu Sapi, but were prevented from doing so by the polling agents. It was unclear if they had been categorised as postal voters without their knowledge or if it was an attempt to vote twice.¹⁶⁴

Conduct of elections on polling day

The Elections (Conduct of Elections) Regulations 1981 detail the necessary processes that must take place to facilitate voting, including the application of indelible ink to prevent double voting. The Election Offences Act also has provisions to maintain secrecy of the ballot (Section 5), to prevent offences by election workers (Section 4), outlaw impersonation of voters (Section 3) and prevent campaigning on polling day (Section 26).

The PEMANTAU initiative also focused on the training and conduct of election workers, access to polling stations for voters, especially persons with disabilities, and the transparency of the election process.

The IPU Declaration Article 2(5) states that “every voter has the right to equal and effective access to a polling station in order to exercise his or her right to vote.”

Article 4(2) affirms it is the responsibility of the state to “ensure the integrity of the ballot through appropriate measures to prevent multiple voting or voting by those not entitled thereto” and to “ensure the integrity of the process for counting votes.” Article 4 also asserts states must be responsible for protecting the secrecy of the ballot, preventing fraud and ensuring ballot counting is undertaken by trained personnel subject to impartial verification.

Polling day for GE14 took place on 9 May 2018. According to the EC, the number of voters who voted in GE14 was 12,299,514 out of the total number of 14,940,624 registered voters (turnout of 82.32%).

161 Report ID 579

162 Report ID 576

163 Report ID 572

164 Report ID 646

PEMANTAU recorded 274 incidents on polling day, online, via WhatsApp and through telephone hotlines. In addition to these recorded incidents, there were a number of complaints over election workers not following EC procedures in the polling streams. For example, the first clerk would not properly check a voter's identity card number when crossing names off the electoral roll and voters' fingers were marked with indelible ink before their names had been crossed off the roll. If voters had their finger marked with indelible ink before receiving their ballot papers, it increased the likelihood of ballots being stained with ink.

Incorrect Labelling of Ballot Boxes

The most frequent complaint was over the incorrect labelling of ballot boxes, with 69 recorded complaints.

All ballot boxes, except for those in Federal Territories and Sarawak (without state elections), were marked either as Parliament or State ballot boxes. However, in many places throughout the country, the colours of these labels did not match the colours of the ballots papers, leading to many votes being placed in the wrong ballot boxes. The detailed labels also did not match the large "PARLIMEN" and "NEGERI" labels. In one instance, Election Commission workers were so concerned, they attempted to rip these labels off the box to rectify the problem.¹⁶⁵

While this would not have affected the results of the elections as ballots are sorted before counting, it caused great anxiety because voters were concerned their ballots would not be properly counted.

All ballot boxes are pre-prepared by the EC before being delivered to the respective polling stations. This incident therefore reflects the poor preparation of election materials by the EC.

Police officers on duty recording the race of voters

PEMANTAU recorded four incidents of police stationed outside voting streams noting down the race of the voters as they entered the room. When asked about this, the police told voters it is standard procedure.

Ballot papers incorrectly printed

PEMANTAU received 4 complaints on missing serial numbers on ballot papers. This is a critical error as serial numbers are used to ensure only the ballot papers issued in a single voting room are in the ballot box on counting.

PEMANTAU verified that in Taman Koperasi Polis polling station, P115 Batu, the name of the BN candidate Dominic Lau was incorrectly printed on some ballot papers. There was also a complaint from P123 Cheras that a voter

received a ballot paper without the names of the candidates printed, instead only the party logos were on the ballot paper.¹⁶⁶ A postal voter in P130 Rasah received a phone call from an EC officer, who told her there was a printing error on her ballot paper and she should discard it when it was delivered. However, the voter never received a ballot paper.¹⁶⁷

Ballot papers not stamped

Under Section 19(6) of the Elections (Conduct of Elections) Regulations 1981, a ballot paper should be stamped with an official mark before being handed to the voter. Like the serial number, this is to ensure the ballots counted for that voting room were only the ones issued within that polling stream. Each EC stamp is unique to the polling stream so no outside ballots can enter the ballot boxes. PEMANTAU received 24 complaints that the EC worker who handed their ballot paper to them did not stamp the ballot paper.

Due to the number of complaints and growing concern, the EC chair Hashim Abdullah announced midway through polling day that the ballots with no stamp would still be counted if the failure to stamp the ballot was due to an error by the EC worker.¹⁶⁸ However, the discretion on whether or not to count these ballots rests with the presiding officer during the counting of the votes and the possibility remained that these votes would be categorised as spoilt ballots.

Ballot papers with markings

PEMANTAU recorded 23 incidents of voters being given ballot papers with markings on them.

According to EC guidelines for poll workers, votes that can be rejected are those with any markings on more than one candidate.

All ballots in certain ballot books had markings on them, for example, dots were found around the names of candidates and ink smudges in the voting boxes. This raised concerns that these votes could be classified as spoilt according to the EC's own guidelines on spoilt ballot papers.

There were also cases of EC officials refusing to issue replacement ballots to voters who had inadvertently spoilt their ballots. Voters were told there were not enough ballot papers to issue them with a fresh ballot.¹⁶⁹

The problems over spoilt ballots and markings on the ballot were

166 Report ID P985

167 Report ID P569

168 (Bedi & Hanis, 2018)

169 Report ID P1178

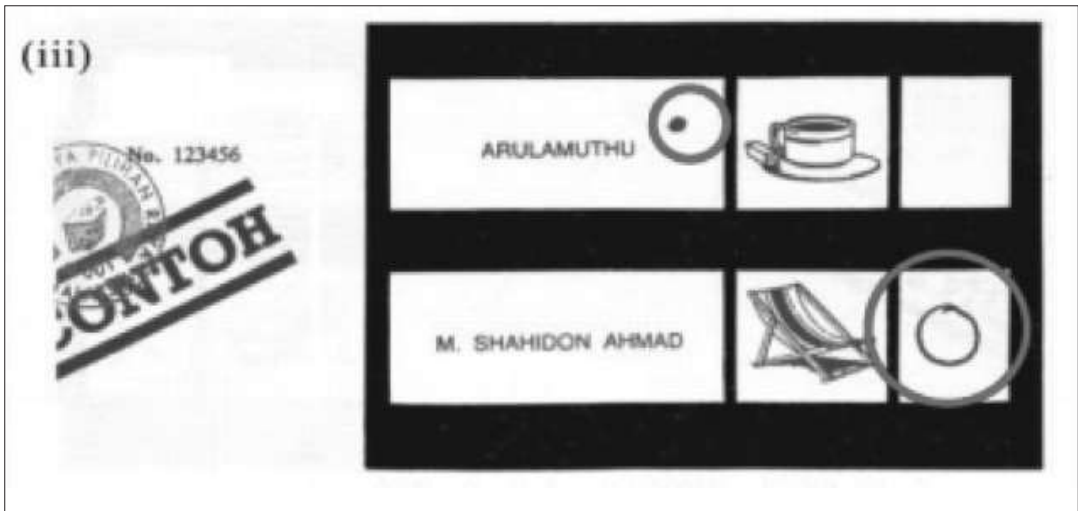


Figure 8: An example from the EC of a vote that may be rejected

compounded by viral social media postings in the lead up to elections, with false information about how votes could be spoiled. The messages implied votes would be spoiled unless a perfectly defined “X”, touching each corner of the empty box, was marked.¹⁷⁰ The EC only issued one press statement to counter this misinformation on 25 April, weeks after these false messages had started to cause mass confusion.¹⁷¹

Names not crossed off the electoral roll according to regulations

PEMANTAU recorded 35 complaints about voters’ names not being properly crossed off the electoral roll. According to Section 19(5) of the Elections (Conduct of Elections) Regulations 1981, a mark must be made by both the number and name of the voter to indicate they have received a ballot. This is an important step to prevent more than one ballot being cast in a person’s name.

Impersonation and Phantom Voters

As mentioned on pages 38-41, the electoral roll for GE14 contained numerous discrepancies, which allowed non-citizens to vote and for people to vote in constituencies other than those they were resident in.

In addition, there were 25 incidents recorded by PEMANTAU of individuals unable to vote because a person had already voted for them. Police in Kelantan also received 19 reports of voters being informed that they had already cast

170 (BERSIH 2.0, 2018)

171 (Noor Atiqah, 2018)

their ballots when they had yet to do so.¹⁷²

A voter in P035 Kuala Nerus, Terengganu, lodged a police report after a clone of her missing IC (which she had since replaced) was found at a polling station.¹⁷³

In P110 Klang, a voter was only informed that they were not allowed to vote by the first polling clerk after their ink had been marked with indelible ink by the second polling clerk.¹⁷⁴

Impersonation in GE14 was made possible by three factors.

First, there are loopholes in the application of indelible ink. PEMANTAU received no complaints on the efficacy of the indelible ink for GE14. This is a marked improvement from GE13, where over 1000 police reports were filed over the ink washing off voters' fingers. However, the fact that all postal voters do not have their fingers marked by indelible ink allows them to turn up to vote on polling day with no ink on their fingers.

Secondly, fraud within the National Registration Department was already detected in the illegal registration of voters without their knowledge and the changing of voters' addresses without their knowledge. If there is fraud in the duplication of identity cards, individuals would be able to impersonate a voter on voting day.

Thirdly, if voters' names were not properly crossed off the electoral roll a person could vote under the name of a person even if a vote had already been cast under that person's name.

Difficulties in access to Polling Stations

Several voting streams for the elderly were not placed on the ground floor of voting stations, with no access except for staircases.¹⁷⁵ Parents with their children were refused entry to the polling station.¹⁷⁶ Election Commission officials also acted against regulations pertaining to assisting the elderly, pregnant women and persons with disabilities to vote. In some cases, they refused to let family members assist voters in accordance with Section 19(10) of the Elections (Conduct of Elections) Regulations 1981. In another case, they took ballot papers down to the ground floor to pass them to a voter. The voter was then told it was not necessary to mark her finger with indelible ink.¹⁷⁷

Despite the EC's assurance there was no dress code for voting, voters were

172 (Sharifah, 2018)

173 Report ID P1275

174 Report ID P1118

175 Report ID 696 and P981

176 Report ID P1156

177 Report ID 694

still denied entry to polling stations for wearing shorts or slippers.¹⁷⁸

PEMANTAU also received 31 complaints of long queues, with some voters having to wait over three hours to cast their vote. A 22-year old first-time voter had to wait for more than six hours to cast his vote.¹⁷⁹ According to the EC guidelines, each polling stream should have no more than 700 voters.¹⁸⁰ However, BERSIH 2.0 detected over 1900 polling stream with more than 700 voters. For a polling stream with 700 voters, it allows just over one minute per voter to cast their ballot. The EC refused to allow those still waiting in line at 5pm on polling day to cast their ballots, despite the remaining long queues of voters.

Contraventions on procedures relating to polling and counting agents

One polling agent for every candidate contesting in the constituency is allowed to be stationed in every polling stream to observe the voting process. A counting agent for every candidate is also allowed to observe the counting process. These agents may sign the seal on the ballot box, sign the Form 13 (Ballot Paper Statement) and Form 14 (Statement of the poll after counting of the ballots). A copy of Form 14 must be given to every counting agent present at the counting of votes in line with Section 25(12)(b)(ii) of the Elections (Conduct of Elections) Regulations. Failure to provide this signed copy of Form 14 is an offence under Section 4(g) of the Election Offences Act.

PEMANTAU received 5 reports of polling agents not being allowed to enter a polling stream. In some cases, polling agents were told only one agent per party was allowed, instead of one agent per candidate (for federal and state elections).¹⁸¹

PEMANTAU has also verified there were multiple incidents of presiding officers refusing to sign copies of the Form 14. In some cases, the presiding officer relented after being warned of legal action, but in others, the Form 14 copies went unsigned. This raises serious doubts over the integrity of the vote counts for those constituencies as there is no evidence to show the correct vote tallies were submitted to the tally centre.¹⁸² Table 5.2 details the verified incident reports relating to obtaining signed copies of Form 14. In Kota Belud, the Federal Reserve Unit was called in as counting agents stood firm in refusing to allow ballot boxes to leave the polling station without the legally required signatures on these forms.¹⁸³ There were many more alleged cases involving these tally form made by political parties, but such complaints were

178 Report ID 726

179 (Malaysiakini, 2018)

180 (The Election Commission of Malaysia)

181 Report IDs 722, 718, 698, 692 and 570

182 Report IDs P1278, 684, P1464, P1425, SC1, SC2, SC3, SC4, SC5, SC6, SC7

183 Report ID P1464

not submitted to the PEMANTAU initiative and could not be independently verified.

Parliament	Polling Station	Polling Stream
Kota Kinabalu	St Agnes	Stream 2 and 3
	SM Kian Kok	Stream 1
	Sewan Kompleks Sukan Likas	Stream 1
	SKJC Chung Hwa	Stream 1, 3, 7, 11
Penampang	SK Bahang	Stream 4
	SK Penampang	Stream 4
	SK Yue Min	All polling streams
Putatan	Tanjung Aru Timor	Stream 2
Kota Belud	SJK Chung Hwa	Stream 1,2 and 3
Jelutong	SK Jelutong	Stream 11
Klang	SK Telok Gong Kampung Nelayan	Not specified
	Sekolah Agama Rakyat Al-Mumtaz Masjid Kampung Telok Gong	Not specified

Table 5.2: Summary of incident reports relating to Form 14

Campaigning on polling day

According to Section 26 of the Election Offences Act 1954, it is an offence for any person to campaign for any candidate on polling day.

PEMANTAU recorded 21 cases of campaigning on polling day or party logos seen within the 50-metre limit of polling stations. The BN candidate for P093 Sungai Besar, for example, was allowed to vote wearing a shirt with a BN logo.¹⁸⁴ Voters also reported receiving SMS messages from unknown numbers on polling day, urging them to vote for BN.¹⁸⁵

However, the EC should be commended for improved enforcement of Section 26. In previous elections, campaigning outside all polling stations was common and allowed. Before the election, the EC announced such practices would now be prohibited in accordance with Section 26. This likely led to the reduced number of violent incidents on polling day. Still, there were incidents of campaign booths being set up outside polling stations, with no action taken by the election officials at that polling station. Candidates were also seen giving speeches outside some polling stations.¹⁸⁶

184 Report ID P1014

185 Report IDs 693, P1101 and P1001

186 Report IDs P1254, P1293 and 677

Racial and Religious Politics in the 14th General Elections

During the 14th General Elections, leaders of political parties and candidates for the 14th General Elections were found to have promoted feelings of ill-will between different races. This is an offense under the Election Offences Act, Section 4a (1) which states that:

"Any person who, before, during or after an election, directly or indirectly, by himself or by any other person on his behalf, does any act or makes any statement with a view or with a tendency to promote feelings of ill-will, discontent or hostility between persons of the same race or different races or of the same class or different classes of the population of Malaysia in order to induce any elector or voter to vote or refrain from voting at an election or to procure or endeavour to procure the election of any person shall be liable, on conviction, to imprisonment for a term not exceeding five years or to a fine not exceeding ten thousand ringgit or to both such imprisonment and fine."

The Working Group for the Ratification of International Convention on the Elimination of All Forms of Racial Discrimination (ICERD-WG) which is part of PEMANTAU have identified several incidences where leaders of political parties and candidates of the 14th General Elections have constantly use race and religion as a political tool to garner votes from the members of their constituency. The ICERD-WG had managed to identify 23 incidences of leaders and prominent personalities using racial and religious politics prior to the 14th General Elections. However, it is imperative to note that this report is not exhaustive and it does not cover all incidences of the usage of racial politics in the 14th General Elections. Instead, it encompasses incidences that were reported via media (print, online, television, social media), to Pemantau and through the Report Racism Application.

1. Suggestion by certain quarters to dissolve the Royal Malay Regiment because it does not fulfill the concept of “Malaysian Malaysia” – Datuk Seri Najib Razak

(Date: 30 March 2018)

Datuk Seri Najib Razak called upon the people to make a wise and smart choice by choosing a government which is politically stable and understands the country’s history as a government that lacks those attributes would lead to the destruction of the nation. He further stated that there were parties who did not understand the country’s history and had suggested the dissolution of the Royal Malay Regiment because it did not fulfill the concept of “Malaysian Malaysia”¹⁸⁷.

2. Is it worth to vote for Pakatan Harapan? – Tan Sri Shahrir Abdul Samad

(Date: 8 April 2018)

In an Utusan Malaysia interview prior to the 14th General Election, Tan Sri Shahrir Abdul Samad had used the issue of religion and ethnicity in his critique of the opposition. He had highlighted that the manifesto of Pakatan Harapan did not cater for the Malays and questioned whether they would be able to trigger a Malay Tsunami in the coming General Elections. In addition, he also commented that even though Islam is stated as the official religion of Malaysia in the Federal Constitution, the interpretation of the Constitution depends on those who are in power¹⁸⁸. He further stated that even though Pakatan Harapan’s manifesto states that it will defend Islam as the religion of the country, it was not sufficient as he did not know how they would interpret it.

3. DAP’s Game – Songkok and the Eye Symbol – Kamil Maslih

(Date: 10 April 2018)

In an Utusan Malaysia column, a columnist had cautioned the Malays not to be deceived by DAP in the coming General Elections. In the column, the columnist stated that DAP had come to the level where they were willing to do anything to ensure that they will be in power such as sacrificing their rocket logo and to adopt PKR’s logo in the general election. The columnist then stated that DAP’s main motive was to trap the Malays to vote Pakatan Harapan as they were able to gain the confidence of the majority Chinese voters.

187 Utusan Online, “Ada mahu bubar RAMD kerana konsep ‘Malaysian Malaysia’ – Najib”, 30 March 2018. See: <http://www.utusan.com.my/berita/nasional/ada-mahu-bubar-ramd-kerana-konsep-malaysian-malaysia-najib-1.638537>

188 Utusan Online, “Berbaloikah undi PH?” 8 April 2018. See: <https://www.utusan.com.my/rencana/utama/berbaloikah-undi-ph-1.644156>

The columnist then cautioned the Malays to be wary of DAP's agenda and stated that the party will not separate itself from the Malaysian Malaysia agenda to ensure equal rights as stated in the Federal Constitution. The column further criticized DAP by stating that the DAP representatives were disrespectful for not wanting to wear the national costume and songkok in the opening ceremony of the Sarawak State Assembly¹⁸⁹.

4. Chinese will vote for BN in GE 14 – Datuk Raymond Tan Shu Kiah

(Date: 10 April 2018)

Datuk Raymond Tan Shu Kiah highlighted his confidence that the Chinese community would give Barisan Nasional another mandate in the 14th General election. He highlighted that BN had an excellent track record in managing the state and national affairs for the wellbeing of the people regardless of the race.

He then stated that the Sabah state government had helped the Chinese community by providing encouragement and support in the area of Chinese education. He stated that the Chinese independent schools in Sabah are getting financial support consistently and the financial support was not getting any lesser. He further stated that the Sabah state government had allocated almost RM 300 million to non-Muslim schools and houses of worship in the last 10 years. At the end of the statement, he highlighted that when people were too happy with their lives, they tended to forget who were behind all those efforts and hard work to make their state and country a better place to live in and these people were never credited for their accomplishments¹⁹⁰.

5. DAP fields unexperienced Malay candidates – R. Vellasamy

(Date: 12 April 2018)

According to the former Pantai Sepang Baharu DAP leader, R. Vellasamy, he claimed that the DAP had purportedly fielded unexperienced Malay DAP leaders. He claimed that this was done to allow the DAP central leadership to control and provide them with instructions on what to do if they win their constituency they were contesting¹⁹¹. He further claimed that the decision by the central leadership of DAP was done to ensure that the Malays at the rural

189 Utusan Online, “Permainan DAP – songkok dan lambang mata” 10 April 2018. See: <https://m.utusan.com.my/berita/politik/permainan-dap-songkok-dan-lambang-mata-1.646055>

190 Borneo Post Online, “Chinese will vote for BN in GE14 – Raymond”, 10 April 2018. See: <http://www.theborneopost.com/2018/04/10/chinese-will-vote-for-bn-in-ge14-raymond/>

191 Utusan Online, “DAP sengaja letakkan calon Melayu tiada pengalaman”, 12 April 2018. See: <https://www.utusan.com.my/mobile/berita/politik/dap-sengaja-letakkan-calon-melayu-tiada-pengalaman-1.647419>

areas will vote for them. He stated that this was done to confuse the voters and further asserted that DAP was using the racial sentiment for their own benefit.

6. Malay 'special rights' and Islam in jeopardy if vote given to DAP – Datuk Seri Ismail Sabri Yaakob

(Date: 13 April 2018)

UMNO supreme council member Datuk Seri Ismail Sabri Yaakob stated that every vote for DAP was akin to giving power to the Pakatan Harapan (PH) pact to eliminate the Malay “special rights” and the “uniqueness” of Islam. He stated that the concept of Malaysian Malaysia championed by PH aimed to eliminate the special rights of the Malays and bumiputera and urged voters not to be tricked by DAP¹⁹².

7. Beware DAP's 'Christian evangelists' – Tengku Adnan Tengku Mansor

(Date: 14 April 2018)

Tengku Adnan Tengku Mansor cautioned the civil servants against the influence of DAP whom he claimed was a chauvinist party where most of its leaders were evangelists. Tengku Adnan then claimed that if the DAP members are Catholics, he would have believed them; however, he stated that they were evangelists, new Christians and this may pose as a problem. He also claimed that this was not the first time the DAP was accused of being a Christian evangelist party and further quoted PAS Youth chief Muhammad Khalil Abdul Hadi who stated that a vote for Harapan would be a vote for DAP, whose movements were shadowed by the Christian evangelist agenda¹⁹³.

8. MARA will continue to exist as long as UMNO, BN in power – Datuk Seri Najib Razak

(Date: 15 April 2018)

Datuk Seri Najib Razak stated that Council of Trust for the Bumiputera (Majlis Amanah Rakyat, MARA) will continue to exist as long as UMNO and Barisan Nasional (BN) is in power. He claimed that MARA's existence was based on his party's constitution where the rights of the Malays and Bumiputera will be championed to realise the struggle of the Malays and Bumiputera. He further stated that UMNO champions Malay-Bumiputera

192 MalayMail, “Ismail Sabri: Malay ‘special rights’ and Islam in jeopardy if vote given to DAP”, 13 April 2018. See: <https://www.malaymail.com/s/1619502/ismail-sabri-malay-special-rights-and-islam-in-jeopardy-if-vote-given-to-da>

193 Malaysiakini, “Beware DAP's ‘Christian evangelists’, Ku Nan tells civil servants”, 14 April 2018. See: <https://www.malaysiakini.com/news/419797>

institutions which was different from the opposition's concept of "Malaysian Malaysia"¹⁹⁴.

9. Chinese treated as 2nd and 3rd class citizens – Chong Zhemin

(Date: 16 April 2018)

In a Facebook posting that was shared, DAP candidate Chong Zhemin was found to be making a racist statement. He claimed that the Chinese raised were treated as 2nd and 3rd class citizens because the Government had provided preferential treatment to the Malays and Bumiputera even though the Chinese had also contributed a lot by paying taxes in the country¹⁹⁵.

10. Be Careful About DAP's "Ala Coloniser's" Democracy – Datuk Seri Mohamed Khalid Nordin

(Date: 17 April 2018)

While officiating the Perbadanan Islam Johore Dialysis Centre and the launch of the Johor Wakaf Fund Entrepreneur Loan Scheme, Datuk Seri Mohamed Khalid Nordin had cautioned the people of Johor to be aware of the DAP's "Ala Coloniser's Democracy" tactics in gaining support ahead of the 14th General Elections.

He stated that the DAP had repeatedly claimed that they were not interested in becoming top leaders or number one leaders and were not interested in taking the political power of the Malays; but, every day, their focus was to ensure that seats held by the Malays were seized. He further added that the DAP was willing to do all this, even though their identity, their logo, their names, had to be changed and mortgaged to ensure that they will win and come into power¹⁹⁶. He further stated that DAP's tactics were similar to the British who had continuously said that they did not even want to become leaders, and just wanted to be advisers; but, the fact is, the British advisors were very powerful and determined all the affairs of the Malays and Islam.

194 FreeMalaysiaToday, "Mara terus wujud selagi UMNO, BN berkuasa, kata Najib", 15 April 2018. See: <http://www.freemalaysiatoday.com/category/bahasa/2018/04/15/mara-terus-wujud-selagi-umno-bn-berkuasa-kata-najib/>

195 WakeUp Malaya Facebook Posting, 16 April 2018. See: <https://www.facebook.com/wakeupmalaya/videos/1662120960569315/>

196 Malaysian Digest, "Be Careful About DAP's "Ala Coloniser's" Democracy – Johor MB", 17 April 2018. See: http://www.malaysiandigest.com/frontpage/29-4-tile/733465-be-careful-about-dap-s-ala-coloniser-s-democracy-johor-mb.html?utm_source=dlvr.it&utm_medium=twitter&utm_campaign=malaysiandigest

11. Usage of Religious Politics to Garner Votes – Ustaz Ahmad Duzuki

(Date: 20 April 2018)

Ustaz Ahmad Duzuki in a Facebook posting had questioned the faith of Muslims who did not vote for Islamic candidates. In his post, he had raised a question to those who were purportedly not supportive of Islamic candidates, “When you are asked in your grave, what is your religion? Can we answer “Islam” when we were against “Islam” when we were alive?”¹⁹⁷.

12. Special Manifesto for the Indian community in Bagan Datuk – Datuk Seri Zahid Hamidi

(Date: 21 April 2018)

Datuk Seri Zahid Hamidi had announced that the special manifesto for the Indian community would encompass welfare and education. According to him, the special manifesto would encompass the use of the crematorium for free and free tuition classes for the children of the Indian community that will be taking their exams soon. He also added that he will be hiring a political secretary who is of the Indian race from Bagan Datuk to work with him in the Deputy Prime Minister’s office. He claimed that the decision to hire the Indian political secretary is meant to help the Indian community in Bagan Datuk and the entire country.¹⁹⁸

13. Chinese will suffer from DAP’s ‘direct contest’ strategy against MCA and Gerakan – Datuk Seri Najib Razak

(Date: 23 April 2018)

Datuk Seri Najib Razak claimed that DAP’s “cut-throat strategy” of contesting directly against MCA and Gerakan was a big mistake. He said that if the strategy was successful, it would be detrimental to the Chinese community as there was a need for a strong representation in the Government. He further claimed that there were only 6% of Chinese representatives in Parliament who supported the Government; which in the long run, will work against the Chinese community¹⁹⁹.

197 Ustaz Ahmad Duzuki Facebook, 20 April 2018. See: <https://www.facebook.com/UstazAhmadDusuki/posts/1711893365524231>

198 Astro Awani, “TPM Zahid umum sebahagian manifesto khas masyarakat Indian Bagan Datuk”, 21 April 2018. See: <http://www.astroawani.com/berita-malaysia/tpm-zahid-umum-sebahagian-manifesto-khas-masyarakat-india-bagan-datuk-173517>

199 The Star Online, “Najib: Chinese will suffer from DAP’s direct contest strategy against MCA and Gerakan”, 23 April 2018. See: <https://www.thestar.com.my/news/nation/2018/04/23/najib-chinese-will-suffer-from-daps-direct-contest-strategy-against-mca-and-gerakan/>

14. Dr. Mahathir used by DAP to split the Malay votes – Datuk Seri Najib Razak

(Date: 25 April 2018)

In a tweet by Datuk Seri Najib Razak, he claimed that Dr Mahathir was actually used by the DAP to split the Malay votes. He further disapproved and questioned whether the DAP was good to the Malays or Islam²⁰⁰.

15. A Communist Grandchild Candidate: An Open Letter to DAP – Hata Watari

(Date: 25 April 2018)

Hata Watari, a member of Damansara DAP wrote an open letter declaring his decision to not support DAP because the party did not appreciate the support of the Malays who had supported DAP. In his open letter, he stated that the decision to field Jamaliah Jamaludin, the grandchild of Shamsiah Fakeh (who was a communist) as a candidate was absurd. He questioned if the Malays should accept DAP who did not consider the feelings of the family members who were killed by the Malay communist during the emergency period. He further questioned DAP's decision and stated that DAP should have gotten feedback from the Malay members before naming Jamaliah Jamaludin as a candidate in the 14th General Elections. At the end of his open letter, he called upon the Malays to reject DAP in the elections stating that DAP's decision to field the grandchild of a Malay communist as disrespectful²⁰¹

16. How Non-Muslim will Dominate Pakatan Harapan's Government – Dr. Kamarul Yusoff

(Date: 26 April 2018)

breakdown on how Pakatan Harapan would be dominated by non-Muslims. He stated that Lim Kit Siang had claimed that Pakatan Harapan needed to win 120 seats out of the 222 seats to have a simple majority. Kamarul Yusoff then stated that in Lim Kit Siang's speech, Pakatan Harapan was aiming to win 66 non-Muslim seats which were higher than the 54 seats expected to be won by Muslim Member of Parliament. He then concluded that the Pakatan Harapan's Government will be dominated by non-Muslims²⁰².

200 Najib Razak's Twitter, 25 April 2018. See: <https://twitter.com/NajibRazak/status/989353376755281920>

201 Malaysiakini, "Calon cucu komunis: Surat terbuka untuk DAP" 25 April 2018. See: <https://www.malaysiakini.com/news/421550>

202 Kamarul Yusoff Facebook, 26 April 2018. See: <https://www.facebook.com/kamarul.yusoff.7/posts/1893426327368083>

17. Sad day if no Chinese reps in government – Datuk Seri Najib Razak

(Date: 27 April 2018)

Datuk Seri Najib Razak made a statement that it would be a sad day if there will be a small or no Chinese representation in the cabinet or government in a message to Chinese voters if they rejected Barisan Nasional candidates. He claimed that if the Chinese candidates of BN were rejected and the people had voted for someone else, the coalition would not be able to appoint Chinese leaders into the Cabinet. He then stated that it was important to have a strong Chinese representation in the government as the lack of Chinese leaders would weaken the representation. He then advised the Chinese voters not to make the same mistake as what happened in the last general elections²⁰³.

18. Indian representative in Kedah EXCO if MIC candidate wins – Datuk Seri Ahmad Bashah

(Date: 27 April 2018)

Datuk Seri Ahmad Bashah reminded the Indians in Kedah to ensure that the MIC representative wins in the election to ensure representation in the state EXCO meeting. He claimed that this was important to ensure that the Indian voice can be heard by the Kedah state government²⁰⁴.

19. DAP is a party which belittles Islam and ignores the Malay rights in the country – Dira Abu Zahar

(Date: 27 April 2018)

Former actress Dira Abu Zahar who entered politics and an exco of Puteri UMNO Malaysia, had criticized Wardina Safiyyah, a famous personality for making statements which were unfavorable to Barisan Nasional.

Dira in responding to Wardina's statements, questioned Wardina's knowledge on DAP's mission. She claimed that DAP was a party which was led by leaders who belittled Islam and ignored the rights of the Malays in the country. She further stated that DAP's Malaysian Malaysia agenda may influence Islam's position as the official religion of the country. She further stated that DAP had shown their true colors by rejecting any agenda which were in line with Islam and had challenged the Muslims by rejecting RUU 355²⁰⁵.

203 The Star Online, "Najib: Sad day if no Chinese reps in government" 27 April 2018. See: <https://www.thestar.com.my/news/nation/2018/04/27/najib-sad-day-if-no-chinese-reps-in-government/>

204 Malaysiakini, "Wakil India dalam exco negeri Kedah jika calon MIC menang – Bashah", 27 April 2018. See: <https://www.malaysiakini.com/news/421792>

205 Malaysiakini, "Dira kata Wardina tak kenal DAP", 27 April 2018. See: <https://www.malaysiakini.com/hiburan/421905>

20. 'Malay Tsunami' Opposition's strategy to destroy Malay institutions – Tan Sri Shahrir Abdul Samad

(Date: 1 May 2018)

Tan Sri Shahrir Abdul Samad claimed that the Malay tsunami banded by the Opposition was intended to destroy the long-established Malay institutions in the country. He stated that the political tsunami planned by the Opposition begun after GE 13 where Malay institutions such as the Tabung Haji, Tabung Angkatan Tentera and Felda were attacked.

He claimed that the opposition attacked these institutions which were closed to the hearts of the Malays by making numerous allegations against these institutions. He stated that the opposition attacked these bodies to destroy the confidence of the Malays in the existing government^{206 207}.

21. DAP has nothing to offer Malays – Datuk Seri Mohamed Khaled Nordin

(Date: 2 May 2018)

Datuk Seri Mohamed Khaled Nordin called upon the people of Johor especially the Malays to reject the DAP as the party did not offer anything for their advancement. He said that DAP was noted for opposing any initiatives and policies for the advancement of the Malays by the government to help the community. He provided an example where DAP had always criticized the Islamic Financial Policy (IFP) and all matters related to it without any explanation whatsoever. He then claimed that DAP was against Islamic approaches when DAP disagreed with the Islamic approach in trade and it was found to be constantly finding fault with the Malaysian Islamic Development Department and IFP²⁰⁸.

22. DAP has 'Grade A' seats, will dominate Bersatu' – Ku Abd Rahman Ismail

(Date: 3 May 2018)

At a ceramah at the village of Teroi, BN state seat candidate, Ku Abd Rahman Ku warned that DAP was contesting at seats which were akin to Grade A chicken eggs while Bersatu was contesting in many Grade D seats. He further claimed that if DAP wins all the Grade A seats, they will be able to lead the party. He then stated that even in the previous parliament, 65% of

206 Malaymail, "Malay tsunami – opposition's strategy to destroy Malay institutions, Felda chief says" 1 May 2018. See: <https://www.malaymail.com/s/1626306/malay-tsunami-oppositions-strategy-to-destroy-malay-institutions-felda-chief>

207 Astro Awani, "Tsunami Melayu pembangkang mahu musnahkan institusi Melayu – Sharir" 1 May 2018. See: <http://www.astroawani.com/berita-politik/tsunami-melayu-pembangkang-mahu-musnahkan-institusi-melayu-shahrir-174267>

208 MalayMail, "DAP has nothing to offer Malays, Khaled Nordin says" 2 May 2018. See: <https://www.malaymail.com/s/1626298/DAP-has-nothing-to-offer-Malays-Khaled-Nordin-says>

the opposition's MPs were non-Muslims and the number increased to 70% when PAS left the coalition. He then compared the opposition to the BN parliamentarians by claiming that the opposition is non-Muslim majority and the BN government a Muslim-majority and the BN government will be able to take care of Islamic affairs and Malay rights²⁰⁹.

23. Islam will be tarnished if opposition chosen – Tengku Razaleigh Hamzah

(Date: 5 May 2018)

Tengku Razaleigh Hamzah claimed that Islam will be tarnished if the opposition governs the country after the 14th General elections because their manifesto allows conversion. He had stated that the Pakatan Harapan's manifesto is dangerous as those who are Muslim are able to convert to other religions. He then called upon the people not to vote for the opposition as the country will be in a mess if such situation occurs²¹⁰.

In the exploratory observation of the usage of racial and religious politics by politicians, it was found that a huge number of incidences of the usage of racial and religious politics reported stemmed from the attacks from the Barisan Nasional coalition on the Democratic Action Party (DAP) which is a member of the Pakatan Harapan coalition.

In addition, it was found that social media was used as the medium to propagate racially and religiously political messages. Several social media accounts such as the Friends of Barisan Nasional, Penerangan UMNOHQ, Ledang PPBM Youths and Supporters of Gagasan Sejahtera were spotted to disseminate messages that are racially and religiously political.

For example, the twitter account Penerangan UMNOHQ were found to tweet the following, DAP racist, DAP champions LGBT and DAP destroys the Islam religion. Are these the leaders we want?²¹¹. In another case, the Facebook account of Friends of Barisan Nasional were found to share a video which purportedly highlight the facts that DAP wants to destroy the Malay sultanate²¹². Similarly, Ledang PPBM Youths were found to post a picture stating, "Dear voters in DUN Gambir, do you want to continue voting for MIC's representative now? Have you forgotten UMNO-BN's promise to return the

209 Malaysiakini, "DAP has "Grade A' seats, will dominate Bersatu", 3 May 2018. See: <https://www.malaysiakini.com/news/422790>

210 Berita Harian, "Islam tergadai jika pilih pembangkang", 5 May 2018. See: <https://www.bharian.com.my/berita/nasional/2018/05/421395/islam-tergadai-jika-pilih-pembangkang>

211 Penerangan UMNOHQ twitter, 30 April 2018. See: <https://twitter.com/PenUMNOHQ/status/990859217249566721>

212 Friends of BN – Barisan Nasional Facebook, 30 April 2018. See: <https://www.facebook.com/frensofbn/videos/10155936162664998/>

majority Malay seat to UMNO in GE 13?"²¹³. However, it is important to note that numerous social media accounts which were also found to continuously propagate racial and religious politics during the 14th General Elections were unable to traced upon the completion of the 14th General Elections.

The high usage of racial and religious politics in the 14th General Elections to win the political support of the people is a grave violation to the Election Offences Act, Section 4a (1). It is hoped that the new government could give serious attention to the policy and practices to address this issue to ensure that racism and racial discrimination does not happen in Malaysia.

To conclude the report, several significant recommendations are proposed to prevent such incidences from happening again.

Government should make the reports and recommendations by National Unity Consultative Council (NUCC) public and call for public consultation, leading towards accepting and implementing all the recommendations provided in the report.

Political parties should vet their election candidates and ensure that their candidates do not have a track record in using racial and religious politics in their campaign. The vetting of the election candidates would serve as a good indication that all political parties are serious in combating the use of racial and religious politics.

Election Commission should make it mandatory for all candidates to commit themselves and make a declaration prior to the General Elections to not use racial and religious politics. This declaration will serve as a pledge by the candidate to not play racial and religious politics at all times.

The Election Commission should uphold its duty by enforcing the Election Offences Act and impose legal and formal sanctions on candidates who were found to use racial and religious politics in their campaign for the General Elections.

It is timely for Malaysia to institutionalise a new Malaysia where every Malaysians are treated equally. It is important for the new Malaysia to respect and engage diversity in a human rights way, in congruence with international standards and norms.

Report compiled and prepared by:

Pusat KOMAS Malaysia
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213 Pemdua PPBM Ledang Facebook, 23 April 2018. See: <https://www.facebook.com/PemudaPPBMLedang/photos/a.222134038541406.1073741829.221678715253605/227039184717558/?type=3&theater>

SUARAM GE14 Monitoring on Police Actions

Political violence leading up to Malaysia's 14th General Election was comparatively subdued compared to previous years.

In two rallies leading up to the election, namely Bersih 2.0 memorandum to Parliament and the #TangkapJhoLow rally at Kuala Lumpur, the Royal Malaysian Police largely avoided arresting and detaining participants. However, strict restriction was imposed on organizers and participants. In both incidents, police established clear barricades and prevented participants from moving from their original gathering points.

At Bersih 2.0 memorandum to Parliament, the police initially barricaded the road leading out from Tugu Negara towards Dataran Merdeka and gave an ultimatum to organizers and participants that the gathering is not allowed to march towards Parliament. The blockade was unsuccessful, and the participants managed to march towards Parliament peacefully without further incidents.

With regards to the #TangkapJhoLow rally, police modus operandi was similar with blockades set up to prevent participants from marching towards their goal, Dataran Merdeka. However, during this rally, there was substantially more confrontations with the police. Speakers for the events was briefly detained during the opening speech with the handheld loudspeaker taken from the speaker.

In both cases, organizers for both gathering was subsequently called for statement under the Peaceful Assembly Act 2012.

Apart from rallies or peaceful assemblies that resulted in confrontations, issues of removal of party flags prior to the official campaign dates had resulted in the arrest and detention of three individuals. The three arrested were removing Barisan Nasional flags in Taman Tun Dr Ismail²¹⁴. It is noted that in this case, the flags are not supposed to be up as it was not the campaign period yet. The three were investigated under Section 427 of the Penal Code for mischief.

A similar incident also occurred at Taman Tun Dr Ismail with a man removing Barisan Nasional Flag prior to the campaign period. Following police report by an unidentified individual and an UMNO youth representative, the police investigated the case under Section 427 of the Penal Code. The video of the man removing the flags were also made viral on social media²¹⁵.

During the campaign period on 30 April, a senior citizen was pushed off

214 <https://www.nst.com.my/news/nation/2018/04/358840/3-women-nabbed-removing-bn-flags-taman-tun-dr-ismail>

215 <https://www.thestar.com.my/news/nation/2018/04/09/police-investigating-viral-video-of-man-throwing-bn-flags/>

the stage after he started removing PKR flags from a MCA event venue in Ayer Hitam parliamentary constituency²¹⁶. The person who reportedly pushed off the senior citizen was later arrested and remanded for investigation under Section 325 of the Penal Code.

On the evening of 9 May, emotions ran high in some areas with confrontations occurring with police force deployed. Cars with alleged fake ballot boxes or ferrying ballot boxes from district to the headquarters for vote counting were in some cases stopped and searched by vigilante groups. Viral messages were sent out calling people to head to the polling center in selected part of Klang parliamentary constituency which later turned unruly. Despite best effort by candidates to calm the crowd and to peacefully disperse them, another crowd form later into the night with police forced to disperse the crowd and make several arrests.

Apart from these incidences, the Royal Malaysian Police reported that between 7 April 2018 to 30 April 136 reports was made to the police in relation to the upcoming election with 50 investigation papers opened in 6 states²¹⁷. Cases of disputes between party supporters and party flags were also reported by police to have led to arrest of those involved²¹⁸. It is unclear at the national-level how many cases of assault, battery, criminal intimidation or similar offences were reported and investigated throughout the election period.

The Anti-Fake News Act 2018 also surfaced after its publication in the Federal Gazette. Notable cases of investigation include the investigation against Mahathir who alleged that his plane was sabotaged and the investigation against Rafizi Ramli for his remarks on social media relating to the filing of nomination papers in Negeri Sembilan. The police were also reported to have investigated commentaries against the Johor Crown Prince following his post regarding the 14th General Election²¹⁹.

216 <https://m.malaysiakini.com/news/422407>

217 <https://www.nst.com.my/news/politics/2018/05/364812/whew-136-police-reports-lodged-over-election-related-offences-date>

218 <https://www.nst.com.my/news/politics/2018/05/365211/seven-ge14-linked-police-reports-lodged-perlis>

219 <https://www.straitstimes.com/asia/se-asia/police-start-probe-on-abusive-and-offensive-comments-made-against-johor-crown-prince>

Chapter Three: **Conclusion**

The misconduct and fraud that took place before the first vote was even cast in GE14 threatened to award Barisan Nasional victory by default.

The nomination by the Prime Minister Najib Razak of five new EC Commissioners between 2013 and 2018 marked the start of attempts to manipulate the results of GE14.

The re-delineation exercise, conducted by the new EC, was designed to give BN an extra boost in marginal seats to swing the votes to their favour. Fraud in the electoral roll and restrictions on voter registration, particularly targeted at the Chinese community, were planned years in advance to tip the scales in marginal seats for BN.

There was also no concrete movement in reforms of political financing to create a transparent and accountable system of funding elections and political parties.

Controls on the media, especially relating to criticism of the Prime Minister, were strengthened, creating an oppressive environment for expression in GE14.

The complicity of the Election Commission in the fraud of GE14 before the campaign period began cannot be over-stated:

1. The EC conducted criminal, covert boundary changes throughout the country before publicly announcing re-delineation proposals in September 2016.
2. The EC then proposed unconstitutional boundaries with the clear intention of benefiting Barisan Nasional.
3. The EC heavily restricted voter registration, leaving 3.8 million eligible voters unregistered for GE14.
4. The EC turned a blind eye to the manipulations of the electoral roll and, in many cases, assisted in this manipulation.
5. The EC set Wednesday as a polling day in an attempt to stifle voter turnout.
6. The EC set the minimum possible campaign period, which limits the time new candidates can present themselves to the electorate and prevents overseas postal voters (known to be a heavily anti-Barisan Nasional voting bloc) from returning their ballots.
7. The EC failed to prevent the double issuance of postal votes.
8. The EC announced arbitrary regulations on campaign materials in an attempt to block Pakatan Harapan's candidate for Prime Minister Mahathir Mohamad from featuring.
9. The EC appointed BN proxies to be accredited election observers and rejected the accreditation of credible observers.
10. The EC disqualified two eligible PH candidates from contesting in the elections with no regard for the existing laws.

The Registrar of Societies also acted as a key barrier to the integrity of the elections by failing to register the Pakatan Harapan coalition.

Once the campaign period began, election offences went unchecked. While the EC's enforcement team focused on campaign materials breaching arbitrary conditions, money and treats were handed out throughout the country.

After GE13, the PEMANTAU report concluded:

“The widespread use of bribery and treating constitute a serious challenge to the integrity of GE13. In combination with the use of government machinery for political campaigning, they also contribute to the perception that there are no lines to be drawn between political parties and the government, and that voters ought to expect “goodies” as a matter of course during an election period.”²²⁰

Unfortunately, GE14 was no different. The EC, MACC and Federal Government made no progress in protecting the integrity of elections from bribery and corruption. There was also no attempt to curb government handouts and the use of government machinery. The convention of caretaker government was ignored entirely, with the exception of the returning of government vehicles by state executive councillors in Selangor and Penang.

The process of postal voting was completely flawed. In the application process, voters were unknowingly registered as postal voters and were not informed of this change. Multiple ballots were sent to voters as there was no mechanism to prevent double applications resulting in the double issuance of ballots. Many voters, especially those overseas, did not receive their ballots in time. In some cases, there was either no address on the returning envelope or the address was incorrect. Concerns remain over the safe custody of postal ballots upon their receipt by the returning officer.

Advance voting was better handled than the postal voting process, with far fewer incidents reported. Questions remain over the legality of retired service personnel voting as advanced voters, the necessity of having spouses of military and police personnel as advance voters and the security of the advance voting ballot boxes.

There were two key improvements in the conduct of elections on polling day from GE13. The indelible ink was effective in marking voters' fingers and the EC, to some extent, enforced the election law preventing campaign booths on polling day. However, the loophole of postal voters not being marked with indelible ink remains. In addition, there were still incidents of campaigning on polling day that went unpunished.

The number of irregularities on polling day point to either a deliberate attempt by the EC to manipulate election results or unacceptable standards of preparation of election materials and the training of election workers. The printing errors on ballot papers, in particular ballots with missing serial numbers, must be thoroughly investigated. The actions of election workers on

polling day have opened many of them up to criminal investigations, especially those that refused to sign Form 14 and those that attempted to influence voters in the polling station. Difficulties in accessing polling stations deprived many of their right to vote. The EC failed to follow its own guidelines on the number of voters allocated to each polling stream and many polling stations did not have facilities for persons with disabilities.

This report has presented comprehensive evidence that GE14 was neither free nor fair. While the results of the election saw a change of Federal Government for the first time in the country's history, this occurred in spite of the overwhelming attempts by key public institutions, especially the Election Commission, to ensure a BN victory. In spite of the mid-week polling day, voter turnout was still 82%. This, coupled with the tireless work of civil society groups, polling and counting agents and many candidates, mitigated the effects of fraud and manipulation.

The drive for clean and fair elections in Malaysia gained momentum with the founding of the BERSIH movement in 2006. While reforms within the system and institutions were limited, it brought mass public awareness to the issues surrounding electoral fraud. This awareness led to higher voter turnout and mass participation in combatting fraud, which played a critical role in allowing the voice of the people to be heard through the ballot box.

Recommendations

Federal Government

Area of Reform or Focus	Recommendation	Timeframe
Election Commission	Establish a Tribunal to remove the current Election Commission (EC) for breaching the code of ethics. Particular focus should be given to illegal changes in constituency boundaries, the facilitation of fraud on the electoral rolls, the misconduct in postal voting, the appointment of election observers and biased behaviour in the conduct of GE14.	Immediate
	Establish a public process of appointments to the EC via a Nomination Committee, which proposes suitable candidates to Parliament. Regard should be given to the diversity of candidates, including professional background, gender and minority representation.	Within one year
	Make the EC accountable to Parliament and report to a Parliamentary Committee on Elections.	Immediate
	Amend or repeal Section 5 of the Election Commission Act to prevent hidden interference by the Government into the work of the EC.	Immediate
Re-delineation	Amend Section 2(c) of the Thirteenth Schedule of the Federal Constitution to define the limits and allowed deviation from the phrase “approximately equal”.	Within one year
	Amend Article 46 of the Federal Constitution to provide for more equal apportionment of seats between states.	Within one year
	Establish an Independent Boundaries Commission, an expert body separate from the EC to carry out re-delineation exercises.	Within two years

Electoral Roll	Amend the definition of “qualifying date” in Article 119(4)(b) of the Federal Constitution to allow for Automatic Voter Registration.	Within one year
	Repeal Section 9A of the Elections Act to allow for legal challenges of the electoral roll.	Immediate
Political Parties	Remove political parties from the control of the Registrar of Societies, to instead be regulated by an independent EC.	Within one year
	Enact a Political Parties Act, to regulate the financing of political parties and candidates.	Within one year
	State funding of political parties should be studied with a view to implementation before the next general election.	Within one year
Media	Licences for broadcast and Internet Service Providers should be allocated by an independent commission, with public interest criteria. Allocations should be provided for public service, commercial and non-profit community broadcasters. ²	Within six months
	Licensing for print media should be abolished to remove government controls on the media and prevent interference in political coverage.	Immediate
	Require transparency in media ownership to allow for public knowledge of party ownership of media.	Within one year
Conduct of elections	Strengthen laws relating to corrupt practices in elections to prevent any handouts by political parties and candidates after the dissolution of Parliament.	Immediate
	Criminalise the use of government resources and machinery for political purposes.	Immediate
	Increase the spending cap on candidates. Implement a cap on spending by political parties based on the number of constituencies contested and amend Section 15A of the Election Offences Act for unauthorised expenditure to begin at the date of the notice of an election is published in the Gazette.	Immediate
	Implement a fixed election date, similar to the model introduced in the United Kingdom.	Within one year

Election Commission

Area of Reform or Focus	Recommendation	Timeframe
Election Commission	Resignation of all current EC Commissioners	Immediate
	Submit a report on GE14, including recommendations, to Parliament. This report must include a review on the printing of ballot papers, the training of election workers, the process of postal voting, voter access to polling stations and the enforcement of the Election Offences Act.	Within three months
Re-delineation	In the event Article 46 is amended, ensure the subsequent re-delineation process adheres to constitutional provisions and make full use of technology to allow public participation in the process.	Within two years
Electoral Roll	Establish an Electoral Roll Auditing Committee to work with the Chief Registration Officer to investigate and remedy any discrepancies in the electoral roll, in particular, voters with missing or incorrect addresses and non-citizens. Special attention must be given to the non-citizens added to the electoral roll in Sabah.	Ongoing
Media	In consultation with the media industry, political parties, government agencies, NGOs and the public, develop a code of conduct for the media during elections.	Within six months

Conduct of Elections	Make regulations on the conduct of caretaker governments after the dissolution of the legislature.	Immediate
	Amend Section 7 of the Elections (Conduct of Elections) Regulations 1981 to allow for immediate recourse for disqualified candidates.	Immediate
	Amend Section 3(1) of the Elections (Conduct of Elections) Regulations 1981 to allow a minimum campaign period of 21 days.	Immediate
	Amend the Elections (Postal Voting) Regulations 2003 to only allow overseas Malaysians with no access to Malaysian Overseas Missions to vote via post.	Within six months
	Amend the Elections (Conduct of Elections) Regulations 1981 to reform advance voting. ³	Within six months
	Amend Section 23 of the Elections (Conduct of Elections) Regulations to allow voters in line within a polling station at the close of polls to cast their ballot.	Immediate
	Review EC guidelines to limit the number of voters in one polling stream to 600 voters.	
Election Observation	Develop and publish guidelines for the transparent and open process of application and appointment of election observers. Allow for independent observers to observe all aspects of elections, before, during and after polling day provided they adhere to a code of conduct.	Within three months
Education and Training	Improve and expand voter education programs throughout the country in collaboration with NGOs.	Ongoing
	Conduct more frequent and consistent trainings of election workers, with importance given to their neutrality and the signing of Form 14.	Ongoing

National Registration Department

Area of Reform or Focus	Recommendation	Timeframe
National Registration Database	Conduct a thorough audit of the database to ensure accurate citizen information and the removal of non-citizens, especially in Sabah.	Within one year
	Require proof of residence, such as electricity bills or a letter from the community leader (e.g. Ketua Kampung, Residents Association Chair), for an application to change address.	Within three months

Political Parties and Candidates

Area of Reform or Focus	Recommendation	Timeframe
Training and Education	Conduct annual trainings for party members, especially potential candidates, and PACAs on election laws and regulations.	Ongoing
Code of Conduct	Establish a code of conduct for party members during elections, including non-violence, adherence to election laws, and prohibition on racist statements.	Within six months

Media

Area of Reform or Focus	Recommendation	Timeframe
Training and Education	Work with the EC to train journalists on election laws and regulations during elections.	Ongoing
Code of Conduct	Work with the EC and other stakeholders in developing the code of conduct for media during elections.	Within six months
Ownership	Make information on ownership and funding of media outlets publicly available, in particular funding from political parties or politically-linked individuals.	Within one year

Non-governmental Organisations

Area of Reform or Focus	Recommendation	Timeframe
Training and Education	Upon reform of the EC, work with the EC to conduct voter education programs.	Ongoing
	Assist political parties and candidates in the training of party members and PACAs on election laws and regulations.	Ongoing
Conduct of Elections	Prepare and apply for domestic election observation missions, to encourage citizens' participation in election process.	Ongoing

APPENDIX 1: PEMANTAU Zone

State	Zones	Marginal seats
Perlis	Zone 1 – Perlis	P2. Kangar P3. Arau
Kedah	Zone 2 – North Kedah (Alor Setar)	P5. Jerlun P8. Pokok Sena P9. Alor Setar P10. Kuala Kedah P11. Pendang
	Zone 3 – South Kedah (Sungai Petani)	P12. Jerai P13. Sik P14. Merbok P16. Baling P18. Kulim- Bandar Baharu
Kelantan	Zone 4 – North Kelantan (Kota Bahru)	P25. Bachok P26. Ketereh P27. Tanah Merah P28. Pasir Puteh P29. Machang
	Zone 5 – South Kelantan (Gua Musang)	P31. Kuala Krai
Terengganu	Zone 6 – North Terengganu (Kuala Terengganu)	P35. Kuala Nerus P37. Marang
	Zone 7 – South Terengganu (Hulu Terengganu)	P39. Dungun
Penang	Zone 8 – Penang mainland/Seberang Prai	P41. Kepala Batas P42. Tasek Gelugor
	Zone 9 – Penang Island	P53. Balik Pulau

Perak	Zone 10 – North Perak (Taiping)	P58. Bagan Serai P61. Padang Rengas
	Zone 11 – Central Perak (Ipoh)	P67. Kuala Kangsar
	Zone 12 – South Perak (Teluk Intan)	P75. Bagan Datok P77. Tanjong Malim
Pahang	Zone 13 – North Pahang (Cameron Highlands/ Raub)	P78. Cameron Highlands P80. Raub
	Zone 14 – East Pahang (Kuantan)	P81. Jerantut P83. Kuantan
	Zone 15 – South Pahang (Temerloh/Bentong)	P88. Temerloh P89. Bentong P90. Bera
Selangor	Zone 16 – North Selangor (Sungai Besar/Sekinchan)	P92. Sabak Bernam P93. Sungai Besar P94. Hulu Selangor P96. Kuala Selangor
	Zone 17 – South Selangor (Kuala Langat)	P98. Gombak *(isolated) P112. Kuala Langat P113. Sepang
Kuala Lumpur	Zone 18 – Kuala Lumpur	P116. Wangsa Maju P118. Setiawangsa P119. Titiwangsa P121. Lembah Pantai
Negeri Sembilan	Zone 19 – Negeri Sembilan	P132. Telok Kemang
Melaka	Zone 20 – Melaka	P137. Bukit Katil

Johor	Zone 21 – North Johor (Tangkak/Muar)	P140. Segamat P141. Sekijang P142. Labis P144. Ledang P145. Bakri P146. Muar
	Zone 22 – Central Johor (Ayer Hitam/Kluang)	P150. Batu Pahat P152. Kluang
	Zone 23 – South Johor (Johor Bahru)	P158. Tebrau P159. Pasir Gudang P161. Pulai
Sabah	Zone 24 – Sabah 1 (Kalabakan)	
	Zone 25 – Sabah 2 (Keningau)	P180. Keningau
	Zone 26 – Sabah 3 (Kota Marudu)	P168. Kota Marudu
Sarawak	Zone 27 – Sarawak 1 (Kuching)	P192. Mas Gading
	Zone 28 – Sarawak 2 (Sibu)	P208. Sarikei P212. Sibu
	Zone 29 – Sarawak 3 (Miri)	P219. Miri P220. Baram

APPENDIX 2: Guidelines for a Caretaker Government

Prepared by BERSIH 2.0 for the 14th General Elections 2018

The aim of these guidelines, that accord with accepted international conventions, is to ensure that during the caretaker period the Federal and State Governments conduct themselves appropriately so that, although the on-going business of government service and administration continues, major decisions and actions must be avoided so that they do not bind an incoming government. These guidelines serve as broad guidelines. They may be supplemented by documents that contain more specific information that may be found at the Australian Capital Territory 2012 General Election on Guidance on Caretaker Conventions and London Cabinet office on General Election Guidance 2010.

The following guidelines will apply to a caretaker government:

- (1) From the time of the dissolution of Parliament or State Assembly until the time the incoming government takes office, the Federal government and State government shall be a caretaker government and elected officials shall not:
 - (a) make major policy decisions that are likely to commit an incoming government;
 - (b) make significant appointments;
 - (c) enter major contracts or undertakings;
 - (d) announce any new financial grants in any form whatsoever or promises thereof;
 - (e) lay foundation stones etc., of projects or schemes of any kind; or
 - (f) make any new announcements of construction of infrastructure or the carrying out of public projects.

- (2) Any official public functions involving the launching of government programs or initiatives or the distribution of government funds that are pre-planned before dissolution of parliament or state assembly should not be conducted or attended by elected officials and instead should be the work of the apolitical civil service on behalf of the caretaker government.

(3) The caretaker government whether at the Federal or State level shall not use, and shall ensure that no cause is given for any complaint that it has used, its official position for the purposes of its election campaign and in particular:

- (i) members of the Federal government or members of a State Executive Council shall not combine their official visits with electioneering work and shall not make use of governmental or official machinery, resources, transport or personnel during their electioneering work;
- (ii) Federal or State government machinery, resources, transport and personnel shall not be used in furtherance of the interests of the caretaker government and, in particular, no ministry, department, agency or other instrumentality of government or of a government-linked corporation shall be directed or permitted to hold functions or activities in conjunction with any electioneering work or campaigning activity;
- (iii) public places and facilities shall not be monopolised by the caretaker government and other parties and candidates shall be allowed the use of such places and facilities on at least the same frequency and on the same terms and conditions by which they are used by the party in power;
- (iv) the caretaker government shall not, and shall ensure that public servants and authorities under their purview and control do not, use monies from the federal or state consolidated funds to issue political advertisements in the newspapers and other media;
- (v) the caretaker government shall ensure free and fair access to free-to-air radio, television and other broadcast media;
- (vi) the caretaker government shall not, and shall ensure that public servants and authorities under their purview and control do not, use monies from the federal or state consolidated funds for the purposes of holding or organising political rallies or meetings;
- (vii) whilst it is the right of public sector employees to participate in the political process they must do so in their private capacity, avoiding any conflict of interest and without displaying their political affiliations while at work;
- (viii) members of the Federal government or members of the State Executive Council shall not enter any polling station or place of counting except in their capacity as a candidate or voter or authorised agent; and
- (ix) the caretaker government shall ensure and is responsible for the security of all citizens equally, and shall ensure that all police and enforcement officers shall act without fear or favour in providing such security.

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