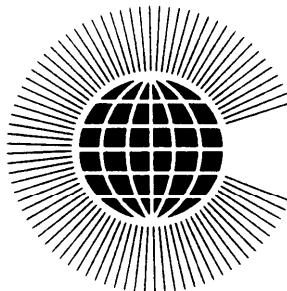


Voting for Democracy

Conference of Commonwealth Chief Election Officers
Queens' College Cambridge - 23-26 March 1998

ASPECTS OF MALAYSIAN ELECTIONS

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Chairman, Election Commission of Malaysia



Commonwealth Secretariat

CONFERENCE OF COMMONWEALTH CHIEF ELECTION OFFICERS

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**By Datuk Harun Din
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Introduction

Malaysia practises a federal parliamentary democratic system with a constitutional monarchy; its head being the Yang di Pertuan Agong (King) elected from amongst the nine state hereditary Malay Sultans (Rulers) for a five-year term. The King, a constitutional monarch with ceremonial duties and limited discretionary powers has the power to dissolve Parliament on the advice of the Prime Minister.

2. The Constitution of Malaysia provides for the establishment of an Election Commission which shall conduct elections to the House of Representatives and the Legislative Assemblies of the thirteen states of Malaysia and which shall also prepare and revise electoral roll for such elections.

3. Elections to various local government bodies were once held in compliance with the local government laws but such elections were subsequently suspended in 1964. As a result all members of the City Councils, Municipal Councils and Local Councils are now appointed by the state authorities.

4. The Constitution empowers the Election Commission, from time to time as they deem necessary, to review the division of the Federation and the States into constituencies and recommend such changes they may think necessary in order to comply with the provisions contained in the Thirteenth Schedule of the Constitution. The review of the constituencies for the Legislative Assemblies are undertaken at the same time as the review of the constituencies for the House of Representatives. Such a review is undertaken once in every eight years. The Thirteen Schedule sets out the principles and procedures relating to the delimitation of constituencies.

Election Management Body

The Malaysian Election Commission is appointed by the King after consultation with the Conference of Rulers and consists of a chairman, a deputy chairman, and three other members. In appointing members of the commission due regard is given to the importance of securing an election commission which enjoys public confidence. A member of the Commission will cease to hold office upon attaining the age of sixty-five years and on becoming disqualified for the following reasons:-

- (a) he is an undischarged bankrupt; or
- (b) he engages in any paid office or employment outside the duties of his office; or
- (c) he is a member of either the House of Parliament or of the Legislative Assembly of a State.

2. A member of the Commission cannot be removed from office except on the like grounds and in the like manner as a judge of the Supreme Court. The law provides for the remuneration and terms of office of members of the Election Commission and these shall not be altered to their disadvantage after the appointment.

3. The Election Commission is entrusted with the task of conducting elections in Malaysia. The three functions of the Commission are as follows:-

- (a) to conduct the review and the delimitation of constituency boundaries.
- (b) to carry out the registration of electors and the revision of the electoral roll.
- (c) to conduct general elections and by-elections.

4. An act known as "Elections Act 1958" was passed by Parliament which prescribes the functions of the Election Commission and how these functions are to be discharged in order to comply with the requirement of the Federal Constitution. The act also enables the Commission to appoint officers who will perform the functions of the Commission, including a secretary who is the chief administrative officer, a number of state election officers and such other officers needed by the Commission. The act also gives power to the Commission to introduce subsidiary regulations to carry out its functions.

5. Under the Constitution all public authorities shall on request give the Commission such assistance in the discharge of its duties as may be practicable.

Plurality System

Malaysia adopts the simple plurality system more commonly known as the first-past-the-post system, where candidates with more votes than any other are elected and elections are carried out in a series of single-member constituencies. This, in party terms, means that one or a coalition of parties from the 35 currently registered political parties in Malaysia can upon obtaining the majority of seats in a general election, form the government.

2. The Malaysian Constitution provides for Parliamentary elections and for elections to the State Assemblies to be held once in every five years, although they may be held sooner by an earlier dissolution of Parliament or State Legislative Assemblies. On dissolution of Parliament or State Assemblies a general election must be held within 60 days. Out of a total population of 18.2 million, 9.3 million are registered as electors.

Delimitation

The Election Commission undertakes to review the constituencies at intervals of not less than eight years, following the date of completion of the last review and the review must be completed within two years from the date of the commencement of the review. Generally, the review of the State Legislative Assembly constituencies is undertaken at the same time as the review of the Parliamentary constituencies. Certain principles are laid down in the Constitution which are to be adhered to by the Election Commission in carrying out the delimitation exercise. The recommendation of the Election Commission is submitted to the Prime Minister who will then have it tabled before Parliament for approval.

Registration of Electors

Any citizen who has attained the age of 21 is entitled to register himself as a voter during the period fixed for the purpose by the Election Commission. Usually such registration exercise is carried out once a year, although

more can be held if the Election Commission sees the need for doing so. The Election (Registration of Electors) Regulations 1971 sets out the various procedures involved in the conduct of a registration exercise.

2. A person is qualified to register as an elector if:-

- (a) he is a citizen
- (b) he has attained the age of 21 years on the qualifying date;
- (c) he is resident in a constituency on such qualifying date or, if not so resident, is an absent voter; and
- (d) he is not otherwise disqualified.

3. A person is disqualified to be an elector if:-

- (a) on the qualifying date he is detained as a person of unsound mind or is serving a sentence of imprisonment; or
- (b) before the qualifying date he has been convicted in any part of the Commonwealth of an offence and sentenced to death or imprisonment for a term exceeding 12 months.
- (c) he has been convicted of an offence under the Election Offences Act, 1954;
- (d) he has acquired citizenship of another country.

4. The "qualifying date" is the day fixed by the Commission for the purpose of the revision of electoral roll in any particular year.

5. For administrative purposes, each Parliamentary constituency represents a registration area. Within each registration area there are a number of separate registration units known as polling districts. Under each polling district there are a number of sub-units known as localities. These localities or sub-units of a registration area comprise the various streets, villages, residential areas and the like which reflects the demography of the area.

6. The names of electors in the electoral roll for each Parliamentary or State constituency is arranged according to identity card numbers in numerical order and by polling districts.

7. The revision of electoral rolls is carried out annually as required by law. A notice is issued in the mass media giving details such as the qualifying date, period of registration (21-42 days) and mode of registration pertaining to the revision of the electoral rolls. The revised electoral rolls are displayed for 14 days for claims and objections. After considering the claims and objections, the electoral rolls for that year will be confirmed by the Commission.

8. Any registered elector, whose name is in the certified electoral rolls is entitled to vote at both the parliamentary and state elections. The entitlement however does not allow a person to vote at any polling station he chooses. He can only vote for a particular constituency and at the particular polling station where his name has been registered as an elector.

Election Machinery

Preparations by the Commission for a general election in Malaysia start as early as a year before the perceived date of elections. While the dates involving the election process are fixed by the Commission, such dates can only be fixed after the Government in power dissolves Parliament or State Assemblies. Although the Commission is given a short notice of the date of the dissolution, the Commission is already in a state of preparedness to carry out the general election, having started the preparations early.

2. The earliest task in the preparation leading to an election is the setting up of committees; foremost among them is the one comprising various government departments and some private companies. The main purpose of the committee is to co-ordinate the activities of both the public and the private sectors in order to ensure that all election activities are given due priority and are carried out efficiently and expeditiously. Under the constitution, public authorities shall on the request of the Commission give the Commission such assistance in the discharge of its duties as may be practicable.

Budget

Budget is another of those activities that gets an early attention. Preparation of an election budget is a fairly straight-forward exercise and as Malaysia has had nine general elections and both the government departments involved and Parliament are fully aware of the many activities involved in a general election. Budget has of course to be approved by Parliament before funds can be expended. Amongst the major items of the expenditure are:-

(a)	Printing of ballot papers and election documents	- 27.1%
(b)	payment of allowances to election workers	- 21.8%
(c)	transport, rental and communication services	- 12.3%
(d)	overtime allowances	- 1.6%
(e)	travelling and other related allowances	- 8.4%
(f)	supply of raw materials, maintenance, repair and other items	- 12.5%
(g)	hospitality; and	- 15.2%
(h)	assets	- 1.1%

Manpower

On the average, from the last few elections held, the approximate number of all categories of staff required to run an election is about 100,000 although in the general election held in 1964 the number was about 35,774. Most of the personnel are recruited from government departments and statutory bodies, who are paid allowances for their services during the period. Many of them, in the categories of returning officers, presiding officers and polling clerks, have often served the Commission on previous elections. This makes the work of the Commission less onerous, especially in the field of training, although as elections are only held once in five years, training remains an important activity of the Commission. From one election to another, amendments to the laws and to the procedures are introduced to bring about greater efficiency as well as cost-effectiveness of the election activities and these have to be explained to the election workers.

Equipment

Equipments from previous elections are stored away for use in future elections. All that is needed is to replace the old and no longer usable with new ones. Purchasing of new items of equipment-and replacement of old ones are undertaken early in the process of preparation. Election Officers also carry out checks on all public buildings, such as schools, civic centres, multi-purpose halls that are to be used as polling stations to ensure that they are in good order, especially from the security point of view. Where minor repairs are required, they are met from the budget of the Commission. Reprinting of documents and publicity materials are undertaken and new ones printed early.

2. Other important factors that have to be looked into by the Commission are:-

(a) Election Constituencies

The Commission has to ensure that all the electoral constituencies that have been delimited by the Commission are clearly defined and are identifiable and the many polling- stations to be gazetted are within easy excess of the voters.

(b) The electoral rolls to be used in a general election will be the latest produced and certified by the Commission. The electoral rolls are checked and printed and they can be obtained in separate sets, each containing the list of electors in a given constituency. The rolls can be purchased from the respective state election offices.

(c) Place of Nomination

A special day is designated under the Election (Conduct of Elections) Regulations 1981 as nomination day. Prior to an-election, a writ of election is issued to returning officers setting out the date for nomination as well as the dates for elections. A place for nomination of candidates has to be determined and announced by the returning officer of the respective constituency. Nomination of candidates can only be done at the appointed place and the presence of either the candidate or his proposer or seconder in person is compulsory for purpose of submission of nomination papers. On nomination day candidates can submit their papers between the hours of 0900 to 1100 a.m. by filling a prescribed form, to be handed to the returning officer by the candidate himself, his proposer or his seconder. Nomination

papers must be submitted together with an election deposit of RM5,000.00 for Parliament and RM3,000.00 for State Legislative Assemblies. Nomination papers will be displayed for public viewing and for objections, from 11.00 a.m. to 12.30 p-m. In cases where only one candidate has been accepted by the returning officer, he will be declared as the elected representative of the constituency. Where there are more than one candidate, election will be held on the date as previously fixed by the Commission.

(d) Polling Station

Polling Stations are identified and gazetted and they cannot be changed once they are gazetted except as a result of a natural calamity resulting in a particular polling station or polling stations being made unsuitable for use. Polling stations are declared as restricted areas and the Police will be responsible for the security.

(e) Counting Place

Under the present practice, counting is allowed either at the polling station or at an appointed centralised counting place. Normally the place chosen for the nomination process is also used for centralised counting.

Election Day

Having set the machinery in place, one can only hope that months of preparation and attention to details will ensure the smooth running of the process of voting, because there is nothing more to be done on the day of election. Usually if election officers on the ground are experienced and knowledgeable on the laws and procedures of elections, many of the problems encountered on the ground on election day can be resolved satisfactorily. The presence of responsible and informed political agents overseeing the process of election will in many cases help towards reaching an amicable solution to the problems that may occur. Therefore the importance of an informed and experienced election staff and political agents cannot be over-emphasised. Such a situation can only emerge if proper and intensive training, supported by the necessary documents, guidelines and checklists, are carried out in the preparation

of an election. An informed and understanding electorate also has a role to play to ensure that the process of voting proceeds uninterrupted on the polling day. The important thing is that the process of voting should be allowed to proceed uninterrupted except through an act of unavoidable natural disaster and that irregularities that appear to contravene election laws should rightly be raised later as an election petition.

2. The issue of crowd control at polling centres is another point of concern for the Commission in Malaysia. The presence of police personnel helps to keep things under control most of the time, but the responsibility also rests with the political parties for ensuring that party supporters adhere to the election laws and to the police instructions where crowd control measures become necessary.

3. Security of ballot boxes, especially in the process of transferring ballot boxes from polling stations to the counting centres, had in the past resulted in many accusations of ballot box tampering. The rigid security requirement enforced by law were often not easy to follow by election staff, resulting in frequent violation and subsequent accusation of irregularities. The introduction of counting at polling centres a few years back greatly reduced the hassle involved in the transfer of these boxes. The shift to counting at polling stations is not without its share of problem, as we are still in the process of amending laws that have become unnecessary and often give rise to new problems.

4. Another strong point in favour of counting at source is that it takes away much of the anxiety and tension often found when huge crowds gather to observe the counting of votes and hear the announcement of the result. Huge crowds in an election are often a source of security concern to the police and to the Commission due to the pressure from extreme jubilation of winning on the one hand and depression on the other. This situation is almost completely absent with the counting at source, leading some to lament that the excitement of election during counting is no longer felt. With the result of voting at each polling station being handed to the party agents at the finish of count, the result of the whole election in a constituency will be known to the political parties, through their agents very much earlier than the announcement to be made by the respective returning officers. With TV and on the spot transmission of electronic news, the public gets to know the results, no doubt unofficially, before counting is even completed by the returning officers.

5. The fact that agents of political parties as well as independent candidates are present at polling stations on polling day when voting and counting of votes are carried out, strengthens the transparency of election. As stated earlier, the presence of agents can in some circumstances help to resolve small and insignificant issues which otherwise could become unpleasant and lead to election petitions. In Malaysia there appears to be no need for other organisations, local and foreign to be involved in ensuring transparency and the present system is acceptable to a great majority of the voters. Malaysia was in fact the first Commonwealth country to accept the presence of Commonwealth observer group at its general elections of 1990.

Media in Elections

The media is not required by law to disseminate election information but on the whole, the media, the majority of which are now privately-owned have been cooperative with the Election Commission in disseminating the Commission's three main activities. The Commission also buys air-time on television from time to time to supplement normal media coverage.

2. There is also no law that guarantees equal media time but air-time on radio is allocated to political parties to deliver their manifestos during a general election. There is no requirement for the media to provide public service space or time. Dissemination of information through the media are subjected to the existing laws of the country, such as the Sedition Act, the Defamation Act and the Code of Ethics issued by the Ministry of Information.

3. In the early years after Independence in 1957, the Commission's media needs are met by government agencies for free but with the passage of time as more and more electronic media and print media become privately owned, such services have to be paid for by the Commission, although the media on the whole give wide news coverage of the activities of the Commission.

Voter Education

There is no legislation governing voter information. Such information about delimitation, registration and elections are made available to the voters through the electronic media and through publications, when such activities are carried out. The Election Commission is not

required by law to provide voter information, but publicity materials are prepared and distributed from time to time to educate electors. Civic education forms part of the school syllabus in every school but at the moment it does not include voter education, although steps are being taken to introduce voter education, as part of the civic education in schools.

2. Plans are in hand to increase activities of voter education among the electorate, especially during the period leading to a general election, through the electronic and print media, the civic assemblies and through the publicity and information materials prepared by the Commission.

After the Event

Under the Election Offences Act 1954, the election of a candidate will be void if the court finds that there has been an offence pertaining to misconduct, corrupt practice or illegal act in the election. Therefore if any one who is qualified to present petition, has sufficient proof that a corrupt practice or an illegal act has been committed during the election or that the election has not been conducted in accordance with the prescribed election laws or written rules, he may present an election petition in accordance with the procedures given in the Election Offences Act. An election petition is a legal action which may be taken by a candidate, an election agent or any voter in any constituency, if any one of them or all of them are dissatisfied with the result of the election.

2. An election petition should be presented to the high court in the state where the election is held. The petition should be presented not later than 21 days after the election results have been published in the gazette.

3. At the conclusion of a trial on any particular case, the judge would usually decide and pronounce his judgement as to whether a candidate has or has not been properly elected. The decision of the judge is final and is not subject to appeal as there is no provision for an appeal in an election petition case.

4. Malaysia, had experienced nine general elections since its independence in 1957. All the elections, including by-elections had been carried out efficiently and peacefully, except for the general election of 1969 which sparked off racial riots in Kuala Lumpur and led to the declaration of an emergency situation in the country. The democracy practised

in Malaysia ensures political stability which enables the country to attain economic progress over many years. The election system i.e. the plurality system is well-known to its citizens and receives full support from them. On the average, the turnout of voters has always been above 70%. There is a general acceptance by the citizens that elections had been carried out efficiently and with transparency.

KUALA LUMPUR
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