An Election Observation Report for GE13

CLEAN & FAIR?

By Pemantau Pilihan Raya Rakyat (PEMANTAU)
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An Election Observation Report of the 13th Malaysian General Election

by Pemantau Pilihan Raya Rakyat (PEMANTAU)

PEMANTAU comprises

bersih 2.0

MAFREL
Malaysians for Free and Fair Elections

and
ordinary citizens such as yourself
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EXECUTIVE SUMMARY

PEMANTAU Pilihan Raya Rakyat (PEMANTAU), a citizens’ election observation initiative, was launched in January 2013 by the Coalition for Clean and Fair Elections (BERSIH 2.0), together with Malaysians for Free and Fair Elections (MAFREL) and Pusat KOMAS. It was aimed at reducing or preventing fraud during the 13th Malaysian General Election (GE13), monitoring all government institutions and agencies, and empowering and upholding people’s aspiration for a free and fair election.

Over 2,000 election observers were recruited. They observed 23 Parliament seats on nomination day, 51 seats during the campaign period, and 87 seats on polling day. PEMANTAU also received information from BERSIH 2.0’s Special Committee on the Code of Conduct, chiefly on political violence, and through public complaints. Major concerns were:

Political Violence, Undue Influence, and the Promotion of Ill-Will and Hostility

The 13th General Election (GE13), already widely touted as likely to be the dirtiest ever, saw an unprecedented and alarming swell in both political violence and election spending. Despite observer reports that security presence was “excessive” in 5 constituencies (22%) during nomination day, with Federal Reserve Unit (FRU) units present in 8 nomination centres (35%) and security roadblocks in 6 constituencies (26%), intimidation and violence were still reported to be of concern in 5 constituencies (22%). A somewhat alarming sight in a number of nomination centres were iron bars, barbed wire and razor wire barriers, as well as armed security personnel.

The violence intensified in hot seats during the campaign period, with incidents of fist fights, Molotov cocktails being thrown at campaign and operations centres, and even bombs being found in a few cases, on top of damage to campaign material and vehicles, and death threats levelled at not only candidates but also family members. There were also instances of media personnel being threatened from doing their job. Most common were acts promoting ill-will, reported in 14 constituencies (27%) out of the 51 observed. Religious hatred was also a common theme, found in 13 constituencies (25%), followed closely by racist or racial sentiments, recorded in 12 constituencies (24%). There were acts of intimidation against the public – such as the use of loud motorcycle noises and loudspeakers at public talks and verbal death threats – in 6 constituencies (12%). In 5 constituencies (10%), there were acts amounting to undue influence, such as promises of economic benefits in exchange for their votes, or threats of the withdrawal of such benefits were the votes not given.

Electoral Roll Irregularities

Through observation and information-gathering from polling agents and the public on polling day, PEMANTAU observers were able to document 67 cases of electoral roll irregularities. In 12 parliamentary constituencies (14%) there were names missing from electoral roll; in 7 constituencies (8%) a number of voters complained that their polling stations were changed without notice; and in 6 constituencies (7%) a number of voters found either their Parliament or state constituency changed without notice.

PEMANTAU also received 592 complaints from the public on irregularities in the electoral roll. The most prevalent complaint – totalling 230 reports (39%) – was of first-time voters who
were initially confirmed as registered voters, but later found their names missing from the roll prior or during polling day. The next most common problem – with 116 reports (20%) – was of individuals who found themselves registered without their knowledge. There were 103 reports (17%) of registered voters who have voted before but were then deregistered without their knowledge. A total of 54 reports (9%) were on registered voters who were relocated to another voting constituency for GE13. These complaints were not new and have been brought up by BERSIH 2.0 in the run-up to the general election, and in a 2012 study by the Malaysian Electoral Roll Analysis Project (MERAP). They were also unearthed during the proceedings of the Royal Commission of Inquiry (RCI) on illegal immigrants in Sabah. All this points to a pressing need for the EC to clean up the roll.

“Indelible” Ink

PEMANTAU observers received complaints from the public that the ink was easily removed in 21 of the 87 constituencies observed on polling day (24%). In 10 constituencies (11%), voters complained that the application of the ink was inconsistent with EC procedures, and in 2 of the constituencies observed (2%), some voters were told to use the indelible ink on their finger to mark ballot papers. Despite the EC’s promise that the ink will last for at least 7 days, PEMANTAU’s observation showed serious flaws in not only in the implementation but also in the quality of the ink. The negligence or poor management of the EC in handling this issue is not something to be taken lightly as it calls into question the standards of integrity and professionalism in the EC, and has a direct impact on the electoral results.

Bribery

On nomination day, PEMANTAU observers noted alleged incidents of bribery involving money or other goods in 5 constituencies (22%) out of the 23 observed. During the campaign period, bribery involving valuable consideration and other goods was recorded in almost half of all constituencies observed, while money was allegedly given out in 19 constituencies (37%). Other handouts amounting to bribery included vouchers or tickets, and promises of economic benefit upon the victory of a particular candidate (6 constituencies, or 12%).

On polling day, PEMANTAU observers reported acts of bribery in 16 of the constituencies observed (18%). Bribery took the forms of cash, cash vouchers, travel allowances or reimbursements, and special claims for voters travelling in from outside the constituency and those who had sworn to vote for a certain party.

Bribery is a form of corruption that chips away at public trust in their elected representatives. More importantly, the buying of votes through bribery is a violation of the fundamental right of voters to exercise their choice at the ballot box unimpeded. Given the serious nature of this offence and its unabated presence in Malaysian elections, PEMANTAU questions why there were not more investigations and prosecutions on this, when the EC is empowered by the Federal Constitution with wide-ranging powers to carry them out.

Treating

This is by far the most common election offence observed in GE13. During nomination day, treating was reported in 8 (35%) of the constituencies observed, either with food and drinks, or party merchandise such as hand fans and umbrellas. It was also rampant during the campaign period: PEMANTAU observers in 20 of the constituencies (39%) reported the distribution of food and drinks, as well merchandise in 16 constituencies (31%). Food and drinks were distributed to voters in 21 parliamentary constituencies (24%) during polling day.
**Personation**

PEMANTAU observers reported suspected personation or “dubious voters” in 24 out of the 87 constituencies observed (28%) on polling day, which also saw many of the affected voters disenfranchised. Coupled with the revelations from the RCI in Sabah and the failure of the indelible ink, these serious allegations certainly merit further investigation.

**Illegal Campaigning**

In 6 constituencies (26%) out of the 23 observed by PEMANTAU on nomination day, candidates and political parties carried out campaigning activities despite legal prohibitions against campaigning on nomination day and polling day. During polling day, campaigning continued in 38 (44%) out of the 87 parliamentary constituencies observed.

**Conveyance of Voters**

Under Section 20 (1) of the Election Offences Act, conveying voters to and from a polling centre “for the purpose of promoting or procuring the election of a candidate at any election” is prohibited. However, on polling day, in 18 of the observed constituencies (21%), political parties, from both BN and PR, were conveying voters to polling centres.

**Procedural Irregularities**

A number of critical procedural amendments were introduced prior to GE13, including the use of indelible ink, early/advance voting by police and military personnel to replace postal voting, allowing the disabled to bring along someone to aid them in the voting process and abolishing the process of protest during nomination and withdrawal of candidacy. Based on information sourced from observers and the public, PEMANTAU raised serious concerns in the media on the poor introduction and implementation of the regulations as they were either last-minute, unclear, lacked monitoring and not assisted by inert EC staff.

**Use of Government Machinery and Property**

The use of government machinery or State property was observed in 11 constituencies out of the 51 observed during the campaign period (22%). PEMANTAU observed Federal and State caretaker governments utilising government machineries including government-linked corporations and agencies like Rubber Industry Smallholders Development Authority (RISDA) and Federal Land Consolidation and Rehabilitation Authority (FELCRA), as well as government resources, transport and personnel during the campaign period.

**Harassment of Election Observers**

PEMANTAU observers reported a pattern of harassment and intimidation faced in nomination centres. There were relatively mild ones – such as being ordered to provide their personal details, restricted and even stopped from observation – to more serious ones – being verbally and physically abused and threatened by party supporters, with some having their photographs taken by the police. On polling day, PEMANTAU observers reported experiencing restrictions, intimidation and harassment in 21 parliamentary from a total of 87 seats observed (24%). Some were even arrested.

The rampant electoral misconduct during GE13 could be attributed to one or more of these three factors:

- the lack of awareness, if not poor knowledge on election laws by political parties, party workers and/or supporters and candidates themselves;
- informed and deliberate actions to gain political mileage; or
- the common awareness of insufficient enforcement of the provisions relating to election offences.
While legislative reforms were clearly needed, so too was a shift in political culture and a strong message that institutions such as the EC and the Malaysian Anti-Corruption Commission (MACC) were committed to implementing the law without fear or favour.

Whether the acts of election misconduct, acts of violence and intimidation, alleged bribery and election misconduct observed by PEMANTAU were enough to change the course of GE13 require more rigorous monitoring. What PEMANTAU can conclude is that GE13 did not meet domestic and international standards for clean, free and fair elections.

**Major Recommendations**

- **For Federal and State Caretaker Governments to:**
  - Strengthen the legal and regulatory framework; and
  - Create and maintain an enabling environment for voters.

- **For the EC to:**
  - Eliminate disenfranchisement of all voters;
  - Strengthen the quality of implementation of election processes; and
  - Maintain checks and balances through election observation and internal processes.

- **For the National Registration Department and Home Ministry to:**
  - Improve collaboration and synchronise information-sharing with the EC on verification of voters’ eligibility and registration; and
  - Clean up the national registration by investigating allegations of non-citizens being given Malaysian identification without going through the proper process.

- **For the Police and security forces to:**
  - Recognise and protect rights of citizens; and
  - Provide non-partisan and equal protection for all during elections.

- **For the MACC to:**
  - Thoroughly train officers to understand the application of the Elections Act and related laws on corruption and financial misconduct so as to eliminate treating and bribery.

- **For political parties, candidates and supporters to:**
  - Refrain from and condemn the use of violence or threats of violence, especially the use of racist/bigoted/sexist sentiments to influence voters;
  - Publicly declare election expenditure, including donations received and spent; and
  - Adhere to fair and ethical standards in campaigning.

- **For non-governmental organisations to:**
  - Make election observation, polling and counting agents as integral in people’s participation in the election processes as they act as independent checks and balances.
A. INTRODUCTION

The PEMANTAU Report sets out to determine whether—

- the conduct of the participants of the 13th General Election (the Election Commission, related state institutions, political parties, candidates, party workers and supporters); and
- the political environment

— were conducive to clean, free and fair elections, based on election observation carried out during the 13th Malaysian General Election’s nomination day, campaign period, and polling day in 2013. A total of 23 Parliament seats were observed on nomination day, 51 seats during the campaign period, and 87 seats on polling day.

Background

The PEMANTAU Pilihan Raya Rakyat (PEMANTAU) initiative was launched in January 2013 by the Coalition for Clean and Fair Elections (BERSIH 2.0), together with Malaysians for Free and Fair Elections (MAFREL) and Pusat KOMAS. It was a strategic initiative combining strengths among the organisations concerned. BERSIH 2.0 brings its knowledge in electoral reform and its ability to mass-mobilise. MAFREL has years of experience in observing elections domestically and internationally, and Pusat KOMAS has the capacity to establish effective online portals to promote voter education.

PEMANTAU’s key role was to be an independent watchdog to ensure clean, free and fair elections in Malaysia. The experience of election observers worldwide is that independent election monitoring and observation will help to ensure the integrity of elections and strengthen accountability in government and parties competing. Similarly, non-partisan election observation and monitoring initiated and managed by citizen organisations have emerged as one of the most tangible and significant dimensions of democratic development around the globe. According to the Global Network of Domestic Election Monitors (GNDEM), this has contributed to safeguarding genuine elections, mitigating potentials for conflict, and promoting accountability and democratic development.¹

Election observers were present in previous general elections in Malaysia, the most recent prior to 2013 being the 2008 12th General Election, monitored by the Malaysian Election Observers Network (MEO-NET), Sibu Election Watch (SEW), My Election Watch (MEW), MAFREL, Aliran and the Centre for Independent Journalism (CIJ). However, the election observation work done so far was relatively minor compared with other countries. PEMANTAU was the largest ever mobilisation of election observers nationwide, recruiting citizens as unaccredited observers on the belief that the full participation of citizens as observers will help shape the election as platforms where citizens can take some ownership of the election processes.

GE13 took place in a context of heightened civil society calls for electoral reforms and increasing public doubt over the integrity of the electoral process in Malaysia. In 2007, 2011 and 2012, massive rallies called for reforms to the electoral process. The 2011 and 2012 rallies revolved around eight demands by BERSIH 2.0: a clean-up of the electoral roll, a reform to the postal ballot, the use of indelible ink, a campaign period lasting for a minimum of 21 days, free and fair access to the media, a strengthening of public institutions, a stop to corruption, and a stop to dirty politics.

¹ Global Network of Domestic Election Monitors (GNDEM) <www.gndem.org>. GNDEM has facilitated millions of people in 90 countries over 5 continents to conduct independent election monitoring.
These demands were based on long-standing allegations that elections in Malaysia were neither free nor fair. The 2012 Malaysian Electoral Roll Analysis Project (MERAP)\(^2\) found numerous irregularities within the electoral roll, including problems related to postal voters. Its report alluded to the possibility that the electoral process was vulnerable to “phantom voters” and multiple voting.

Testimonies by former government officials before the Sabah Royal Commission of Inquiry, which commenced in 2013 before the general election, alleged that the National Registration Department and the Election Commission (EC) were complicit in awarding citizenship and identification documents to thousands of non-Malaysians without proper process. These “new citizens” were then allegedly planted in constituencies across the state, with as many as 100,000 tilting the balance of votes since the 1990s. In 2001, former chief minister Yong Teck Lee vacated his Likas state seat after a Kota Kinabalu High Court judge ruled that constituency’s electoral roll was illegal, after evidence of “phantom voters” and non-citizens on the roll was presented in court.

The transparency of postal voting has also been a point of contention, as well as the very limited eligibility of postal voters.\(^3\) The process of postal voting made it impossible to scrutinise, and vulnerable to possible intimidation, breach of confidentiality, vote buying, proxy voting, and – as raised by the MERAP study – multiple voting due to the organisation of the electoral roll.

Concerns over the electoral roll and postal voting are made more serious by questions over the ability of the EC to carry out its role as an independent, non-partisan election management body to safeguard the integrity and transparency of the electoral process.\(^4\) All members of the EC are retired civil servants who, it is alleged, continue to operate as if the commission is a government department rather than an independent body. The decline in the length of election campaigning period can be seen as a symptom of this: a shorter election period favours the incumbent party and handicaps political parties that do not have access to public funds, government-linked mass media, state institutions and government machinery.

Whether the Malaysian political environment was conducive to the conduct of clean, free and fair elections is a point of contention. Racism, bigotry and hate-mongering towards minorities are common headlines in the media, fanned by both political parties and non-state actors during the election period as a tactic to frighten voters or to convince them to take a stand against an imagined enemy through the ballot box. There are allegations as well that cash, election promises, and goods are routinely handed out in the lead-up to an election.

Further, government control over mainstream media in Malaysia, either through laws such as the Printing Presses and Publications Act 1984 or ownership over media outlets (directly or through component political parties of the ruling coalition), has been cited as a barrier to full access to information that enables voters to make free and informed choices. Opposition parties have poor access to the mainstream media to present their policies and election coverage in mainstream media tended to heavily favour Barisan Nasional (BN).\(^5\)


\(^3\) Before GE13, postal voting was restricted to uniformed personnel, civil servants, tertiary students studying overseas, and the spouses of the people in these categories.


There were initial high hopes over the formation of a Parliamentary Select Committee (PSC) on Electoral Reform in 2011 as an impetus for full reform. Though its recommendations fell short of civil society expectations, they still addressed some key areas of electoral reform. However, the EC publicly committed to only three reforms: the use of indelible ink in GE13, the implementation of advance voting for service voters, and an audit of the electoral roll by MIMOS Berhad.

A 2012 survey of 1,019 voters by Merdeka Center found that 49% of respondents do not trust that the electoral process is free from irregularity and 48% believe that the electoral roll contains irregularities. A total of 92% thought that government should clean up the electoral roll before calling for the election and 51% thought that the postal voting system lacked transparency and was open to political interference. In this regard, while PEMANTAU’s election observation cannot provide answers for questions beyond the scope of its work, it attempts to provide a comprehensive assessment of the conduct of the elections.

Conceptual Framework

PEMANTAU’s framework for the right to clean, free and fair elections is derived from a number of international commitments and domestic legislation. Where there is a recognised right, there is a corresponding state obligation to promote, protect and fulfil this right.

In the Malaysian context, domestic legislation that protects the right to clean, free and fair elections includes the Federal Constitution, the Elections Act 1958, the Election Offences Act 1954 and the Election Commission Act 1957; others are the Penal Code and the Malaysian Anti-Corruption Commission Act 2009. The Malaysian Federal Constitution and election laws aim to protect the liberty and rights of citizens to participate freely in any elections. The commitment to and implementation of these rules by the government and its agencies are also important factors, forming part of PEMANTAU’s monitoring.

Therefore, PEMANTAU’s election observation is based on the following principles:

Protecting Civil and Political Rights of Citizens. Elections are part of citizens’ fundamental human rights and, more specifically, civil and political rights. The authority to govern shall be based on the unhindered free will of the people as reflected and expressed in by-elections and General Elections. These fundamental principles of a free and fair election are recognised as universal of a responsible democratic government, which encompass the ability of everyone to take part in the government of his/her country to vote in elections, to have equal opportunity to become a candidate for election and put forward his/her political views, individually and/or in association with others.

Citizens must be able to exercise their legitimate rights to participate in a democratic process to determine their own government and participate in the process of electing a new government without any restriction, perceived obligation to the administrative government of the day, undue influence, threats of repercussions, intimidation, and harassment. They shall have every opportunity to exercise their free will in performing the same, all in a democratic, safe and enabling environment with full access to information.

Election observation therefore contributes to the overall promotion and protection of these rights.

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Democratic Governance and Freedoms. The government and its agencies need to develop an enabling environment that will ensure a genuine democratic election process. This includes putting into place substantive laws and policies that will bringing about confidence, transparency, accountability, respect for freedom of expression and free media; freedom of association, assembly, and movement; adherence to the rule of law; the right to establish political parties and compete for public office; non-discrimination and equal rights for all citizens; freedom from intimidation; and a range of other fundamental human rights and freedoms.

Election observation, therefore, enhances accountability and transparency, boosting citizens’ confidence in the process.

Rights and Responsibilities of Stakeholders. Every candidate, party worker and supporter shall conduct themselves with the highest standard of ethical behaviour. They have an unequivocal right to safety and security in respect to their lives and/or properties and shall be recognised and protected by the State. Political parties and candidates also have the responsibility to ensure the safety of others, including that of the public and their political opponents, and to ensure that their supporters do not engage in acts of political violence.

State Obligation and Commitment. The State, which here refers to both the Federal and state governments, shall make no law or policy or action that restricts and/or threatens the exercise of free will by its citizens as expressed in by-elections and the General Election. The election management body responsible for overseeing the conduct of the elections, law enforcement authorities, and other monitoring bodies shall conduct themselves with impartiality, independence, and non-partisanship.

Scope of Work

The key tasks of election observers under PEMANTAU were to observe, record and report on electoral processes during nomination day, the 14-day campaign period, and polling day. This was aimed at:

- reducing or preventing fraud during GE13;
- monitoring all government institutions and agencies; and
- empowering and upholding people’s aspiration for a free and fair election.

A Steering Committee comprising of BERSIH 2.0, MAFREL and Pusat KOMAS headed the massive nationwide effort, with State Coordinators mobilising and coordinating election observers at the state level. PEMANTAU observers generally worked in groups organised by Parliament Coordinators, who reported back to State Coordinators. PEMANTAU had originally planned for 10,000 citizen observers to observe 70 Parliament seats out of the 222 seats being contested. The 70 seats were selected based on five criteria:

- marginal seats;
- constituencies where there were high numbers of new voters;
- constituencies where incidents of electoral misconduct, violence and bribery were reported;
- seats contested by key politicians; and
- the availability of election observers who are voters in these constituencies.

While PEMANTAU was not accredited by the EC, the coalition was aware that observation of the electoral process is a citizen’s right. PEMANTAU was cognizant of its complementary role
as non-accredited observers and did not seek to supplant PEMERHATI, which was made up of eleven EC-accredited non-governmental organisations (NGOs).\(^7\)

In preparation for the run-up to polling day, PEMANTAU made all efforts to ensure its observation was independent, transparent and evidence-based. It was bound by a code of conduct common to domestic election observers around the world, which included a pledge of neutrality and non-partisanship. Observers were expected to report on what they observed, without fear or favour, whatever their personal political beliefs. The message was carried through in PEMANTAU’s nationwide recruitment and publicity.

Over a four-month period, PEMANTAU held briefings around the country and mobilised more than 2,000 volunteer citizen observers selected based on a number of criteria. PEMANTAU followed clear criteria for the selection of our observers. Any Malaysian citizen can be a PEMANTAU citizen election observer if he or she:

- is above 18 years old and has no criminal record;
- agrees to adhere to election laws and other laws in Malaysia;
- agrees to adhere to the PEMANTAU Pledge and Code of Conduct; and
- is not a political party worker or campaigner.

All PEMANTAU citizen observers were required to sign a pledge that they would adhere to a code of conduct for election observation while performing their duty.\(^8\) The code of conduct reaffirms PEMANTAU’s commitment towards its non-partisan position vis-à-vis political party affiliations, and sets out standards on accountability, impartiality and transparency. This code of conduct was printed in a handbook with guidelines and information on election observation, distributed to PEMANTAU volunteers.

**Methodology**

**Documentation by Election Observers.** PEMANTAU observers were required to fill in a series of questions related to election offences and irregularities in observation forms covering different periods of observation, i.e. nomination day, campaign period and polling day. Three options were provide to the PEMANTAU observers to file their notes with the PEMANTAU Steering Committee:

- hard copies of the observation forms printed and distributed by State Coordinators,
- online forms at a website accessed via a username and password; and
- an Android smartphone application.

Efforts were made to ensure smooth sharing of observation reports. The structure for reporting back adopted by PEMANTAU was as follows:

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\(^8\) See Appendix 003.
The structure allows for decentralisation of election observation forms collection and a quick verification of reports by observers on the ground. State Coordinators and PEMANTAU observers in each state were given leeway to decide on parliamentary constituencies to be observed, based on the criteria above.

**Public Complaints.** PEMANTAU enabled the public to send in complaints and reports of election irregularities through an online form at pru13.info, SMS, phone call and e-mail. Public complaints and reports submitted online are displayed at pru13.info/aduan/reports. Complaints were also received by BERSIH 2.0 before and during the election period.

**Media Monitoring.** BERSIH 2.0’s Special Committee on the Code of Conduct monitored the media for breaches of BERSIH 2.0’s Code of Conduct for Participants of the 13th General Election and Caretaker Government Guidelines. The monitoring revolved around the issues of political violence and abuses by caretaker governments at Federal and State level. A more comprehensive media monitoring was conducted by The Centre for Independent Journalism, together with the University of Nottingham Malaysia Campus’s (UNMC) Centre for the Study of Communications and Culture and the School of Modern Languages and Cultures.

**Limitations**

As PEMANTAU is an unaccredited election observation group, it was unable to enter nomination and polling centres. Observers had to abide by the 50-metre restricted zone outside these centres. Due to these limitations, PEMANTAU observers cannot observe the entirety of the electoral process during polling day, including the counting of ballots.

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10 Info Pilihanraya Malaysia, “Watching the Watchdog GE13.”
PEMANTAU was also unable to meet its target of 10,000 citizen observers. While the number of Parliament constituencies observed exceeded PEMANTAU’s original goal of 70 seats, the spread of observers were uneven and tended to be concentrated in urban and semi-urban areas, with the highest number of observation reports filed during polling day. In a number of constituencies, the low number of PEMANTAU citizen observers necessitated the use of mobile teams moving from one polling centre to another on polling day, thus affecting the thoroughness of their observation.

In addition, the PEMANTAU secretariat had to reject observation forms that were incorrectly filled, where the observers were unable to be contacted for clarification. Thus, a number of reported incidents could not be included towards informing the conclusions made in this report.

This final report is representative of election observation made within these limitations. While the general points made in this report may be applicable across the board to a majority of the 222 parliamentary constituencies, the specificities of local issues need a more nuanced approach.
B. FINDINGS

Incidents quoted from reports by PEMANTAU election observers are footnoted with their individual observer codes and parliamentary constituency. Incidents quoted from the media are footnoted as such.

Political Violence, Undue Influence,\(^{11}\) and the Promotion of Ill-Will and Hostility\(^{12}\)

The 13th General Election (GE13) saw an unprecedented and alarming swell in both political violence and election spending, despite Prime Minister Dato’ Seri Najib Abdul Razak making a pre-election public declaration to uphold integrity and reinforcing his commitment to fight corruption in the upcoming polls. He also signed the Transparency International (TI) Election Integrity Pledge, which carries this objective.\(^{13}\)

The spate of political violence began in a number of constituencies such as P121 Lembah Pantai before the announcement of the dissolution of Parliament. Tensions were heightened by allegations that the Home Ministry and the police took a lackadaisical approach to reports of violence in these constituencies. The then-Home Minister Datuk Seri Hishamuddin Hussein blamed the opposition for the rise of violence and lack of police officers on the ground.\(^{14}\) At this point, it was possible to argue that these were isolated cases of political violence; however, the violence spread to more constituencies as campaigning began in earnest.

The perpetrators of acts of political violence ranged from unknown individuals, supporters of political parties as well as contesting candidates against both opposing candidates, party workers and supporters and media personnel. BERSIH 2.0, through its Special Committee on the Code of Conduct also monitored the media for incidents of political violence during the campaign period.

\(^{11}\) S9 Election Offences Act 1954 provides: “…Every person who, before, during or after an election, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting, at any election, or who by abduction, duress, or any fraudulent device or contrivance impedes or prevents the free exercise of the franchise of any elector or voter, or thereby compels, induces, or prevails upon any elector or voter either to give or refrain from giving his vote at any election, or who directly or indirectly interferes or attempts to interfere with the free exercise by any person of any electoral right shall be guilty of the offence of undue influence…”

\(^{12}\) S4A Election Offences Act 1954 provides the definition of feelings of ill-will and hostility: “…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…”


Excessive Presence of Authorities on Nomination Day. Security was reported to be “excessive” in 5 constituencies (22%), with Federal Reserve Unit (FRU) units present in 8 nomination centres (35%) and security roadblocks in 6 constituencies (26%). This is despite the fact that Malaysia does not historically suffer from frequent election-related violence. At this point, the political violence that was to mar the campaign period to come was not yet a significant threat outside of specific parliamentary constituencies such as P121 Lembah Pantai.

The law enforcement authorities deployed to ensure peace and order at nomination centres were the police, the FRU, the Light Strike Force, auxiliary police and members of the People’s Volunteer Corps (RELA). FRU personnel were observed in P026 Keterihe, P039 Dungun, P047 Nibong Tebal, P107 Subang and P179 Ranau.

Alarmingly, in P179 Ranau at Dewan Masyarakat Ranau, approximately 200 police personnel were armed with M-16s and MP-5s. Some 10 FRU members were on guard within 50 metres from the nomination centre together with a parked FRU truck and roughly 50 RELA members. In P025 Bachok at Pejabat Tanah Jajahan Bachok, PEMANTAU observed excessive presence of RELA personnel together with the police.

PEMANTAU observers noted the use of iron bars, barbed wire, and razor wire barriers around a number of nomination centres, despite a recommendation from the National Human Rights Commission (SUHAKAM) that dannert or razor wires not be used during peacetime. The nomination centres that had barbed and dannert wire were P021 Kota Bharu, P022 Pasir Mas, P024 Kubang Kerian, P025 Bachok, P026 Keterihe, P027 Tanah Merah, P029 Machang, P032 Gua Musang and P107 Subang.
Harassment, Intimidation and Violence against Candidates and Party Supporters. Intimidation and violence were reported to be of concern in 5 constituencies (22%) on nomination day.

In P022 Pasir Mas, at the nomination centre Pejabat Pasir Mas, three groups of supporters were present: BN (including members of PERKASA, a right-wing ethno-nationalist group), Pakatan Rakyat (PR), and a smaller group of supporters for an independent candidate. At about 10:18 AM, supporters of the independent candidate allegedly joined forces with BN supporters and PERKASA, and proceeded to climb and sat on the barrier separating them from PR supporters. A verbal exchange of slogans then took place between both sides. The shouting match extended to supporters at a restaurant adjacent to the nomination centre, causing anxiety to members of the public. The police intervened to order an unruly group of alleged BN supporters to leave the veranda of the restaurant.17

In P037 Marang, at Pejabat Daerah Marang, at about 9:30 AM, a group of BN supporters allegedly harassed and intimidated a group of supporters of a PR component party, Parti Islam Se-Malaysia (PAS). The PAS supporters were reported to be attempting to make their way through an area where BN supporters had gathered. The police were forced to intervene and defuse the situation by escorting the PAS supporters away from the BN group.18

In P039 Dungun, at Pejabat Daerah Dungun, provocative words were exchanged between supporters of BN and PR. PEMANTAU observed PR supporters hurling shouts targeting the BN candidate Rosli Mat Hassan – “Rosli pengkhianat” (“Rosli is a traitor”) – while BN supporters threw at them with – “Pembangkang bodoh sokong Ambiga” (“Stupid Opposition supports Ambiga”), “Ambiga ni bapa Kristian” (“Ambiga is the father of Christians”).19

PEMANTAU observed an assault on PR candidates in P047 Nibong Tebal at Dewan Serbaguna Jawi by a faction from a PR component party. PAS supporters, allegedly from its youth wing, attempted to prevent Badrulhisham Shaharin and Dato’ Mansor bin Othman, candidates from Parti Keadilan Rakyat (PKR), from entering the nomination centre. Badrulhisham was reported to have been physically assaulted by PAS supporters.20

17 D1736 and D1769, P022 Pasir Mas
18 T8510, P037 Marang
19 T8582 & T8580, P039 Dungun
20 P6613, P047 Nibong Tebal
During the campaign period, in P104 Kelana Jaya at Desa Mentari, PEMANTAU observers saw on 27 April a disruption to the speeches delivered by PR leaders. At about 10:30PM, a group of motorcyclists were revving their machines and honking outside the campaign site, creating a noisy and uncomfortable atmosphere. No police on duty were sighted there.\textsuperscript{21}

At a campaign event organised by PKR on 22 April in P121 Lembah Pantai, a group of men clad in UMNO attire jeered for some time when the PKR candidate Nurul Izzah Anwar spoke at about 10:00PM. The group was believed to have come from a neighbouring BN operations centre and was seen carrying bags full of food taken from there.\textsuperscript{22}

On 30 April, at a PKR event in the same constituency at Lucky Garden, Bangsar, PEMANTAU observed several disruptions to the political speeches that were being made. Between 10:00PM and 11:00PM, a fire brigade truck together with a police patrol car drove past the campaign site blaring sirens when lawyer Tommy Thomas took to the stage to address the crowd. Later, when the PKR candidate was speaking, another fire brigade truck passed by the site again with blaring sirens.\textsuperscript{23}

On 1 May, at about 11:00PM in P121 Pantai Dalam, PEMANTAU observed some 10 motorcyclists revving their machines and honking when the PKR candidate was addressing the crowd at a campaign site. The audience showed anxiety and fear from the late night cacophonous threat.\textsuperscript{24}

In P162 Gelang Patah, on 28 April, PR campaign workers who were distributing leaflets were harassed and threatened by a group of motorcycle-riding youths who had BN T-shirts on. One of the youths carried a steel bar, and the group kept pushing their motorbikes closer to the campaign workers in a threatening way to force them to leave.\textsuperscript{25}

PEMANTAU noted another pattern of disturbances to campaign speeches – the placing of loudspeakers near an ongoing event. In P152 Kluang at Taman Makmur, a group of men, allegedly from BN, mounted loudspeakers and blasted music and recordings throughout the duration of a ceramah (talk) nearby.\textsuperscript{26}

On polling day, acts of intimidation and harassment against party workers and candidates were reported in 8 constituencies (9%).

In P037 Marang at SK Gelugor, a fist fight was reported. At about 2:00PM, outgoing senator Abdul Rahman Bakar’s son arrived at the polling centre together with seven other friends. Some 20 PAS supporters suspected some individuals of being non-citizens and confronted them. It degenerated into a fistfight between PAS and BN supporters that only subsided when security personnel intervened and separated the two sides. BN supporters retreated to Balai Polis Bukit Payung to make a police report on the assault. PEMANTAU observers did not see what transpired after that.\textsuperscript{27}

In P119 Tititiwangsa at SRJK (Tamil) Kg. Pandan, groups of party workers from PAS and BN hurled provocative words at each other, chanting slogans and waving flags within the restricted zone. According to PEMANTAU observers, the incessant shouting from both PAS and BN was so loud it created a chaotic and tense environment.\textsuperscript{28}

\textsuperscript{21} B0581, P104 Kelana Jaya
\textsuperscript{22} W777, P121 Lembah Pantai
\textsuperscript{23} W9181, P121 Lembah Pantai
\textsuperscript{24} W9423, P121 Lembah Pantai
\textsuperscript{25} SC017, P162 Gelang Patah
\textsuperscript{26} J3764, P152 Kluang
\textsuperscript{27} T8527, P037 Marang
\textsuperscript{28} B0915, P119 Tititiwangsa
Political Violence against Candidates, Party Workers and Supporters in the Media

BERSIH 2.0’s Special Committee on the Code of Conduct collected numerous media reports on political violence as well as threats to commit them during the campaign period. The acts of violence included arson and other forms of property damage.

On 16 April, a PAS operations centre in Seri Iskandar, in P069 Parit was reported to have been burnt in the early hours of the morning. A PR van in which party flags were kept was also set on fire and burned by two unknown motorcyclists in P045 Bukit Mertajam.

On 23 April, an explosion occurred in P047 Nibong Tebal during a BN ceramah, injuring one. Police also found a second bomb near the BN operations centre there.

On 24 April, the windows of a campaign van belonging to Er Teck Hwa, the candidate for P145 Bakri, from a PR component member, Democratic Action Party (DAP), were found smashed by suspected thugs.

On 25 April, a car belonging to PKR candidate Dr Xavier Jayakumar’s daughter was torched and burnt by unidentified persons at his home. The neighbour who tried to raise an alarm was also threatened. A BN operations centre at Sungai Sibuga escaped destruction by fire after two individuals on duty at the centre smelled something burning.

On 3 May, a bomb was found at a DAP election campaign site in Jinjang, in P114 Kepong.

Other incidents included molotov cocktails being thrown at campaign or operations centres of political parties. Among them are BN’s operations centres in P093 Sungai Besar, Sekinchan (23 April); in P066 Batu Gajah, Jelapang (25 April); and in P006 Kubang Pasu, Kg. Manggoi, Kg. Gelam, Kg. Machang, and Kg. Padang (27 April).

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The media also reported numerous threats of violence against candidates that even extended to family members.

On 22 April, the then-caretaker Chief Minister of Penang Lim Guan Eng received a death threat against his family via a text message. On 27 April, a call to DAP’s headquarters with a similar threat against his son was also received.

On 2 May, the PAS candidate for P088 Temerloh, Nasrudin Hassan, found a plastic bag filled with chicken head and blood thrown into the porch of his house. A threatening note, “Take this pig’s blood”, was found in the bag.

Later on the same day, a chicken head with a threatening note was also delivered to BN State Chief of Penang, Teng Chang Yeow. The accompanying note read, “If you refuse to withdraw from the election, this is what you and your family will face.”

It was also reported that on 25 April, the BN candidate for P066 Batu Gajah, Dato’ Hamidah Othman, allegedly pulled the collar of PKR candidate Lee Boon Chye. She further confiscated a camera belonging to a party worker and threw it to the ground during a scuffle.

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Party workers and supporters also faced physical violence. In one incident, a party worker was seriously injured in Terengganu when he was reportedly stabbed and assaulted by a group of men when putting up flags. It was also reported that those who attempted to assist him were threatened with violence.\(^{43}\)

On 22 April, several intruders broke apart chairs at PKR’s operations centre in P105 Petaling Jaya Selatan at DM12, PJS 4. Party workers and supporters present were also threatened.\(^{44}\)

Cases of violence were particularly notable in the P121 Lembah Pantai constituency, which led to the PKR candidate lodging numerous police reports on them. In one incident, reported on 13 April, a PKR campaign worker was threatened with a machete.\(^{45}\)

### Intimidation of the Public and Undue Influence

Acts of intimidation against the public (such as the use of loud motorcycle noises and other disturbances) were recorded in 6 (12%) out of the observed constituencies, while acts amounting to undue influence were found in 5 constituencies (10%).

Of special note is the alleged use of native customary rights and livelihood as threats levelled at voters in East Malaysia, all reported to be by BN. Some threats were made in combination with promises of benefits in the event that BN is victorious. Examples observed by PEMANTAU were:

- On 30 April in P170 Tuaran, at about 8:30AM, N9 Sulaman BN candidate Datuk Haji Hajiji and Ketua Anak-Anak Negeri allegedly threatened village chiefs and the Village Security and Development Committees (JKKK) against voting for opposition parties: “...kalau kamu tidak undi BN, kami akan ambil tindakan...” (“... if you don’t vote for BN, we will take action...”)

At about 9:00PM, P170 Tuaran candidate, Datuk Welferd Madius Tangau from United Pasokmomogun Kadazandusun Murut Organisation (UPKO), allegedly promised that, “...Jika kamu undi BN, tanah kamu akan diurus. PTI akan dihapuskan, menghapus kemiskinan...” (“... if you vote for BN, your land will be taken care off. Undocumented migrants will be eliminated, eliminating poverty...”)

At about 11:00AM, the speakers reportedly told the audience that they will each receive RM1,000 from Bantuan Rakyat 1Malaysia (1Malaysia People’s Aid) or BR1M if BN won Sabah.\(^{46}\)

- On 4 May in P174 Penampang at Kampong Babagon, at about 1:00PM, the JKKK President announced to the participants that a bridge connecting Babagon to Timpangoh will be constructed if BN was given the mandate to govern Penampang.\(^{47}\)

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\(^{46}\) S8114, P170 Tuaran

\(^{47}\) S8061, P174 Penampang
On 27 April, it was reported by the media\(^{48}\) that the caretaker prime minister made a statement in Lubok Antu that voters will lose their dignity and self-worth if they were to vote for Sarawak Workers Party candidate, Larry Sng. The BN candidate for Mambong, Datuk Seri Dar James Dawos, also made an accusation that voting for PR will lead to the abolition of the indigenous peoples’ special rights.\(^{49}\)

On polling day, incidents of intimidation against the public were reported by observers in 13 of the constituencies observed (15%). Acts amounting to undue influence were observed in 15 constituencies (17%).

In P037 Marang at SK Merchang, at about 11:45AM, tents erected and excessive campaigning by both BN and PR caused congestion at the main road and a small adjacent road leading to the main gate of the polling station.\(^{50}\)

In P119 Titiwangsa at SMK Cochrane Perkasa, at about 3:30PM, a voter approached PEMANTAU and claimed that he was forced to vote for a certain party. He had come out of the polling centre yelling vulgar remarks. When approached by PEMANTAU observers, he claimed that EC officials in the polling centre told him to vote for a certain party though it was not clear whom they persuaded him to vote for. But he felt that his right to suffrage had been undermined. He was advised to lodge a complaint with the relevant authorities.\(^{51}\)

Media reports of violence were not limited to candidates, party workers and supporters.

In P044 Permatang Pauh, on 26 April, an EC officer lodged a police report after he and his colleagues were threatened upon arriving at party operations centre to check on it.\(^{52}\) In P013 Sik, an 11-year-old boy was allegedly kicked and suffered injuries caused by unidentified supporters of the opposition for admitting that he supported BN.\(^{53}\) In P050 Jelutong, on 16 April, a hawker in Penang was attacked and beaten when he attempted to remove 1Malaysia flags put up in his house compound.\(^{54}\)

Throughout GE13, instances of violence and threats against journalists were also reported in the media. Prior to nomination day, on 8 April, a reporter from \textit{Malaysiakini} was threatened when he asked about the use of assets of government agencies (Information Department) at a BN campaign event in P115 Batu.\(^{55}\)

On 21 April, a reporter from \textit{Nanyang Siang Pau} was threatened by workers at a BN operations centre in P083 Kuantan in Indera Mahkota while she was covering BN’s election preparation work.\(^{56}\)


\(^{50}\) T8510, P037 Marang

\(^{51}\) W9402, P119 Titiwangsa


On 24 April, a photojournalist from China Press was punched by a man with a group of bikers wearing 1Malaysia T-shirts when they were disrupting a ceramah by DAP in P051 Bukit Gelugor.57

**Statements Promoting Hostility and Ill-Will.** Acts amounting to the promotion of ill-will were reported in 14 constituencies (27%) out of the 51 observed.

On 22 April in P119 Titiwangsa at a BN operations centre in Jalan Wira, Taman Maluri, BN candidate Johari Ghani accused PKR of encouraging students not to repay their study loans via the National Higher Education Fund (PTPTN) and mocked PKR de facto leader Dato' Seri Anwar Ibrahim’s alleged ambitions of becoming prime minister. He also accused electoral training group Tindak Malaysia and BERSIH 2.0 of intending to cause chaos on polling day to discourage voters from casting their ballots. 58

On 3 May in P119 Titiwangsa at Setiawangsa, the caretaker prime minister allegedly claimed that voting for the opposition will lead to uncertainty or chaos similar to Egypt’s. Statements amounting to unfounded allegations were made against PR parties.59

**Statements Laced with Racial Undertones.** PEMANTAU observed racist or racial sentiments being used during the campaign period in 12 constituencies (24%). These ranged from subversive advertisements on billboards by BN, which attempted to indicate that the opposition supports violence, to printed advertisements by MCA in the local newspapers, which attempted to instigate racial fear. Statements amounting to racial and religious sentiments were observed largely in speeches and flyers by BN.

On 26 April in P162 Gelang Patah, Johor, while the DAP candidate for the constituency, Lim Kit Siang, and PAS candidate for P161 Pulai, Salahuddin Ayub, were doing a walkabout at a night market, individuals identified as BN party workers distributed leaflets alleging Lim of being responsible for the May 13 racial riots. The leaflets also contained the phrase: “Renungilah… Satu undi untuk DAP/PKR/PAS bermakna merestui penghinaan terhadap Islam, asas kenegaraan dan orang Melayu.” (Ponder upon it...a vote for DAP/PKR/PAS means giving blessing to insults against Islam, the foundation of the State and the Malay people.)60

Also on 26 April, a PEMANTAU observer in P121 Lembah Pantai received a mass text message from an unknown person with probable malicious intent. The message read as follows:

![Image of text message](image_url)

**SMS received by an observer in P121 Lembah Pantai.**

58 W9253, P119 Titiwangsa
59 W9255, P119 Titiwangsa
60 SC017, P162 Gelang Patah

(“...The ones who get rich are all Chinese. Interfering with Malay rights. The BN government is afraid of the Chinese. The Malays are the ones suffering! Let’s thrash the Chinese. Spread the SMS. Come unite as one towards the future...”)

There were also other reports received by PEMANTAU in the same constituency of similar racist text messages being received. One of them reads as follows:

“...Saya kena buang kerja pasal cina tunjuk kuasa. Hantar cina ke Lahad Datu atau bawa kiram ajar cina!! Melayu jadi kuli ditempat sendiri! Apa nak jadi? SMS kawan2...”

(“... I was sacked because the Chinese showed their power. Send the Chinese to Lahad Datu or bring Kiram [Jamalul Kiram III, who was behind the Sulu intrusion in Lahad Datu] to teach the Chinese a lesson. The Malays have become coolies in their own land. What’s going to happen? SMS your friends...”)

On 30 April, at a BN event in P121 Lembah Pantai in Bangsar, the speakers alleged that PR did not support Indian Malaysians, pointing to the so-called fact that there were no Indian representatives in DAP’s Central Executive Committee. The speakers alleged that this was also why the Hindu Rights Action Force (HINDRAF) had joined BN.\textsuperscript{62}

On 2 May, in P117 Segambut at Sri Hartamas, PEMANTAU observers received a leaflet distributed by a team of young men and women. These individuals claimed to be from an NGO called “SEDAR” and they were carrying out an academic survey related to their studies. The leaflets were dropped onto car windscreens along Jalan Sri Hartamas 11. Judging from their appearance and the numerous grammatical mistakes on the flyers, the individuals were believed to be students employed by BN to carry out a smear campaign against PR.

The flyer contained the statement as follows (spelling corrected):

“Kit Siang adalah bekas setiausaha Lee Kuan Yew... ("Kit Siang was Lee Kuan Yew's ex-secretary...") Chinese and Indian have to give full support for Gerakan, MCA, MIC & PP [sic] if they don’t want their opinion to be abandoned and became a minority in BN & the Government... Orang PAS harus sedar menyokong DAP adalah satu kesilapan!... ("PAS people must realise that supporting DAP is a mistake!...")

It contained images of DAP and PAS with the wording, “logo mereka sama” (“their logos are identical”) and a photoshopped picture of DAP Secretary-General Lim Guan Eng in a pastor’s robe, captioned, “Father Joseph Lim Abdul Aziz.”\textsuperscript{63}

\textsuperscript{61} W9121, P121 Lembah Pantai
\textsuperscript{62} W9181, P121 Lembah Pantai
\textsuperscript{63} W9181, P117 Segambut
Leaflet distributed in P117 Segambut.

**Statements Laced with Religious Bigotry.** Religious hatred was featured in campaigns in 13 constituencies (25%) out of those observed during the campaign period.

Statements promoting religious bigotry and intolerance are often combined with racist sentiments.

In P162 Gelang Patah at Southern College, Skudai, at an event organised by the caretaker prime minister on 29 April, leaflets containing racial and religious sentiments were distributed.64

In P174 Penampang at Kg. Tomposik, on 3 May, between 10:45PM and 11:15PM, the BN candidate for the constituency, Tan Sri Bernard Dompok, claimed that if people voted for PR, Sabah would become a hudud state.65 At Kg. Nampasan, Philip B. Lasimbang, the BN candidate for Moyog, a state seat within the constituency, and another speaker, Beatrice Sogondu, warned of the perils of a victory for PR, claiming that should hudud be implemented, it would bring trouble and hardship to Sabah.66

**Statements Containing Insults based on Sexuality and Misogyny.** Personal attacks based on private sexual transgressions as well as against the sexuality of the candidate were also recorded. There were instances of misogynistic statements against women candidates.

On 27 April, at a PR event in P121 Lembah Pantai at the Kuala Lumpur & Selangor Chinese Assembly Hall, two speakers invoked MCA president Dr Chua Soi Lek’s sex scandal. PKR member Low Chee Chong had reportedly referred to Chua thus, “…unlike CSL who does not have any clothes on…”67

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64 SC015, P162 Gelang Patah  
65 S8169, P174 Penampang  
66 S8100, P174 Penampang  
67 W9198, P121 Lembah Pantai
In P125 Putrajaya at Presint 16, at a BN event, “Exposing the Pakatan Leaders”, on 1 May, sex videos and audio recordings alleged to be linked to PKR’s Anwar Ibrahim and PAS Secretary-General Datuk Mustafa Ali were played to the crowd. Inappropriate comments were made with regard to the two PR leaders’ credibility, morality and private lives.\textsuperscript{68}

The media reported that misogynistic and sexualised smear messages were deployed against women candidates. On 27 April, the PKR candidate for P083 Kuantan, Fuziah Salleh, filed a police report over a text message which had sexual connotations.\textsuperscript{69}

The DAP candidate for P163 Kulai, Teo Nie Ching, was subjected to misogynistic pamphlets distributed in her constituency during the campaign period. The Chinese-language pamphlet depicted her deserting her constituents to nurse her baby. In one of the captions contained in the pamphlet, she was portrayed as telling her baby that she would be back to suckle the child after she had finished hoodwinking her constituents. There was also a caption that appeared to represent her constituents’ concern: “You’re going back to suckle. If we have a problem, whom should we look for?”\textsuperscript{70}

\begin{figure}
\centering
\includegraphics[width=0.5\textwidth]{pamphlet.png}
\caption{Obscene pamphlets distributed in Teo Nie Ching’s constituency.}
\end{figure}

\textsuperscript{68} W9254, P125 Putrajaya
Response from Election Participants. Politicians further fuelled the violence by making inappropriate public statements clearly aimed at gaining political mileage, regardless of the consequences. Politicians also sought to blame their political rivals, instead of working together to investigate and condemn the violence. For example, the MCA president claimed that the violence was caused by the Opposition sowing hatred among voters and supporters.71

Malaysian police was quick to respond to some of the incidents, such as in Terengganu and Penang, with a number of perpetrators taken to court. However, other incidents were not addressed, including the continuing violence in P121 Lembah Pantai.

Despite the assurance from the then-IGP Tan Sri Datuk Utama Haji Ismail bin Haji Omar on 3 April that the police force will ensure things were peaceful and controlled throughout the election period,\textsuperscript{72} violence continued to occur. The police also stated that they would use the Security Offences (Special Measures) Act 2012 to investigate those arrested during the election period. However, the National Human Rights Commission (SUHAKAM) later criticised this law

for violating human rights.³³ The police regularly updated the public on incidents of political violence through mass and social media, though they were not consistent towards the end of the election period. An update was announced on 26 April, stating that 1,056 cases were recorded since the dissolution of Parliament. Another announcement made on 27 April stated that 1,166 cases were recorded since nomination day.³⁴ On 3 May, it was announced that 35 individuals have been charged in court pertaining to the incidents.³⁵

While candidates, party workers and supporters appeared to be the main targets of political violence during GE13, it should be emphasised that the use of political violence also affects the ability of voters to make free and informed choices. A culture of violence is detrimental to the democratic process and, ultimately, victimises voters.

**Electoral Roll Irregularities**

The powers, duties and responsibilities of the EC are set out in the Election Act, Section 3-5 and are guided by Regulations 25(2)(b) to (g) of the Elections (Registration of Electors) Regulations 2002. These are important laws and regulations that allow the EC to protect the integrity of the electoral roll.

PEMANTAU observers documented 67 cases of electoral roll irregularities (see Graph 5) on polling day, through direct observation and complaints from voters.

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In 12 constituencies (14%) out of the parliamentary constituencies observed, there were complaints of registered voters’ names being missing from the electoral roll; in 7 constituencies (8%), there were complaints of voters’ polling stations being changed without notice; and in 6 constituencies (7%), there were complaints of voters’ parliamentary or state constituency being changed without notice.

Examples of cases observed were:

- In P47 Nibong Tebal, at SJK Yok Eng, two registered voters were not allowed to vote and records of them having voted before did not show up on the EC website.\(^7^6\)

- In P170 Tuaran at SJK (Cina) Chen Sin, a voter could not find his name in the electoral roll even though he had voted in two general elections.\(^7^7\)

A number of voters found that records at the polling stations showed they had apparently “voted”. This could be due to genuine human error or, more sinisterly, other individuals using their identities (please refer to the Personation section on page 44).

Such irregularities also featured in the public complaints received by PEMANTAU during the election period, totalling 592 reports. The topmost irregularity was that of missing names of registered voters in the electoral roll (see Graph 6).

<table>
<thead>
<tr>
<th>Graph 6: Cases Received through Public Complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registered but never voted. No record now.</td>
</tr>
<tr>
<td>Registered without consent.</td>
</tr>
<tr>
<td>Registered and voted before. No record now.</td>
</tr>
<tr>
<td>Miscellaneous problems</td>
</tr>
<tr>
<td>Voting area shifted to another place.</td>
</tr>
<tr>
<td>N/A</td>
</tr>
</tbody>
</table>

In terms of the geographical spread of the complaints, the most number of complaints came from Johor, with 115 cases (19%), followed by Penang, with 87 cases (15%), and the Federal Territory of KL, a close third with 80 cases (14%).

These complainants were mostly made by young citizens. A total of 211 cases (36%) were reported by those aged 20-29 years old; those in the next age bracket, 30-39 years old, lodged 208 complaints (35%). There were slightly more reports coming from women, who lodged 318 (54%) of the complaints.

\(^7^6\) P6654, P047 Nibong Tebal  
\(^7^7\) S8057, P170 Tuaran
Through the PEMANTAU online public complaints, the following issues were reported:

**Registered as a voter but never voted before and then deregistered.** PEMANTAU received 230 reports (39%) of first-time voters whose names “disappeared” from the roll prior to or on polling day despite being initially confirmed as registered voters. In February 2013, a registered voter checked her status online and received confirmation that she was still a voter, but when she re-checked on 29 April, her record was not found.

**Registered and voted previously, now deregistered.** There were 103 reports (17%) of those who had been registered and had voted before but were then deregistered without their knowledge.

A voter from Kuala Lumpur complained that her name was not in the 2013 electoral roll although she had voted in all past elections and her status had been intact in September 2012 when she checked the roll.

Another voter from Kuala Kangsar reported that when he checked in March 2013 using his own national registration identity card (NRIC) number, a Malay name with a residing address at Kem Tentera Sg Besi appeared. When he contacted the EC, they could not find the person bearing the Malay name; nor was there any record of the voter or of his voting history.

**Never registered but was registered without their knowledge.** PEMANTAU received 116 reports (20%) of voters who did not register but found themselves registered without their knowledge. Such “automatic” registration happened both domestically and to Malaysians overseas.

One such voter was a permanent resident in Saudi Arabia who had never registered nor voted, but found that she was somehow already a registered voter. She was very concerned that someone else could be voting on her behalf.

This also happened to a Malaysian residing in Singapore, who was registered as an advance voter in P125 Putrajaya, and to another from P117 Segambut, KL, who was registered as a voter in P172 Kota Kinabalu, Sabah.

One complainant was a citizen and passport holder of the United Kingdom, who found herself registered as a voter without her knowledge in the constituency of P071 Gopeng. When she lodged a police report, she was informed by the police officer: “Where were you raised? Don’t you know that once you’re 21 you are automatically registered?” But automatic registration is not a procedure that has been accepted nor implemented by the EC.

**Registered voters who were relocated to another voting constituency for GE13.** PEMANTAU received 54 reports (9%) of registered voters being “automatically re-designated” to other parts of the country, where they have never resided before.

A voter said, “I am 81 years old and have lived in Bangsar Baru since 1973 and this is the registered address in my NRIC, so why am I registered to vote in (P117) Segambut and not (P121) Lembah Pantai?”

A voter from Johor Bahru found he was registered to vote in Bukit Mertajam. He had not heard of the place before, let alone resided there. When he complained to the EC, he was told there was nothing they could do as it was too late and that if he really wanted to vote, he could travel to Bukit Mertajam, or wait until GE14 to vote, provided he changed his voting constituency from Penang to Johor Bahru.
Dead voters on the electoral roll. The names of dead voters were still found on the electoral roll, which the EC claimed they had cleaned up. Some of the cases were as follows:

- A woman who died in 1990 was still on the electoral roll. Strangely, the records showed she was registered with her new NRIC number. However, the new NRIC policy had not even been tabled and implemented during her so-called registration.

- Another deceased person’s name was discovered on the electoral roll and certified to be an eligible voter in P159 Pasir Gudang; he had passed away seven years ago.

- A deceased woman who passed away in 1981 was still on the roll. There was a voting card sent by BN to her residential address at Ladang Tanah Merah urging her to vote for BN candidates in Johor.

These concerns are not new; they were highlighted in a 2012 study conducted by Dr. Ong Kian Ming, then-director of the Malaysian Electoral Roll Analysis Project (MERAP):

1. A total of 1,062 voters over the age of 100
   A study conducted at the third quarter of 2011 revealed a surprising 3,926 registered voters who are over the age of 100 years. Records showed that on average, these voters had registered at the age of 84, and are mainly from Sabah, which topped the chart with 1,062 of such voters. Trailing behind Sabah is Sarawak, with 475 cases, followed by Johor, with 426 cases.

   For instance, a Penang voter, Koay Hung Chin@Koay Cho Nam, was 116 years old, and another, K. Shaik Dawood a/l Kalandan Sahib, was 115 years old at the time of the study.

2. Inexplicable high number of same names on the electoral roll
   There were 900 “Fatimah binti Ismail” on the roll: 360 were apparently in Terengganu; 230 in Kelantan; 206 in Kedah; and 104 in Pahang. Two other names that were shared by hundreds, by coincidence or otherwise, were: “Ismail bin Ahmad” and “Fatimah binti Ahmad”, of whom there were 412 and 352 in Kedah, respectively. A staggering 29,377 of voters with such ‘highly popular’ names were registered with incomplete addresses.

   The MERAP study found that 28 “Fatimah binti Ismail” had the exact date of birth, and of whom 20 had the same constituency codes, mostly in Terengganu, Kelantan and Kedah.

   The electoral roll had 263 voters in Malaysia with the same name and date of birth, of which 101 returned a blank address, 107 had incomplete addresses, and only 55 had complete addresses.

3. Dubious names of foreigners registered as voters
   A total of 28,593 foreigners were registered as voters in Malaysia, with Indonesians topping the chart at 13,585, followed by Filipinos at 8,358, Pakistanis at 6,491 and Bangladeshis at 159. Sabah recorded the highest number of foreign voters at 55.6% of the total of foreign voters registered on the electoral roll.

   Incomplete names such as “Jamal”, “Hasrul” and “Suwanto” were found on the electoral roll, apart from other discoveries of foreigners being postal voters and yet also having local state codes.
4. Retirees qualified to vote as absent and postal voters

There were questionable individuals being registered as postal voters; mainly from the police and military. A police personnel from Pulai, Johor was registered as a postal voter at the age of 82. Records also showed that 623 postal voters in the police force and 172 postal voters in the military were retirees but were still allowed to vote as postal voters.

Absent voters are defined as those who are on duty and in service on polling day, out of jurisdiction or engaged in full-time studies at any university, college or any higher learning institution, pursuant to Section 2 of the Elections (Register of Electors) Regulations 2002. Yet records revealed that 447 (15%) of the total of 2,981 absent voters were over the age of retirement. One absent voter was even registered at the age of 92. There were also cases of these voters apparently applying to be absent voters at the age of over 70 years.

Issues raised in the study have not been fully resolved as PEMANTAU found similar cases during GE13. Much work is needed on the electoral roll. Yet time and again the EC Chair and his deputy defended the roll and brushed aside serious concerns over these discrepancies. What was even more worrying were testimonies presented before the Royal Commission of Inquiry on illegal immigrants in Sabah, which strongly suggested that the electoral roll in Malaysia needed to be cleaned up.

PEMANTAU’s observation and reports of the Sabah inquiry suggest that these irregularities cannot be entirely blamed on mere administrative errors or the failure of voters to regularly check their electoral registration. Furthermore, the legal framework with regard to the electoral roll is weak and creates a barrier to any challenge to the electoral roll. Section 9A of the Election Act 1958 prohibits any legal challenge to the electoral roll after it is gazetted. There are also no measures or penalties to deal with anyone who may have tampered with the electoral roll.

On 24 August, the EC Deputy Chairperson Datuk Wan Ahmad Wan Omar stated that its priority was to clean the electoral roll. It goes without saying that this is something that the EC must do. A clean electoral roll is critical and attempts to clean it up must be done by the book, transparently and accountably; otherwise, the elections will forever be plagued with a questionable electoral roll.

“Indelible” Ink

PEMANTAU observers received complaints in 21 of the 87 constituencies observed (24%) that the ink was easily removed. In 10 constituencies (11%), voters complained that the application of the ink was inconsistent with EC procedures, and in 2 of the constituencies observed (2%), some voters were told to use the indelible ink on their finger to mark the ballot papers.

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79 Election Act, 1958 (Act 19), Section 9A Certified or re-certified electoral roll shall be deemed to be final, p. 11. (as at 15 March 2013), International Law Book Services. Petaling Jaya.
The following cases show that the EC had misrepresented, if not fraudulently represented, to the public that the ink would be indelible for at least seven days after its initial application:

- In P047 Nibong Tebal, at about 12:00PM, a voter showed his index finger to PEMANTAU observers, demonstrating that it was free of any residue from the indelible ink. 81

- In P053 Balik Pulau at SK Sungai Rusa, a voter demonstrated that the indelible ink applied to his index finger was removed after washing it with water at the polling centre.82

- In the same constituency at SMK Teluk Kumbar 2, at about 3:00PM, at least two individuals complained to PEMANTAU observers on the failure of the indelible ink.83

- In P119 Titiwangsa, at about 12:25PM, two voters informed PEMANTAU observers that the indelible ink could be removed by using wet tissues.84

- In P124 Bandar Tun Razak at SMK Seri Permaisuri, between 9:40AM and 12:00PM, at least 13 voters complained to PEMANTAU observers on the failure of the indelible ink. Many proceeded to lodge formal complaints with the police at the Salak South Police Station but were allegedly given the run-around by the officers. All indelible ink complaints were allegedly re-directed by the Salak South Police Station to Sergeant SM Nagarajan of Pudu Police Station; the reasons for singling out indelible ink complaints and re-directing the complaints were undisclosed.85

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81  P6506, P047 Nibong Tebal
82  P6617, P053 Balik Pulau
83  P6771, P053 Balik Pulau
84  W9344, P119 Titiwangsa
85  W9293, P124 Bandar Tun Razak
A voter in P124 Bandar Tun Razak showing his index finger with the ink almost entirely removed.

A police report lodged by a voter in P124 Bandar Tun Razak over the indelible ink.
The above cases were documented, verified and supported by photographic evidence. It was clear that the indelible ink was indeed removable.

Complaints about the failure of the ink were not unexpected as hours after advance voting on 30 April, PEMANTAU was already receiving numerous complaints from Kelantan, the Federal Territory of KL and Sarawak stating that the ink was removable using hand sanitiser, alcohol swabs, petrol or mere soap.86

Following reports in the media, the EC Deputy Chairperson said the ink could not be removed totally but conceded that it could be removed though still leaving a stain around the fingernail.87 The EC claimed there was nothing wrong with the ink if used correctly. However, the EC conceded that there was negligence on the part of the EC officers who applied the ink, claiming that the indelible nature of the ink depended on the thorough shaking of the ink prior to its application.

EC Chairperson Tan Sri Abdul Aziz Mohd Yusof further defended the ink, claiming that the amount of silver nitrate used in the ink was in compliance with an order from the Ministry of Health that warned of possible cancer or kidney damage from a content of more than 1%. However, the Material Safety Data Sheet for the silver nitrate stated there was no evidence that it was carcinogenic.88

In June, following GE13, Minister in the Prime Minister’s Department, Datuk Seri Shahidan Kassim, in an answer to a question by Segambut MP Lim Lip Eng in Parliament, revealed that the main reason for the easy removal of the ink was due to the use of food colouring in the ink instead of silver nitrate. Shahidan, in a written reply, disclosed that a total of RM7.1 million was spent on the ink with RM6.9 million spent on the purchase of the ink and another RM200,000 spent on transportation, packaging and storage.89

Voting by Pencil or Smudging. Grave procedural irregularities were reported in several polling centres. Pens were not supplied at the polling booths and worse, voters were asked to use either the ink on their finger to vote, even though it would smudge the ballot paper and might result in a spoilt vote, or was given a pencil to vote instead of a pen.

PEMANTAU received complaints on these irregularities in at least 15 polling centres:

1. P009 Alor Setar at SMK Al-Bukhary;
2. P009 Alor Setar at SK Taman Uda;
3. P014 Merbok at Sekolah Agama Daris;
4. P014 Merbok at SM Sains Sultan Muhammad Jiwa;
5. P015 Sungai Petani at SK Patani Jaya;
6. P106 Petaling Jaya Utara at SMK Tropicana;
7. P107 Subang at SM Lembah Subang Jaya Kelana Jaya;
8. P107 Subang at SMK Bandar Utama;
9. P128 Seremban at SK King George V;
10. P128 Seremban at SRJK (Cina) Pei Hua;

11. P129 Kuala Pilah at Universiti Teknologi MARA;
12. P161 Pulai at SMK Seri Rahmat Johor;
13. P164 Pontian at SK Bandar Pontian;
14. P174 Penampang at SMK Datuk Peter Mojuntin; and
15. P196 Stampin at SK Garland.

Marking the ballot paper with a pencil makes the vote erasable while smudging with ink may result in a spoilt vote.

In both cases, the negligence or poor management of the EC resulted in questionable standards of integrity and professionalism within the EC, not to mention the obvious risk of ballot tampering. This breach could have nullified the results of constituents affected and warranted fresh polls pursuant to Regulation 24A(1)(b) of the Elections (Conduct of Elections) Regulations 1981.  

**Bribery**

Bribery is defined in Section 10 of the Election Offences Act 1954 as the corrupt practice of “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 any acts of the same “on account of any elector or voter having voted or refrained from voting at any election.”

Despite an assertion to the contrary by an officer of the Malaysian Anti-Corruption Commission (MACC) in February 2013, these acts need not be committed for the benefit of specific, individual candidates before they become an offence: these are offences regardless of who committed them and for whose benefit, when they are committed for the purpose of corruptly influencing any person’s vote or inducing the person to refrain from voting.

During PEMANTAU’s election observation briefings, experiences related by members of the public point to ignorance of election laws criminalising bribery and a widespread belief that acts amounting to bribery was an intrinsic part of election campaigning. This is due to the habitual use of cash handouts, or promises of the same, and other valuables to “buy” votes.

This remained unfortunately true during the observation period in GE13. PEMANTAU observers noted alleged incidents of bribery involving money or other goods in 5 (22%) out of the constituencies observed on nomination day.

In P032 Gua Musang at Pejabat Tanah Gua between 9:00AM and 12:00PM, BN agents were allegedly handing out RM20 each to members of the public.  

In P047 Nibong Tebal at Dewan Serbaguna Jawi, at about 8:45AM, BN workers were allegedly handing out cash and umbrellas to members of the public.

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90 “…any such error, irregularity or defect in procedure as is likely to affect the validity of the poll occurs at a polling station…”, Election Laws, International Law Book Services, as at 15th March 2013, Regulations 24A (1)(b) of the Elections (Conduct of Elections) Regulations 1981 at page 135. See also: http://www.parlimen.gov.my/images/webuser/jkuasa/memorandom/BERSIH%202.0/Election%20Regulations%201981.pdf at page 21
92 D2237, P032 Gua Musang
93 P6517, P047 Nibong Tebal
In P083 Kuantan at Block C of Wisma Sri Pahang, at 9:30AM to 10:00AM, BN supporters together with a sizeable number of school children were alleged to have been transported to the nomination centre in buses provided by BN. PEMANTAU observers reported that cash in the amount of RM30 each was given to the supporters, on top of BN paraphernalia and food and drinks brought in by two lorries. 

In both of these cases, bribery took the form of cash handouts. However, this was not always the case. During the campaign period, bribery involving valuable consideration and other goods were reported by PEMANTAU in almost half of the constituencies observed while money was allegedly given out in 19 constituencies (37%). Other handouts amounting to bribery included vouchers or tickets, and promises of economic benefit upon the victory of a particular candidate, both of which were reported in 6 constituencies (12%).

Below are some examples recorded by PEMANTAU observers:

- On 24 April, in P107 Subang at Bandar Utama Central Park, PR candidates promised to provide a RM50 monthly allowance each for all housewives, and to reduce petrol and car prices.

- On 29 April, in P174 Penampang at Kg Kipouvo, Bryan Matasing of Unit Pemimpin Kemajuan Rakyat (People’s Development Leaders Unit) told a crowd that a high school would be built in Kipouvo and that procedures to measure and grant ownership of the land to indigenous peoples were already in progress. As well, a Mahkamah Anak Negeri (Native Court) for Penampang was being built in Kibabaig.

- On 2 May, in P107 Subang at Choong Foong Seafood Restaurant, the BN candidate for N39 Kota Damansara, Halimahton Saadiah Bohan, and fellow party candidate for P107 Subang, Prakash Rao, promised to grant permanent land titles for the

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94 C1290, P083 Kuantan
95 B0941 & B1192, P107 Subang
96 S8061, P174 Penampang
Temporary Occupation Licences (TOL) owners of Subang Heights and Jalan 3D; build a new school for Kg Baru Subang, a Chinese temple, 1Malaysia clinics, and a community hall in Mutia Subang; help single mothers through subsidies; help poor families with four to eight children; and lower the assessment and quit rent for the constituency should BN get the people’s mandate to govern.

At about 8:35PM, Halimahton reportedly told the crowd, “...if you give me [the] mandate, give me victory, we can together ‘selesai masalah’ [solve problems]...” and that “...we in BN want rakyat to be ‘senang’ [live at ease]. I promise we want to help... give me your mandate and we can sit down and settle...”

At about 8:42PM, she further said, “... I want to help you but you must help me... you must vote for BN... Najib says if BN wins, cukai pintu [door tax] will automatically go down. If I win as wakil rakyat [State Assemblyperson], we can settle one at a time. Not within one month, give me time...”

At about 9:25PM, Prakash Rao allegedly informed the crowd that he had met the caretaker prime minister the week before and that the latter had agreed to the building of a school that would cost RM800,000, and a road expansion in Sungai Buloh. Prakash reportedly went on to say, “If we win, we can do...if I lose, all cannot be done...school, temple, road all cannot. You help me, I want to help all...”

• On 3 May, in P174 Penampang at Kg Notoruss, the JKKK president Alex Ginsai made election promises to the crowd at a gathering. He allegedly told the participants that the tarred road to Sosopan-Notoruss was already in the pipeline, as was a steel bridge. He claimed that letters of tender were already distributed and announced that licensed contractors should snap up the offer immediately; however, BN had to be elected in order to complete the works.

• On 3 May, in P217 Bintulu, it was alleged that a representative of the Niahmas palm oil plantation treated the residents of a longhouse to a meal before dividend cheques of shares in a joint venture on NCR land were handed out by a representative of the Kemena state representative, Dr Stephen Rundi ak. Utom. Food items such as noodle packs were also distributed.

A number of “creative” forms of bribery were noted by PEMANTAU during the campaign period, including the use of lucky draws. In P121 Lembah Pantai, at an event in Bukit Angkasa on 1 May organised by Malaysian Indian Muslim Congress (KIMMA), the group’s president offered lucky draws to all newly signed-up KIMMA members, who each received a bladeless fan.

In P093 Sungai Besar on 4 May, voters in Sekinchan were treated to dinner and a lucky draw at an event titled “Kita Undi BN” (“We Vote BN”) at a restaurant. The lucky draw prizes included bicycles. In P107 Subang on 28 April, the Malaysian Chinese Association (MCA), a BN component party, threw a dinner in Kg Subang, in which lucky draw prizes were given out.

97 B0681, P107 Subang
98 S8061, P174 Penampang
99 Q7040, P217 Bintulu
100 W9102, P121 Lembah Pantai
101 B1034, P093 Sungai Besar
102 B0510, P107 Subang

by PEMANTAU

Bribery 33
Political candidates and individuals affiliated with political parties were also quick to accuse the other of practising bribery. For example, in P125 Putrajaya, at an Economic Fund for Small Business Financing (TEKUN Nasional) event on 1 May, Putrajaya BN candidate Datuk Seri Tengku Adnan b Tengku Mansor called PAS a “Parti Anak Syaitan” (“Children of Satan Party”) and alleged that PAS workers took pil kuda (methamphetamine) to be able to stay up late and work continuously. He also accused PAS of giving bribes in the amount of RM500 each for Kelantanese and RM250 each for non-Kelantanese.

His message was however undercut by the TEKUN Nasional CEO reportedly telling the crowd to register as a member of TEKUN Nasional, a microlending institution funded by the Federal government, and that their registration would be approved almost instantly. “...Isi pagi, petang boleh dapat kelulusan...” (“Fill in the form in the morning, you get approval in the afternoon.”)\(^{103}\)

The parade of briberies continued to polling day, when PEMANTAU observers reported acts of bribery in 16 of the constituencies observed (18%). Bribery took the forms of cash, cash vouchers, travel allowances or reimbursements, and special claims for voters travelling in from outside of the constituency and those who had sworn to vote for BN by signing Letters of Undertaking.

Below are some of the alleged incidents reported:

- In P037 Marang, at about 2.40PM, BN party workers were reported to have distributed RM50 each to voters on the spot at a Balai Raya near SK Bukit Jelutong. Voters were asked to swear upon the Qur’an that they would support UMNO. A dissatisfied voter on the scene reported to PEMANTAU that he was promised RM200 but was not given the stipulated amount.\(^{104}\)

\(^{103}\) W9499, P125 Putrajaya

\(^{104}\) T8512, P037 Marang
• In P039 Dungun at SK Dendang, at about 11:00AM, cash was reportedly given to voters outside the polling centre at BN’s pondok panas (party booth). Several pieces of red notes, possibly denominations of RM10, were given to voters who were at the pondok panas.105

• In P047 Nibong Tebal at SM Tun Syed Shah Barakbah, transportation was allegedly provided by BN for voters to and from the polling centre. Blue vouchers, likely to be transportation vouchers, were handed out to voters. BN party workers were seen campaigning at the gate of the polling centre, interacting with voters and giving them drinks. The transportation of voters by BN was witnessed by EC officials but no action was taken.106

• In P097 Selayang, at about 4:30PM, voters were allegedly directed to a BN booth that was giving out Borang Pengesahan Pengundi Luar (Verification of Non-resident Voter Form) for “special claims” at a BN office near the Selayang Hospital.107

![Form given out in P097 Selayang for special claims at a BN office.](image)

• In P107 Subang at SMK Sri Damansara 2, alleged members of Wanita BN were openly requesting bank account details from voters at a pondok panas opposite the main gate of the polling centre in what appeared to be implicit offers of money in exchange for the consideration of a vote for the BN.108

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105  T8521, P039 Dungun
106  P6505, P047 Nibong Tebal
107  B1195, P097 Selayang
108  B0661, P107 Subang
• In P121 Lembah Pantai at SK Bangsar Kuala Lumpur, at about noon, it was reported that BN workers were handing out vouchers to voters at the polling centre.109

• In P159 Pasir Gudang at Taman Molek, at about 1:00PM, distribution of cash was reported at Pejabat UMNO Bahagian Pasir Gudang in Taman Molek.

People queuing outside an UMNO branch office in P159 Pasir Gudang on polling day.

• Voters were observed to have queued at the office to obtain a reimbursement for travel expenses of up to RM100 each. However, some voters were seen queuing without the required form for reimbursement.

• At about 3:00PM, a member of the public made an allegation to PEMANTAU observers that BN had set up a booth at No. 20, Jalan Bunga Mawar, Plentong and was distributing cash of up to RM100 each to voters about 250 metres from Sekolah Agama Tun Hussein Onn, Plentong.110

• In P161 Pulai at SK Nong Chik, voters were allegedly transported by BN members’ vehicles to the polling centre. At about 8:20AM, a woman holding a form with the BN logo approached a PEMANTAU observer and enquired where she could get reimbursements for travel expenses. The woman claimed that she was originally registered in Pasir Gudang but has been transferred to Pulai.

• Later at about 9:00AM, PEMANTAU observers spotted a dwelling that had been transformed into a BN operations centre. It was observed that the centre dealt specifically with complaints and transportation issues. There were name cards of candidates found at the reception table in the operations centre.111

109 W9076, P121 Lembah Pantai
110 J3802, P159 Pasir Gudang
111 J3985, P161 Pulai
• In P168 Kota Marudu at SK Tigaman, a PEMANTAU observer reported that BN workers were handing out cash to voters who had pledged allegiance to BN. A list of names was sighted containing the names of the voters who would vote for BN. The voters were paid in cash after voting.\textsuperscript{112}

• In P170 Tuaran at SK Tiong Perungusan, BN workers from UPKO were alleged to have handed out cash in the amount of RM50 each for voters who had voted for BN after exiting the polling centre. Transport allowances were also reportedly given between 10:00AM and 4:00PM to voters who had travelled from outside their jurisdiction to vote in the constituency.\textsuperscript{113}

• At the same venue, a State Reform Party (STAR) politician who visited the polling centre allegedly campaigned for votes by treating voters to DeStar alcoholic beverage and handing out cash in the amount of RM200 each to voters.\textsuperscript{114}

• In P172 Kota Kinabalu, at around 4:50pm, PEMANTAU observers reported a long queue of people outside the UMNO branch office in Wisma YAKIM, Kota Kinabalu. There were uniformed personnel supervising the queue. When asked, one of the uniformed personnel explained that the office was giving out \textit{duit tambang} (“fare money”) for people who voted in the Api-Api state assembly constituency. Another uniformed personnel confirmed this, and also said that the amount given was RM100 per person.\textsuperscript{115}

\begin{center}
\includegraphics[width=\textwidth]{image.png}
\end{center}

Screen capture of a video taken outside an UMNO branch office in Kota Kinabalu on polling day.

• At about 9:00AM, cash in the amount of RM50 and RM100 each were reportedly given to voters in P191 Kalabakan at SK Kg Mentadak Baru. The cash was given in a folded envelope, accompanied by a letter pleading for voters to vote for BN. A PEMANTAU observer himself received the letter and money. However, he alleged

\textsuperscript{112} S8119, P168 Kota Marudu
\textsuperscript{113} S8114, P170 Tuaran
\textsuperscript{114} S8114, P170 Tuaran
\textsuperscript{115} SC013, P172 Kota Kinabalu
that letter was later retrieved by BN workers who feared that it would leave a trail of evidence against them. Also in the same constituency, at SMK Merotai Besar, cash amounts of RM50, RM100 and RM500 each were reportedly given out by BN workers, including the Kalabakan BN head at the BN operations room, as well as others near the polling centre.

Overall, observations by PEMANTAU confirmed the many allegations of bribery and money politics that have long marred elections in Malaysia. PEMANTAU noted that all instances of alleged bribery on nomination day and polling day happened in broad daylight, in public or semi-public settings. During the campaign period, election promises and handouts that could amount to bribery were common content in speeches and other campaign events.

Bribery is a form of corruption that chips away at public trust in their elected representatives. More importantly, the buying of votes through bribery is a violation of the fundamental right of voters to exercise their choice at the ballot box unimpeded. This further lowers public trust in the process and outcome of the elections as a democratic institution that best expresses the free will of the people.

Section 11 of the Election Offences Act 1954 sets down the punishment for individuals convicted of corrupt practices. Every person convicted of “the offence of personation, or aids, abets, counsels or procures the commission of the offence of personation” and “the offence of treating, undue influence or bribery” can be imprisoned for a term not exceeding two years and fined not less than RM1,000 and not more than RM5,000. Article 115 of the Federal Constitution makes it mandatory for all public authorities to assist the EC with the discharge of its duties upon request, including the police and other investigatory bodies, giving the EC wide-ranging powers to investigate and prosecute allegations of bribery.

PEMANTAU is impelled to question, then, why there were not more investigations and prosecutions related to the use of bribery in elections. The entrenched nature of the culture of money politics in Malaysia, and the open manner with which cash and other valuables were handed out, points to a failure in the exercise of duty by institutions empowered to safeguard the integrity of elections in Malaysia.

**Treating**

Treating was by far the most common election offence observed during GE13. It is so widespread, in fact, that many Malaysians including candidates and party workers were not aware that treating is an election offence. During nomination day, treating was observed in 8 of the 23

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116 S8098, P191 Kalabakan  
117 S8129, P191 Kalabakan  
118 Defined in Section 8 of the Election Offences Act as “…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.”
constituencies under watch (35%). It was done either with food and drinks or party merchandise such as hand fans and umbrellas.

It was also rampant during the campaign period: PEMANTAU observers reported the distribution of food and drinks in 20 (39%) of the constituencies under watch, and merchandise in 16 constituencies (31%). Food and drinks were distributed to voters in 21 parliamentary constituencies (24%) during polling day.

Treating as a campaign strategy by BN was observed to have largely taken the form of lavish dinners with political speeches and entertainment, social events, a marathon and even award presentations by government agencies and machineries such as Rubber Industry Smallholders Development Authority (RISDA) and TEKUN Nasional. Usually, in such events, attendees would be given door gifts and treated to lucky draws as well as performances by entertainers who are engaged by party workers. Minors, too, were sometimes engaged to help with preparation of the venue and serving food. Treating sometimes took place in conjunction with handouts, offers or promises amounting to bribery. Food, drinks, BN paraphernalia, goodies, hampers, cash vouchers, travel claims\textsuperscript{119} and even raincoats\textsuperscript{120} were distributed to the participants during the campaign period.

Below are examples of treating observed by the PEMANTAU team:

In P009 Alor Setar at Kompleks Belia dan Sukan Kedah, at about 8:50AM, PEMANTAU observers witnessed a lorry loaded with mineral water bottles, food, T-shirts, BN flags, hats, umbrellas and other paraphernalia being distributed to supporters and members of the public on nomination day. At about 10:25AM, the lorry drove into the restricted zone where mostly Barisan Jemaah Islamiah Se-Malaysia (BERJASA) supporters had gathered. However, the lorry was swiftly shown the exit by the police.\textsuperscript{121}

\textsuperscript{119} S8114, P170 Tuaran
\textsuperscript{120} W9160, P118 Setiawangsa
\textsuperscript{121} K5056, P009 Alor Setar
• BN supporters were seen distributing T-shirts, hand fans, and mineral water bottles with "Undilah BN" motifs to the public in P037 Marang at Pejabat Daerah Marang on nomination day. Similarly, in P039 Dungun at Pejabat Daerah Dungun, these standard items were handed out to party supporters and members of the public.

At about 10:15AM at the same nomination centre, PAS supporters were seen distributing mineral water bottle to people who had gathered and marched with the party supporters.

There were numerous reports of treating during the campaign period. Some of them were:

On 20 April in P097 Selayang, PR held a Hi-Tea Anak Muda Bersama Pakatan Rakyat (Youth High Tea with Pakatan Rakyat), where refreshments were served and lucky draw prizes given to attendees.

Refreshments at a PR high-tea in P097 Selayang.

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122 T8510, P037 Marang
123 T8582, P039 Dungun
124 T8530, P039 Dungun
125 B0940, P097 Selayang
• In P117 Segambut, at a Taman Bukit Maluri residents’ family day gathering on 26 April, the usual door gifts, food and drinks were observed to be distributed by a group called Persatuan Inspirasi Wanita Taman Bukit Maluri, believed to be in support of BN.126

• On 26 April in P097 Selayang, an 8-course dinner organised by a local temple at Bandar Country Homes in Rawang turned out to be sponsored by MCA Selayang Youth Section. The “guests of honour”, Dato' Donald Lim Xiang Chai, the BN P097 Selayang candidate, and Lee Li Yen, the BN N14 Rawang candidate, gave campaign speeches urging attendees to vote for BN. Aside from the lavish dinner, lucky draw prizes were also given out.127

Dinner sponsored by MCA in P097 Selayang.

• On 27 April and 3 May, at Kuala Lumpur & Selangor Chinese Assembly Hall, mineral water bottles emblazoned with PAS and DAP logos were distributed to the participants. DAP also distributed clapsticks bearing its logo.128

• On 28 April, in P104 Kelana Jaya at Kg Lindungan Petaling Jaya, an event organised by PR saw food and drinks being served as breakfast for the participants.129 At another event organised by PR, food and drinks were also offered by an NGO, Malaysian Tamil Today, believed to be in support of PR.130

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126 B1183, P117 Segambut
127 B1150, P097 Selayang
128 W9255 & W9198, P119 Titiwangsa and P121 Lembah Pantai
129 B0581, P104 Kelana Jaya
130 W9198, P115 Batu
• In P107 Subang at Choong Foong Seafood Restaurant in Kg Subang on 2 May, about 70 tables of participants were treated to an 8-course Chinese dinner and a lucky draw of electronic appliances. Prizes were presented by community leaders and school principals, together with the party candidates. Two RM300 mock cheques were given to a single parent and a female kidney patient.¹³¹

Treating continued on polling day to entice voters:

• In P047 Nibong Tebal at SMK Tun Syed Shah Barakbah, BN workers were seen at the gate of the polling centre interacting with voters. Mineral water bottles bearing the BN logo were handed out to voters. PEMANTAU had also observed what appeared to be vouchers being distributed to voters by BN workers. Voters were also being transported to the polling centre. The EC officials who were there did not react to stop the questionable activities.¹³²

![Treating in P047 Nibong Tebal on polling day. The man in white shirt is the BN candidate for the State seat of Sungai Bakap, Mohd Foad bin Hj Mat Isa.](image)

• In P107 Subang at Anjung Bestari Politeknik Sultan Salahuddin Abdul Aziz Shah, PEMANTAU observed that drinks, food and freebies were handed out by BN workers to voters.¹³³

¹³¹ B0642 & B0681, P107 Subang  
¹³² P6506, P047 Nibong Tebal  
¹³³ B0585, P107 Subang
In P107 Subang at SK Bukit Lanjan, at about 8.30AM, representatives of the Orang Asli Affairs Department (JAKOA) were seen giving away packet drinks and food to the Temuan who have voted for BN. These voters were ushered to the BN pondok panas for food and drinks after voting. Upon questioning by PEMANTAU, JAKOA reportedly answered that the treating was just charity since the indigenous peoples were often marginalised by the government.\textsuperscript{134}

In all of these reported instances, treating was done in the open. While treating may be perceived to be less serious than bribery, it creates a political environment conducive to public expectation of election sweeteners, and where political parties and candidates feel that they are not bound by election laws in handing out the same. The same punishment proscribed in the Election Offences Act for bribery also applies to treating, which implies that the drafters of the law viewed treating to be a corrupt practice on the same level as bribery.

The lack of censorious response by the EC on the widespread treating strengthens perceptions of it as a “toothless” commission subservient to the ruling party (given the numerous instances of treating by BN, although PR too commits this to a lesser degree), and that it is either unable or unwilling to discharge its duties as an election management body. As the case with bribery, the EC cannot be excused on the grounds that it lacks legal backing to investigate and prosecute alleged offenders, given enabling provisions within election laws and the Federal Constitution.

\textsuperscript{134} B0557, P107 Subang
Personation

Of particular concern were reports of suspected personation or “dubious voters” in 24 (28%) out of the constituencies observed on polling day. The veracity of these reports must be further investigated as, in combination with existing concerns over the integrity of the electoral roll, they could indicate widespread voter fraud.

Section 7 of the Election Offences Act 1954 stipulates that: “...every person who at an election applies for a ballot paper in the name of some other persons, whether that name be that of a person living or dead, or of a fictitious person or who, having voted once at any such election, applies at the same election for a ballot paper in his own name, shall be guilty of the offence of personation...”

PEMANTAU observers reported a number of cases where voters found that someone else had voted using their personal details:

- In P037 Marang at SK Bukit Jelutong, at least one incident of multiple voting was reported. A woman who had voted at a nearby polling station was allegedly seen walking into another polling centre to vote for the second time.135

- In P047 Nibong Tebal, at SJK Yok Eng, a woman found out at the time of voting that her name had already been crossed out and that another individual had voted under her name. She requested for Form 11A but the EC refused to respond to her demands for redress. She has since lodged a police report against the fraudulent voter and the EC's non-response.136

- In P053 Balik Pulau at SK Sungai Pinang, a voter complained that his name had been used by another voter.137

- In P090 Bera at SMK Triang, a registered voter was told by the EC that his NRIC number had already been used to vote by another individual.138

- In P119 Titiwangsa at SJK (Tamil) Kg Pandan, a voter discovered that his NRIC number had been used earlier by an unknown individual to cast a vote. The voter insisted on voting as his finger was unmarked, proving that he had yet to vote. After much persistence on his part, the EC allowed him to cast his vote. However, his vote may not count as such.139

135  T8512, P037 Marang
136  P6654, P047 Nibong Tebal
137  P6560, P053 Balik Pulau
138  C1215, P090 Bera
139  B0915, P119 Titiwangsa
This man found that his NRIC number was used by an unknown individual to vote.

Other reported incidents were:

In P039 Dungun, two foreign nationals suspected of being phantom voters were apprehended by the public. One had indelible ink stained on both index fingers.\(^{140}\)

In P174 Penampang at SM Tinggi Kota Kinabalu, an individual was asked to produce his NRIC by a security personnel at the polling station. He was denied entry to vote but returned shortly with another NRIC. Upon questioning by PEMANTAU, the security personnel revealed that the first NRIC showed a Tawau address, but the second contained a Penampang address. Upon questioning by members of the public, the individual admitted that the second NRIC with a Penampang address was given to him at an undisclosed campsite on the same day. He was asked to leave the polling station by the members of the public. Police personnel who were present, however, did not make any arrest.\(^{141}\)

Two different NRICs with identical names used by one person attempting to vote.

\(^{140}\) T8626, P039 Dungun
\(^{141}\) S8024, P174 Penampang
• In P175 Papar at SRK St Mary, a suspicious voter with a registered address at Kg Gersik Lama in the Federal Territory of Labuan was observed to be voting there instead. PEMANTAU observers noted that the voter had with him a Letter of Verification of Non-residents issued by Pengarah Jentera Barisan Nasional Kawasan P166 Labuan.142

PEMANTAU presents the above cases with caution, as further investigation is needed. In the case of the incidents reported in Sabah, given the testimonies before the Sabah RCI and the 2001 Likas case, it has been established that “phantom voters” were on the electoral roll in Sabah. As discussed above in Electoral Roll Irregularities, however, the overall integrity of the roll nationwide is under question.

The EC has a duty to maintain the electoral roll under Regulations 25(2)(b)143, 25(2)(c)144, 25(2)(d)145, 25(2)(e)146, 25(2)(f)147, and 25(2)(g)148 of the Elections (Registration of Electors) Regulations 2002. Pursuant to Article 115(2) of the Federal Constitution, the EC is also empowered to request that the police assist it in discharging its duties, including a full and thorough investigation into allegations of personation and phantom voters. These allegations are a severe breach of public trust, and deserve nothing less than such an investigation.

**Illegal Campaigning**

The Election Offences Act 1954 stipulates that campaign activities can be only be carried out within a period set by the EC, excluding nomination day and polling day. Campaigning for the 13th General Election started even before the Parliament was dissolved on 3 April 2013. Party flags from all quarters were seen throughout the country in anticipation of the upcoming general election, prior to the announcement of the official campaign period.

**Campaigning on Nomination Day.** In 6 constituencies (26%) observed by PEMANTAU, candidates and political parties carried out campaigning activities despite a legal prohibition against campaigning on nomination day, under Section 24A of the Election Offences Act 1954. Campaign materials were also observed to have been brought into the 50-metre restricted zone outside nomination centres.

Campaign materials were distributed openly to all participants at the nomination centres where BN candidates were contesting.

In P009 Alor Setar at Kompleks Belia dan Sukan Kedah, at about 9:00AM, BN posters, flags and banners were seen fixed and displayed within the 50 metres restricted zone. At the same time, food, water and party paraphernalia were distributed to members of the public, which constitutes the election offence of treating.149

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142 S8024, P175 Papar
143 “correcting any error or omission with regard to the particulars of the registration of any person”
144 “inserting any new particulars with regard to the registration of any person”
145 “striking out any superfluous entry in the principal electoral roll or the supplementary electoral roll”
146 “deleting the name of any person who the Chief Registrar is satisfied is dead”
147 “striking out name of any person who has renounced, or who has been lawfully deprived of, his citizenship”
148 “striking out the name of any person who, in the opinion of the Chief Registrar, is not entitled, for any reason, to remain or be in the principal electoral roll or the supplementary electoral roll”
149 K057, P009 Alor Setar
In P039 at Pejabat Daerah Dungun at about 9:05AM, about 20 BN supporters, including the wives of candidates, were seen breaching the restriction zone with BN flags and the party uniform, walking past police officers on duty. However, at about 9:17AM, upon police instructions, the group left the restricted area.\(^{150}\)

In P047 Nibong Tebal at Dewan Serbaguna Jawi, Penang, at about 9:30AM, PEMANTAU observed that there were BN banners and flags affixed at the nomination centre’s fence. A BN flag was also hoisted up a flag pole at an adjacent hall next to the nomination centre. However, PEMANTAU also sighted a PAS supporter delivering a political speech within the restricted zone.\(^{151}\)

In P107 Subang at Bandar Utama 3 Community Centre, EC officials refused a PR candidate entry to the nomination centre on the grounds that the candidate was wearing a party uniform. Entry was granted after a 10-minute protest and negotiation.\(^{152}\)

The use of musical instruments and loudspeakers was prevalent among the party workers and supporters in general, predominantly of BN. For instance, a loudhailer was used in P027 Tanah Merah at Pejabat Tanah dan Jajahan Tanah Merah\(^{153}\) by BN supporters, creating a disruption at the nomination centre. There was verbal provocation from supporters of the opposing parties. A loudhailer was also used by PAS supporters in P039 Dungun at the Dungun Municipal Council.\(^{154}\)

On the issue of crowding at nomination centres, the EC chairperson made a statement that the commission could not stop the presence of excessive numbers of supporters. He said: “We must change the culture. I am merely appealing to the parties because, under the law, I do not have the power to stop such a practice, but if too many supporters throng the nomination centres, it will give the local authorities a difficult time to control the crowd.”\(^{155}\)

However, Article 115 of the Federal Constitution empowers the EC to request for help from any public authority to control situation, and if the need arises, to investigate and prosecute breaches of election laws. Under Section 24A(3) of the Election Offences, any person who contravened provisions limiting campaign activity on nomination day was liable, upon conviction, to imprisonment for a term not exceeding one year or to a fine not exceeding three thousand ringgit, or to both such imprisonment and fine.

**Campaigning on Polling Day.** In 38 (44\%) out of the 87 parliamentary constituencies observed, campaigning continued on polling day despite the legal prohibition in Section 26 of the Election Offences Act. In 22 constituencies (25\%), campaigning was carried out within the 50-metre boundary.

In P009 Alor Setar at SJK (Cina) Pumpung, PEMANTAU observed the use of loudhailers and party flags and banners by both PR and BN party workers in the restricted zone. The situation turned aggressive and almost erupted to a fight until an elderly woman warned them to stop because a group of PEMANTAU observers were approaching to investigate the situation.\(^{156}\)

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\(^{150}\) T8580, P039 Dungun
\(^{151}\) P6503 & P6517, P047 Nibong Tebal
\(^{152}\) B0685, P107 Subang
\(^{153}\) D2127, P027 Tanah Merah
\(^{154}\) T8530, P039 Dungun
\(^{156}\) K5012, P009 Alor Setar
In P053 Balik Pulau at SMK Bayan Lepas, at about 10:30AM, PEMANTAU observers noticed a woman in BN attire roaming about within 30 metres of the polling centre and appearing to be ushering voters and campaigning.\(^{157}\)

In P097 Selayang at Kompleks Dewan Sri Siantan, Lembah Mutiara, a group of women believed to be BN supporters acted as ushers, greeting voters at the gate. Subsequently, a BN candidate entered the polling centre, not to cast his vote but to campaign in the polling centre.\(^{158}\)

In P107 Subang at SJK (Tamil) Saraswathy, PKR candidate Sivarasa Rasiah was observed interacting and shaking hands with voters inside and outside the polling station. Both BN and PR had set up tents within the restricted zone for campaigning, with both sides cheering at passing vehicles. Traffic was slightly obstructed outside the polling centre due to both sides’ campaigning activities.\(^{159}\)

At the BN booth, a woman holding a sheet of paper was observed to be dealing with a BN worker holding a sheaf of green paper believed to be vouchers. A voter in blue was seen waiting to be handed documents, possibly vouchers, from another BN worker at the BN booth.\(^{160}\)

Drinks were distributed to the voters at the BN tent. However, it was later closed upon instructions from the police.\(^{161}\)

Vehicles bearing BN logos were also observed at the polling station, believed to be conveying voters to the polling centre.\(^{162}\)

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157 P6677, P053 Balik Pulau  
158 B1195, P097 Selayang  
159 B1238, P107 Subang  
160 B1245, P107 Subang  
161 P6506, P47 Nibong Tebal  
162 B1238, P107 Subang
At SK Lembah Subang, in the same constituency, a vehicle bearing BN logos was seen being driven into the 50-metre restricted zone, transporting voters to the polling centre. Some vehicles were also used to ferry voters who had gone to the wrong polling centre to their proper polling centre.163

In P169 Kota Belud at SK Chung Hwa, BN members allegedly handled the EC counter for checking voter registration. Some were reported to have attempted last-minute campaigning on voters who came to the counter. The PEMANTAU observer concerned reported to have recognised them as BN members as they were personally acquainted since young. The BN members handling the counter were wearing EC attire.164

In P177 Beaufort at SK Kilugus, a polling agent was observed to be using an umbrella with the BN logo at the polling centre. Leaflets and booklets containing highly defamatory and unsubstantiated allegations against PKR’s Anwar Ibrahim and PR candidate Lajim Haji Okin were also observed to be made available everywhere on polling day.165

Recruitment of Minors for Political Campaign. The preamble to the Child Act 2001 acknowledged that “a child, by reason of his physical, mental and emotional immaturity, is in need of special safeguards, care and assistance, after birth, to enable him to participate in and contribute positively towards the attainment of the ideals of a civil Malaysian society.”166 However, a line has to be drawn between informed democratic participation and contribution by children, and the recruitment, employment or use of children for political activities that do not meaningfully contribute to the children's understanding of democratic processes.

The following cases were reported:

- On 26 April, in P117 Segambut, at a field adjacent to Bukit Maluri school, the BN-organised family day celebration for Taman Bukit Maluri residents reportedly used

163 B0590, P107 Subang
164 S8134, P169 Kota Belud
165 S8002, P117 Beaufort
minors, namely government school children, including teachers, believed to be from the Bukit Maluri school, as entertainment providers for the gathering. There were a Malay traditional dance, opera, ballet, a magic show, a 1Malaysia dance, a yoga session and lucky draws.\textsuperscript{167}

Children performing before the Segambut BN candidate, Jayanthi Devi Balaguru.

- On 29 April, in P162 Gelang Patah, at Southern College, Skudai, PEMANTAU observed that official government vehicles and National Service buses were utilised to ferry participants to an event. Children clad in BN attire were also seen to be holding BN posters and banners.\textsuperscript{168}

- On 30 April, in P110 Klang, children in BN attire were seen distributing free T-shirts to the public.\textsuperscript{169}

- On 1 May, in P102 Serdang, at Bukit Belimbing, children in BN attire were seen holding flags, banners and posters.\textsuperscript{170}

While it can be argued that flag-waving is not a harmful activity for children, the use of children in political campaigning is at the very least unethical as they cannot give consent, nor are they in a position to easily resist adult authority even when unwilling.

\textsuperscript{167} B1183, P117 Segambut
\textsuperscript{168} SC015, P162 Gelang Patah
\textsuperscript{169} SC015, P110 Klang
\textsuperscript{170} W9081, P102 Serdang
Conveyance of Voters

Under Section 20 (1) of the Election Offences Act, conveying voters to and from a polling centre “for the purpose of promoting or procuring the election of a candidate at any election” is prohibited. However, on polling day, in 18 of the observed constituencies (21%), political parties, from both BN and PR, were conveying voters to polling centres. Vehicles bearing party flags and/or logos were seen picking up and dropping off voters at polling centres.

- In P009 Alor Setar at SMK Sultanah Bahiyah, between 2:50PM and 3:25PM, vehicles emblazoned with BN logos were seen transporting voters to the polling centre. According to PEMANTAU observers on the ground, one particular vehicle ferried voters into the polling centre and waited until the passengers finished voting before transporting them out. It is unclear, however, where the passengers were transported to after voting.\(^{171}\)

- In P053 Balik Pulau at SK Titi Teras, at least 30 vehicles bearing BN logos were seen transporting voters to and from the polling station since 10:30AM. About six vehicles bearing PR logos were also seen on the site.\(^{172}\)

- In P053 Balik Pulau at SMK Sungai Rusa, transportation was provided for the voters by BN. BN workers were observed to be wandering inside and outside the polling centre, possibly campaigning or acting as transportation ushers for the voters.\(^{173}\)

A car with BN stickers transporting voters within 50 metres of the polling centre.

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\(^{171}\) K5061 and K5078, P009 Alor Setar

\(^{172}\) P6558, P053 Balik Pulau

\(^{173}\) P6617, P053 Balik Pulau
• In P097 Selayang at SMK Rawang Semekar, vehicles provided by BN were seen to convey voters right into the polling centre. No security was sighted at the gate, however; there was only one police officer standing by in the open area outside the voting streams.\textsuperscript{174}

• In P107 Subang at SK Lembah Subang, it was observed that BN workers were escorting voters from the car to entrance of the polling station with umbrellas and ponchos that had BN logos.\textsuperscript{175}

\includegraphics[width=\textwidth]{bn-party-worker-interacting-with-car}

A BN party worker interacting with the occupants of a car the displayed party logos.

• In P107 Subang at SMK Damansara Damai 1, transportation was provided by BN to convey voters to the polling centre. A BN worker was seen ushering a voter into the vehicle provided for such purpose.\textsuperscript{176}

• In P124 Bandar Tun Razak at SK Bukit Jalil Kuala Lumpur, BN workers were seen transporting elderly voters to the main gate of the polling centre. An elderly woman whom a PEMANTAU observer interviewed asked the observer to vote for and show support for BN.\textsuperscript{177}

• In P171 Sepanggar, at SM All Saints, vehicles bearing party flags, mostly from BN, were seen conveying voters to the polling centre.\textsuperscript{178}

\textsuperscript{174} B0946, P097 Taman Templer
\textsuperscript{175} B0590, P107 Subang
\textsuperscript{176} B1158, P107 Subang
\textsuperscript{177} W9032, P124 Bandar Tun Razak
\textsuperscript{178} SC013, P171 Sepanggar
Acts of voter conveyance during GE13 were observed to take place in conjunction with other offences, as noted in the previous section on Bribery. Party workers/campaigners were also seen to be campaigning for their respective party while ushering voters to/from vehicles at the entrance of polling centres.

Procedural Irregularities

A number of critical procedural amendments were introduced prior to GE13, including the use of indelible ink, early/advance voting by police and military personnel to replace postal voting, the inaction of the EC to resolve problems, and abolishing the process of protest and withdrawal of candidacy during nomination. These rules came into force following amendments to the General Election Regulations (Process of General Election) 1981 (Amendment) 2012 and General Election Regulations (Postal Voting) 2003 (Amendment) 2012, which were gazetted in 2012.

PEMANTAU has raised serious concerns in the media on the poor introduction and implementation of the regulations which were introduced at the last minute with unclear guidelines, without proper monitoring, and without assistance from the inert EC staff. These concerns came from the direct observation of PEMANTAU volunteers and from online public complaints. After the election, face-to-face interviews were conducted with 15 candidates and 2 party agents from 14 constituencies to get feedback from the ground on how it went. The findings were as follows:

**Advance Voting.** The introduction of advance/early voting processes for military and General Operations Force (and their spouses), EC personnel, as well as police personnel unable to vote on polling day involved 275,341 advance voters. More than half, 161,251, were military personnel and their spouses; the rest of the bulk, 111,136, were police personnel and their spouses; and

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179 Indelible ink was gazetted under Gazette PU (A) 43/2012 dated 13 February 2012.
2,954 were absentee voters who lived abroad\footnote{Malaysian Digest, “The Wait is over, Malaysians to vote on May 5”, 10 April 2013, http://www.malaysiandigest.com/top-news/311322-the-wait-is-over-malaysians-to-vote-on-may-5.html [accessed 16 July 2013]. However, the number of advance voters was differently reported in The Star, “GE13: Election Commission to implement more than 10 new measures for transparency”, 3 April 2013, http://www.thestar.com.my/News/Nation/2013/04/03/GE13-Election-Commission-to-implement-more-than-10-new-measures-for-transparency.aspx [accessed 16 July 2013]}. According to the EC deputy chairperson, EC personnel were included as advance voters\footnote{The Edge, “GE13: Don’t confuse postal and advance voting”, 25 April 2013, http://www.theedgemalaysia.com/political-news/237163-ge13-ec--dont-confuse-postal-and-advanced-voting.html [accessed 16 July 2013]}. Media personnel were given the option to apply as postal voters. However, there were discrepancies in how advance voting was conducted:

- After the voting process was over, PEMANTAU received reports from P072 Tapah that the advance voters ballot boxes were being shifted out of the police stations before the general polling day, 5 May. It was done on 2 May at 11.30AM by the EC officer, with the assistance of Land and Municipal Council staff, in Batang Padang. The PR candidate was not informed of the new storage location.\footnote{Report and evidence submitted to PEMANTAU by the PKR Tapah candidate on 27 May 2013.}

- It was reported in the media that some party agents claimed that they were denied access to check the advance ballot boxes, as had happened in P083 Kuantan, Pahang.\footnote{Malaysiakini, “Doubts on security of ballot boxes for early votes”, 8 May 2013, http://www.youtube.com/watch?v=esjKWVQKUW4 [accessed 16 July 2013]}

**Voters’ franchise.** In addition, postal voting was introduced to Malaysians living abroad. To be eligible, they have to be registered voters and must have been in Malaysia for not less than 30 days in five years prior to the dissolution of Parliament or the state assembly concerned. However, Malaysians living in southern Thailand, Singapore, Brunei and Kalimantan in Indonesia were not given this option and had to return home to cast their vote.

The gazetted restrictive conditions are unconstitutional as they deny voters the option to choose their voting statuses, especially for those from the above-mentioned countries. It was estimated that 400,000 Malaysians work in Singapore alone. The “last-minute” nature of the regulation further disenfranchised voters, leaving Malaysians abroad little time to register as ordinary voters, which was a pre-condition for postal voter applications.

Overseas election observation for postal voting was limited to designated party agents. The short timeframe also narrowed the scope for appointing party agents as they have to be approved by the EC in Putrajaya. Overseas PEMANTAU observers were not allowed to check the process.

**Irregularities in ballot papers.** In P124 Bandar Tun Razak at SMK Seri Permaisuri, voters complained of unstamped ballot papers. Many proceeded to lodge formal complaints to the police at the Salak South Police Station but were given the run-around between that police station and the Pudu Police Station.\footnote{W9293, P124 Bandar Tun Razak}

PEMANTAU observers at P047 Nibong Tebal in SJK (Cina) Yok Eng Sungai Udang also reported that ballot papers were unstamped when voters cast their ballots between 9:00AM and 4:00PM. When complaints were made to the EC officer at the polling centre, he stated that “unstamped ballot papers will be taken into account, regardless.”\footnote{P6654, P047 Nibong Tebal}
In summation, there were serious inconsistencies in the application of the voting procedures. This included “last-minute” changes to the rules of postal and advance voting, which caused a great deal of confusion among voters and created barriers to voters’ choice in determining their voting status. Others issues were the tampering of ballot boxes, seemingly according to the discretion of the EC staff; inconsistency in the stamping of ballots; and voters being denied of their voting rights. These problems were unaddressed by the EC staff who were on duty. Such inactions may have adversely affected the elections and disenfranchised Malaysian voters.

It was also disappointing to observe that the court has rejected most of the election petitions that sought to challenge the validity of the election results and processes, given the liberties allowed in the Election Offences Act, 1954 (Act 6), Section 32:

“The election of a candidate at any election shall be declared to be void on an election petition on any of the followings only which may be proved to the satisfaction of the Election Judge:

a. That general bribery, general treating or general intimidation have so extensively prevailed that they may be reasonably supposed to have affected the result of the election.

b. Non-compliance with any written law relating to the conduct of any election if it appears that the election is not conducted in accordance with the principles laid down in such written law and that such non-compliance affected the result of the election.

c. That a corrupt practice or illegal practice was committed in connection with the election by the candidate or with his knowledge or consent, or by any agent of the candidate...” 187

Use of Government Machinery and Property

On 9 April, Information, Communications & Culture Minister Dato’ Seri Utama Dr Rais Yatim justified the use of vehicles from the Information Department for a BN campaign event, saying the official campaign period had not started yet. 188 His statement implied that it would stop once the campaign period started. However, this was not the case.

The use of government machinery or State property was observed in 11 (22%) of the constituencies under PEMANTAU watch during the campaign period. PEMANTAU observed Federal and State caretaker governments utilising government machineries, including government-linked corporations and agencies like RISDA and FELCRA, and government resources, transportation and personnel during the campaign period. A common abuse noted by PEMANTAU observers was the use of government property such as school halls. This included a lunch event on 28 April at SJK (Cina) San Yuk, Selayang, with the caretaker prime minister. 189


189 B0945, P097 Selayang
On 21 April in P115 Batu, PEMANTAU observers reported that a car with a Yang Berhormat (hereinafter referred to as “YB”) licence plate was seen in a convoy led by a car belonging to Gobind Singh Deo, the incumbent DAP candidate for Puchong. Another car with a YB plate was spotted in the compound of a car park; however, it was not clear whether it was used as part of the convoy.190

On 24 April in P102 Serdang at Taman Sungai Besi, at about 10:00PM, Tan Sri Khalid Ibrahim was observed using his official vehicle bearing vehicle registration number BFH 888. However, the State ownership of the vehicle was disputed as it was his private vehicle, but maintained and serviced by the State’s fund.191

On 28 April in P097 Selayang at Batu Arang, in an event called, “Malam Semarak Kasih” (Night of Love), PEMANTAU observed that three vehicles from the Department of Information were used as a makeshift stage, changing room, and transportation for an electricity generator for the event. The event headlined the BN candidate for N13 Kuang, Abdul Shukur Idrus, who gave a speech promising benefits for the constituents in Batu Arang if he was elected.192

190  W9198, P115 Batu
191  W9020 and W9066, P102 Serdang
192  B0968, P097 Selayang
On 3 May in P118 Setiawangsa, at a “Himpunan Rakyat 1Malaysia” (1Malaysia People’s Gathering) event, PEMANTAU observed the caretaker prime minister arriving with police escort, and there was a sizeable number of RELA members at the campaign site.\(^{193}\)

**Harassment of Election Observers**

The Federal Constitution and international human rights instruments recognise that the authority to govern derives from the free will of the citizens expressed in a free and fair election. Malaysia, as a member of the United Nations and its Security Council, has a duty to recognise and implement fundamental principles in accordance with Article 21(3) of the Universal Declaration of Human Rights:

\[
...The \textit{will of the people} \textit{shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret ballot or by equivalent free voting procedures}...\] \(^{194}\)

The ACE Electoral Knowledge Network’s Declaration of Principles for International Election Observation,\(^{195}\) endorsed by the United Nations, provides that a genuine democratic election is an expression of sovereignty, which belongs to the people of a country, the free expression of whose will provides the basis for the authority and legitimacy of government. Citizens therefore have the right to participate fully in the electoral process, and the EC is obliged to provide full opportunity without unreasonable restrictions for citizen monitoring.

\(^{193}\) W9160, P118 Setiawangsa


Unfortunately, PEMANTAU observers reported being harassed during nomination day and polling day, by both state and non-state actors. PEMANTAU observers reported a pattern of harassment and intimidation faced in nomination centres: They were instructed to provide their personal details, restricted and even stopped from observing, verbally and physically abused and threatened by party supporters; some even had their photographs taken by the police while a few were arrested and detained briefly.

Some incidents reported on nomination day were:

- In P009 Alor Setar, at Kompleks Belia dan Sukan, PEMANTAU observers were stopped and questioned by the police outside the 50 metres restricted zone. They were instructed to provide their names and “EC observer tags” despite them repeatedly informing the officer that they were PEMANTAU observers. 196

- When the police were told that the observers were from BERSIH 2.0, a cameraman, believed to be from the police, took photographs of observers. Subsequently, the police barred observers from the vicinity of the nomination centre. Other observers at the same nomination centre experienced similar restrictions from the police. 197

- In P025 Bachok, at Pejabat Tanah Jajahan Bachok, PEMANTAU observers were chased out of the nomination centre after being asked to give their NRIC numbers. 198

- In P039 Dungun, at Pejabat Daerah Dungun, PEMANTAU observers were harassed by BN supporters. The supporters reportedly taunted the observers with, “...PEMANTAU ni nak cari kesalahan kita... tulislah banyak banyak!...” (“... these PEMANTAU are trying to look for our mistakes... go on, write a lot!...”) 199

- In P109 Kapar, at Pejabat Daerah dan Tanah Klang, a group of PEMANTAU observers were harassed and assaulted by BN supporters. It began at about 9:30AM, when the group of observers were confronted by the supporters; one of the observers was threatened and asked to remove his BERSIH 2.0 cap. At about 10:00AM, an officer, believed to be from the police’s Special Branch, recorded the personal details of that particular observer. Around the same time, the supporters began to threaten the observers, saying they cannot promise their safety. The supporters apprehended the observer who had been singled out, told him to remove his BERSIH 2.0 T-shirt and gave him a BN T-shirt as replacement. Fearing for their safety after being questioned on their neutrality, the group of observers finally left the supporters’ zone. As they were leaving, the supporters threw a water bottle at them, hitting one of them. 200

- A similar incident occurred in P121 Lembah Pantai, where BN supporters threatened PEMANTAU observers and told them to remove their BERSIH 2.0 T-shirts. The supporters claimed that the observer team was carrying false identification tags and asked the observers to leave the nomination centre. One BN supporter even asked an observer to show him the observation form and the comments, failing which he would not allow the observers to continue their work. 201

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196 K5003, P009 Alor Setar
197 P6613, P047 Nibong Tebal
198 D1754, P025 Bachok
199 T8577 and T8521, P039 Dungun
200 B0833, P109 Kapar
201 W9105, P121 Lembah Pantai
During the campaign period, PEMANTAU observers reported being harassed in P115 Batu. At a Sentul PR event on 21 April, three youths appearing to be PR supporters approached PEMANTAU observers and questioned their presence and authority. When told that their observations were confidential, the supporters threatened, “...kita suruh orang lain tak mahu cakap dengan kamu kalau kamu tak beritahu apa yang dipantau...” (“...we will order the others not to speak to you if you don’t tell us what you’re observing...”)202

At a meet-and-greet and public dinner organised by BN on 30 April in P097 Selayang, one of the speakers at the event accused the PEMANTAU observers who were present of intruding into “their” area and of trying to instigate racial hatred. The PEMANTAU observers at the event had informed the organisers of their presence and were wearing their name tags visibly.203

PEMANTAU observers reported experiencing restrictions, intimidation and harassment in 21 (24%) parliamentary constituencies of the total 87 seats observed on polling day. Some reported incidents were:

- In P053 Balik Pulau, at SJK (Cina) Chin Hwa, Pantai Acheh, PEMANTAU observers were threatened by a group of BN workers outside the polling station. Pictures of the observers were taken and one of the workers threatened to publish the pictures in Nanyang Siang Pau to “shame” PEMANTAU.204

- In P082 Indera Mahkota, at SK Balok Makmur, PEMANTAU observers were harassed and intimidated by a group of BN workers. After briefly observing PR’s booth, the observers were walking past a BN booth when a BN supporter rushed out of the booth and accused PEMANTAU of not being fair and independent, and hurled a barrage of vulgar statements at them. The observers left the area immediately to avoid a potential crisis.205

- In P116 Wangsa Maju, at SMJK (Cina) Chong Hwa, at about 3:00PM, the BN candidate, Dato’ Dr Haji Mohd Shafei Abdullah, together with an entourage of six to seven people approached a PEMANTAU observer and questioned his presence at the polling centre. The group warned the PEMANTAU observers and threatened them with physical violence if they did not leave the polling centre. Shafei pointed at one observer and reproached him, “Who asked you to come? Who asked you to be PEMANTAU?” Subsequently, a group of motorcyclists, believed to be acting under Shafei’s instructions, arrived and took turns to harass the observers in intervals of about 15 minutes for at least three successive rounds. One motorcyclist even attempted to hit the observers with a wooden stick. The harassment lasted from about 2:30PM to 3:30PM.206

- In P124 Bandar Tun Razak, small group of teenagers donned in BN paraphernalia were roaming outside SR Agama Al-Zamakhsyari on their motorcycles, where PEMANTAU observers were stationed for observation. When the PEMANTAU observers were confronted by a PAS supporter who had been recorded waving a PAS flag at the school, a few BN supporters joined in to ask what was going on. The BN supporters began to take turns taking photographs of the PEMANTAU observers. Encouraged by the BN supporters’ actions, the earlier group of motorcyclists returned and revved their machines, creating a noisy and chaotic

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202  W9198, P115 Batu
203  B0957, P097 Selayang
204  P6545, P053 Balik Pulau
205  C1230, P082 Indera Mahkota
206  W9491, P116 Wangsa Maju
environment. Worried for their safety, the PEMANTAU observers quickly left the area.207

A number of PEMANTAU observers were arrested on polling day.

At 3:45PM in P137 Bukit Katil, two PEMANTAU observers were arrested at SRJK (Cina) Bukit Beruang, Ayer Keroh and brought to the Melaka District Police Headquarters for questioning.208

At 4:30PM in P116 Wangsa Maju, five PEMANTAU observers were arrested at SRJK (Cina) Nan Yek Lee Rubber and investigated under Section 341 of the Penal Code. Their request for legal representation under Section 28A of the Criminal Procedure Code was denied. They were detained and questioned at the Taman Setapak Police Station for more than five hours.209

As well as physical and verbal threats, PEMANTAU faced harassment online. On 2 May, at about 9:30PM, PEMANTAU websites, pru13.info and pru13.info/aduan, were blocked and made inaccessible to users within Malaysia. PEMANTAU's website was only accessible at about 12.30AM on 3 May. An initial diagnosis from our independent IT technician confirmed the presence of a blocking filter set up in the local Internet Service Provider network infrastructure.210

The above cases were direct violations to the fundamental rights of citizens to partake in a democratic exercise of a free and fair election.

207 B1110, P124 Bandar Tun Razak
209 PEMANTAU arranged legal representation for the five upon notification of their arrest.
C. CONCLUSION AND RECOMMENDATIONS

Direct and/or indirect violations of the provisions of Election Offences Act 1954 were so rampant during GE13 that the causes of these violations could be attributed to one or more of these three factors:

- the lack of awareness, if not poor knowledge, of election laws by political parties, party workers and/or supporters and the candidates themselves;
- informed and deliberate actions to gain political mileage; or
- awareness of insufficient enforcement of the provisions relating to election offences.

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. The campaign period also saw a worrying trend in the use of violence as a political strategy, as well as racist sentiments and religious bigotry.

Political parties and other participants of GE13, including party workers and supporters, have much to answer for in these instances. It can be said that they have taken full advantage of lapses and gaps in the implementation of election laws. This threatens the very foundation of elections as a democratic process. The conduct of political parties and caretaker governments point to a need not just for legislative reform, but also a shift in political culture.

The acts of election misconduct observed by PEMANTAU are symptoms of a grossly uneven electoral playing field exacerbated by a “power at all costs” mentality and a lack of genuine political commitment to democratic principles. Malaysian voters are making choices at the ballot box in an environment where the exercise of free will is hampered by bribery, violations of the law and ethical principles, acts of intimidation and violence, and a blurring of lines between an administrative government and a political party.

Concern must be raised over the effectiveness of state institutions such as the MACC and the EC in their role as watchdogs. For example, in February 2013, an MACC deputy chief commissioner was quoted as saying, “If the motive of dishing out money or a gift...to voters is to win support for a certain political party, but not a specific candidate, then it is not an offence.”211 This is misleading as sections 8, 9 and 10 of the Election Offences Act do not make the acts of treating, undue influence, or bribery contingent upon perceived benefits of an individual candidate before they become an offence. That a highly-placed officer in the MACC could not interpret the law correctly brings into question the adequacy of training and legal education within the MACC.

The conduct of the EC must be singled out for special attention. The failure of the indelible ink raised serious concerns over the possibility of multiple voting. The subsequent parade of ludicrous excuses has, in the post-election period, worsened public perception of the EC as a public institution. However, the indelible ink issue overshadowed the fact that the EC’s actions over the entire course of GE13 brought the integrity of the institution into question. During the election period, the EC consistently avoided responsibility to act on established concerns

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such as the integrity of the electoral roll\textsuperscript{212} and flagrant violations of the Election Offences Act,\textsuperscript{213} and instead sought to place blame on their critics. In addition, its hasty, disorderly implementation of new regulations on postal voting for overseas Malaysians and advance voting disenfranchised large numbers of Malaysians and left open the possibility of electoral fraud.\textsuperscript{214} These institutional failures are a betrayal of public trust and dishonour the EC’s responsibility as an elections authority.

Whether the acts of election misconduct, acts of violence and intimidation, alleged bribery and election misconduct observed by PEMANTAU were enough to change the course of GE13 is for the people to decide. What PEMANTAU can conclude is that GE13 did not meet domestic and international standards for clean, free and fair elections. Without comprehensive reforms to the law, state institutions and political culture, it is unlikely that the upcoming GE14 will be any freer or fairer.


## Recommendations to Stakeholders of the Malaysian Electoral System

### Government

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<tr>
<th>Actors</th>
<th>Recommendations</th>
<th>Timeframe</th>
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</thead>
</table>
| Federal and State Caretaker Governments | **Strengthen Legal and Regulatory Framework**  
1. Legal and regulatory framework and its implementation must strengthen to ensure the guarantee of universal and equal suffrage to all voters.  
2. Review and amend to introduce essential transparency requirements for public accountability of all components of the election administration.  
3. Review and amend to reflect the rights and freedoms guaranteed in the Federal Constitution, domestic laws and international human rights instruments and treaties, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination against Women.  
4. Implement the recommendations made by the Parliament Select Committee, 2012 as well as from non-governmental organisations (see Appendix 004) Specifically:  
   i. Remove Section 9A of the Election Act, 1958 to allow healthy debates on the integrity of the electoral roll.  
   ii. A moratorium on financial handouts, land titles, and other financial benefits once Parliament and State Assemblies have been dissolved.  
   iii. Government machinery and property should not be used for campaign purposes  
   iv. Stricter penalties for treating, bribery and political violence.  
   v. Election date to be fixed to allow for a more regular election cycle and publicly announced.  
   vi. Campaign period to be fixed for 21 days to allow for substantial, policy-based campaigning. | Within a year |
| | | Next parliament sitting |
| | | ii-vi Implemented at least one year ahead of the elections |
| | **Enabling environment**  
**Structural reform of the Election Commission**  
5. Reform the Election Commission to establish a structure with institutions that are independent and autonomous from the government but may be accountable to the legislature and the judiciary.  
6. Re-appoint Election Commissioners who enjoy public confidence, have integrity, independent mind, and will uphold rights and democratic principles when overseeing the administration of elections. | Immediate |
| | | On-going |

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7. Election Commissioners must include non-governmental organisations, professionals and/or personnel who will uphold and believe in the independence and integrity of the election processes.

8. Enabling environment

9. Establish a neutral and fair environment to allow voters to cast their votes without fear or favour and safely.

10. Establish an independent and fair caretaker government prior to election period and set out guidelines, roles and responsibilities for implementation.

Specifically:
**Safeguard the independence and de-politicise** the Election Commission to ensure neutrality, fairness, transparency and accountability.

### Election Commission

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<thead>
<tr>
<th>Actors</th>
<th>Recommendations</th>
<th>Timeframe</th>
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<tbody>
<tr>
<td>Election Commission</td>
<td><strong>Eliminate disenfranchisement of all voters</strong></td>
<td>Immediate</td>
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<td></td>
<td>10. Maintain and monitor the electoral roll to ensure its high quality and eliminate irregularities.</td>
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<td>11. Adopt automatic registration of all voters when voters come of age.</td>
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<td>12. Conduct concerted and well-communicated voters' education to re-establish voters' confidence in roll's accuracy and integrity. This includes clear and accessible information to enable overseas postal voters to register on time and vote.</td>
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**Strengthen the quality of implementation of election processes**

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<tr>
<td>13. Review and recommend amendment all procedures and regulations to ensure uniform, fair and transparent implementation of procedures. These must be applied to early/advance voting, nomination day, campaign period and polling day. Include non-governmental organisations in the review process at all levels.</td>
<td>Immediate</td>
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<tr>
<td>14. Proper and professional training of election officers so that they understand voters' rights and fair and uniform implementation of procedures.</td>
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<td>15. Ensure use of high quality indelible ink and publicly make known its costs and sources of procurement so as to regain public’s confidence.</td>
<td></td>
<td>Immediate</td>
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<tr>
<td>16. Eliminate postal voting and only have early/advance voting. Counting must take place on the same day, upon completion of the advance voting. This eliminates controversies over ballot boxes.</td>
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</table>
17. Improve counting and consolidation procedures. These must be regularised and standardise through better training for election officers.

*Maintaining checks and balances*
18. Promote and develop international and domestic observation through an open and transparent process and establish election observation as integral part of the election processes. This will secure check and balance in the administration of the election processes.
19. Take responsibility to provide clear and precise information on roles and responsibilities of polling and counting agents so that they can be the secondary check on counting and results.

<table>
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<tr>
<th>State Institutions</th>
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<tr>
<th>Actors</th>
<th>Recommendations</th>
<th>Timeframe</th>
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<tbody>
<tr>
<td>National Registration Department and Home Ministry</td>
<td>20. Improve collaboration and synchronise information-sharing with Election Commission on verification of voters’ eligibility and registration.</td>
<td>Immediate</td>
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<td></td>
<td>21. Clean up the national registration by investigating allegations of non-citizens given Malaysian identification without proper process. This includes Peninsular, Sabah and Sarawak.</td>
<td>Within one year</td>
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<tr>
<td>Police and Security</td>
<td><em>Recognise and Protect rights of citizens</em> 22. Recognise and protect the legitimacy of citizen observers exercising their rights to participate in democratic processes 23. Refrain from using dannert or barbed wire as a form of barricade around a nomination or polling centre, especially when other government institutions, like SUHAKAM had rejected the use of dannert wire during peacetime. 24. Establish effective efforts and measures to stop political violence, regardless of political affiliations.</td>
<td>During any elections</td>
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<td></td>
<td>25. Provide non-partisan and equal protection for all during elections.</td>
<td>During any elections</td>
</tr>
<tr>
<td>MACC</td>
<td>26. Thoroughly train officers to understand the application of Election Act and related laws on corruption and financial misconduct so as to eliminate treating and bribery.</td>
<td>On-going</td>
</tr>
<tr>
<td>MCMC</td>
<td>27. No internet censorship or filtering, whether openly or secretly so as to protect citizens’ freedoms and rights.</td>
<td>Immediate</td>
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### Political Parties, Candidates, Supporters, Party Machinery

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<tr>
<th>Actors</th>
<th>Recommendations</th>
<th>Timeframe</th>
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<tbody>
<tr>
<td>Political Parties, Candidates and Supporters</td>
<td>28. Refrain from and condemn the use of violence or threats of violence, especially the use of racist/bigoted/sexist sentiments to influence voters.</td>
<td>On-going</td>
</tr>
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<td></td>
<td>29. All media must be given equal access to political parties and candidates.</td>
<td>On-going</td>
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<td>30. Public declaration of election expenditure, including donations received and spent.</td>
<td>During any elections</td>
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<td>31. Thorough and long-term training of PACAs in election laws and processes.</td>
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<td></td>
<td>32. Adhere to fair and ethical standards in campaigning.</td>
<td>On-going and especially during elections</td>
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</table>

### Media

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<tr>
<th>Actors</th>
<th>Recommendations</th>
<th>Timeframe</th>
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<tbody>
<tr>
<td>Media</td>
<td>30. Equal access and coverage to all candidates and parties running for election.</td>
<td>Election periods</td>
</tr>
<tr>
<td></td>
<td>31. Adhere to ethical standards in reporting or accepting advertisements from political parties and candidates.</td>
<td>Election periods</td>
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</tbody>
</table>

### Non-governmental organisations and citizens

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<tr>
<th>Actors</th>
<th>Recommendations</th>
<th>Timeframe</th>
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<tbody>
<tr>
<td>Non-governmental organisations and citizens</td>
<td>32. Make election observation, polling and counting agents as integral to people’s participation in the election processes as they act as independent check and balance.</td>
<td>Election periods</td>
</tr>
</tbody>
</table>
Appendix 001: Parliamentary Constituencies in Malaysia

ND: Constituencies Observed by PEMANTAU on Nomination Day
CP: Constituencies Observed by PEMANTAU during the Campaign Period
PD: Constituencies Observed by PEMANTAU on Polling Day

**Perlis**
P001 Padang Besar
P002 Kangar
P003 Arau

**Kedah**
P004 Langkawi
P005 Jerlun
P006 Kubang Pasu PD
P007 Padang Terap
P008 Pokok Sena
P009 Alor Setar PD
P010 Kuala Kedah
P011 Pendang
P012 Jerai
P013 Sik
P014 Merbok PD
P015 Sungai Petani
P016 Baling
P017 Padang Serai
P018 Kulim-Bandar Baharu

**Kelantan**
P019 Tumpat
P020 Pengkalan Chepa ND PD
P021 Kota Bharu ND PD
P022 Pasir Mas ND CP PD
P023 Rantau Panjang
P024 Kubang Kerian ND CP PD
P025 Bachok ND CP PD
P026 Keterihe ND PD
P027 Tanah Merah CP PD
P028 Pasir Puteh
P029 Machang PD
P030 Jeli
P031 Kuala Krai
P032 Gua Musang

**Terengganu**
P033 Besut
P034 Setiu PD
P035 Kuala Nerus CP
P036 Kuala Terengganu CP PD
P037 Marang ND PD
P038 Hulu Terengganu PD
P039 Dungun ND CP PD
P040 Kemaman

**Penang**
P041 Kepala Batas
P042 Tasek Gelugor
P043 Bagan
P044 Permatang Pauh
P045 Bukit Mertajam PD
P046 Batu Kawan
P047 Nibong Tebal ND PD
P048 Bukit Bendera PD
P049 Tanjung CP
P050 Jelutong
P051 Bukit Gelugor CP
P052 Bayan Baru
P053 Balik Pulau ND PD

**Perak**
P054 Gerik
P055 Lenggong
P056 Larut
P057 Parit Buntar PD
P058 Bagan Serai
P059 Bukit Gantang
P060 Taiping PD
P061 Padang Rengas
P062 Sungai Siput CP PD
P063 Tambun PD
P064 Ipoh Timor CP PD
P065 Ipoh Barat PD
P066 Batu Gajah
P067 Kuala Kangsar
P068 Beruas
P069 Parit
P070 Kampar CP
P071 Gopeng PD
P072 Tapah
P073 Pasir Salak
P074 Lumut CP PD
P075 Bagan Datok
P076 Telok Intan
P077 Tanjung Malim
Pahang
P078 Cameron Highlands
P079 Lipis
P080 Raub PD
P081 Jerantut
P082 Indera Mahkota ND PD
P083 Kuantan CP PD
P084 Paya Besar CP PD
P085 Pekan ND CP PD
P086 Maran CP
P087 Kuala Krau
P088 Temerloh CP PD
P089 Bentong PD
P090 Bera
P091 Rompin

Selangor
P092 Sabak Bernam CP PD
P093 Sungai Besar PD
P094 Hulu Selangor
P095 Tanjong Karang PD
P096 Kuala Selangor
P097 Selayang CP PD
P098 Gombak CP PD
P099 Ampang
P100 Pandan CP
P101 Hulu Langat
P102 Serdang CP
P103 Puchong PD
P104 Kelana Jaya
P105 Petaling Jaya Selatan ND
P106 Petaling Jaya Utara CP
P107 Subang CP PD
P108 Shah Alam
P109 Kajang ND CP PD
P110 Klang CP PD
P111 Kota Raya CP
P112 Kuala Langat
P113 Sepang PD

Federal Territory of Kuala Lumpur
P114 Kepong CP
P115 Batu CP PD
P116 Wangsa Maju ND CP PD
P117 Segambut CP
P118 Setiawangsa CP
P119 Titiwangsa ND CP PD
P120 Bukit Bintang
P121 Lembah Pantai ND CP PD
P122 Seputeh ND CP
P123 Cheras CP PD
P124 Bandar Tun Razak ND CP PD

Federal Territory of Putrajaya
P125 Putrajaya CP

Negeri Sembilan
P126 Bledis
P127 Jempol
P128 Seremban ND PD
P129 Kuala Pilah
P130 Rasah
P131 Rembau
P132 Telok Kemang

Melaka
P134 Masjid Tanah
P135 Alor Gajah
P136 Tangga Batu PD
P137 Bukit Katil PD
P138 Kota Melaka
P139 Jasin

Johor
P140 Segamat
P141 Sekijang
P142 Labis
P143 Pagoh
P144 Ledang
P145 Bakri
P146 Muar
P147 Parit Sulong
P148 Ayer Hitam
P149 Sri Gading
P150 Batu Pahat PD
P151 Simpang Renggam
P152 Kluang CP PD
P153 Sembrong
P154 Mersing
P155 Tenggara
P156 Kota Tinggi
P157 Pengerang
P158 Tebrau
P159 Pasir Gudang CP
P160 Johor Bahru
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Federal Territory of Labuan
P166 Labuan PD
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<td>P168 Kota Marudu CP PD</td>
<td>P193 Santubong PD</td>
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<td>P169 Kota Belud PD</td>
<td>P194 Petra Jaya</td>
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<td>P170 Tuaran CP PD</td>
<td>P195 Bandar Kuching</td>
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<tr>
<td>P171 Sepanggar PD</td>
<td>P196 Stampin</td>
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<tr>
<td>P172 Kota Kinabalu PD</td>
<td>P197 Kota Samarahan</td>
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<td>P173 Putatan PD</td>
<td>P198 Mambong</td>
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<td>P174 Penampang ND CP PD</td>
<td>P199 Serian</td>
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<tr>
<td>P175 Papar CP PD</td>
<td>P200 Batang Sadong</td>
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<tr>
<td>P176 Kimanis ND</td>
<td>P201 Batang Lumar</td>
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<tr>
<td>P177 Beaufort PD</td>
<td>P202 Sri Aman</td>
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<tr>
<td>P178 Sipitang PD</td>
<td>P203 Lubok Antu</td>
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<tr>
<td>P179 Ranau ND PD</td>
<td>P204 Betong</td>
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<tr>
<td>P180 Keningau PD</td>
<td>P205 Saratok</td>
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<tr>
<td>P181 Tenom PD</td>
<td>P206 Tanjung Manis</td>
</tr>
<tr>
<td>P182 Pensiangan CP PD</td>
<td>P207 Igan</td>
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<td>P183 Beluran PD</td>
<td>P208 Sarieki</td>
</tr>
<tr>
<td>P184 Libaran</td>
<td>P209 Julau</td>
</tr>
<tr>
<td>P185 Batu Sapi</td>
<td>P210 Kanowit</td>
</tr>
<tr>
<td>P186 Sandakan</td>
<td>P211 Lanang PD</td>
</tr>
<tr>
<td>P187 Kinabatangan PD</td>
<td>P212 Sibu CP PD</td>
</tr>
<tr>
<td>P188 Silam PD</td>
<td>P213 Mukah</td>
</tr>
<tr>
<td>P189 Semporna PD</td>
<td>P214 Selangau PD</td>
</tr>
<tr>
<td>P190 Tawau PD</td>
<td>P215 Kapit</td>
</tr>
<tr>
<td>P191 Kalabakan CP PD</td>
<td>P216 Hulu Rajang</td>
</tr>
<tr>
<td></td>
<td>P217 Bintulu CP PD</td>
</tr>
<tr>
<td></td>
<td>P218 Sibuti</td>
</tr>
<tr>
<td></td>
<td>P219 Miri PD</td>
</tr>
<tr>
<td></td>
<td>P220 Baram PD</td>
</tr>
<tr>
<td></td>
<td>P221 Limbang</td>
</tr>
<tr>
<td></td>
<td>P222 Lawas</td>
</tr>
</tbody>
</table>
## Appendix 002: PEMANTAU Data

### Nomination Day

Number of Constituencies Observed: 23

<table>
<thead>
<tr>
<th>Misconduct</th>
<th>No. of Constituencies with Incidences</th>
<th>Total</th>
<th>Percentage of Constituencies Observed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bribery with Money</td>
<td>1</td>
<td>5</td>
<td>22%</td>
</tr>
<tr>
<td>Bribery with Valuable Consideration</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Illegal Campaigning: Within 50m</td>
<td>3</td>
<td>6</td>
<td>26%</td>
</tr>
<tr>
<td>Illegal Campaigning: Within 100m</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Misuse of Government property</td>
<td>1</td>
<td>1</td>
<td>4%</td>
</tr>
<tr>
<td>Intimidation &amp; Violence: Harassment of PEMANTAU</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intimidation &amp; Violence: Verbal violence</td>
<td>2</td>
<td>5</td>
<td>22%</td>
</tr>
<tr>
<td>Intimidation &amp; Violence: Undue influence</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Security: Excessive Security</td>
<td>5</td>
<td>5</td>
<td>22%</td>
</tr>
<tr>
<td>Security: Federal Reserve Units Present</td>
<td>8</td>
<td>8</td>
<td>35%</td>
</tr>
<tr>
<td>Security: Roadblocks</td>
<td>6</td>
<td>6</td>
<td>26%</td>
</tr>
<tr>
<td>Treating: Food and Drink</td>
<td>4</td>
<td>8</td>
<td>35%</td>
</tr>
<tr>
<td>Treating: Merchandise</td>
<td>4</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Campaign Period

Number of Constituencies Observed: 51

---

216 Important Note: In a number of constituencies, there were overlaps where misconduct happened across the board – e.g. both BN and PR perpetrated the same misconduct in the same constituency.
Polling Day
Number of Constituencies Observed: 87

% of Parliamentary Constituencies with Misconduct\(^{217}\)

<table>
<thead>
<tr>
<th></th>
<th>37%</th>
<th>12%</th>
<th>45%</th>
<th>12%</th>
<th>22%</th>
<th>8%</th>
<th>12%</th>
<th>2%</th>
<th>10%</th>
<th>39%</th>
<th>31%</th>
<th>4%</th>
<th>4%</th>
<th>2%</th>
<th>24%</th>
<th>6%</th>
<th>2%</th>
<th>6%</th>
<th>27%</th>
<th>25%</th>
</tr>
</thead>
<tbody>
<tr>
<td>% of Parliamentary Constituencies with Misconduct, BN as Perpetrator</td>
<td>48%</td>
<td>18%</td>
<td>58%</td>
<td>15%</td>
<td>21%</td>
<td>9%</td>
<td>15%</td>
<td>0%</td>
<td>6%</td>
<td>36%</td>
<td>24%</td>
<td>6%</td>
<td>6%</td>
<td>3%</td>
<td>15%</td>
<td>9%</td>
<td>0%</td>
<td>9%</td>
<td>27%</td>
<td>27%</td>
</tr>
<tr>
<td>% of Parliamentary Constituencies with Misconduct, PR as Perpetrator</td>
<td>12%</td>
<td>0%</td>
<td>23%</td>
<td>4%</td>
<td>12%</td>
<td>0%</td>
<td>4%</td>
<td>4%</td>
<td>4%</td>
<td>38%</td>
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<td>0%</td>
<td>0%</td>
<td>23%</td>
<td>0%</td>
<td>0%</td>
<td>4%</td>
<td>0%</td>
<td>4%</td>
</tr>
<tr>
<td>% of Parliamentary Constituencies with Misconduct, Others (e.g. government agencies, NGOs) as Perpetrator</td>
<td>17%</td>
<td>17%</td>
<td>33%</td>
<td>0%</td>
<td>50%</td>
<td>17%</td>
<td>17%</td>
<td>0%</td>
<td>33%</td>
<td>33%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>17%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>83%</td>
<td>0%</td>
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See note 216.
<table>
<thead>
<tr>
<th>Unethical Campaigning</th>
<th>Use of Minors</th>
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<tbody>
<tr>
<td></td>
<td>Dirty Politics (incl. Rumours)</td>
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<tr>
<td></td>
<td>Use of Private Voter Data</td>
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<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Treating</td>
<td>Others</td>
</tr>
<tr>
<td></td>
<td>Household Goods</td>
</tr>
<tr>
<td></td>
<td>Merchandise</td>
</tr>
<tr>
<td></td>
<td>Food and Drink</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Security</td>
<td>Roadblocks</td>
</tr>
<tr>
<td></td>
<td>FRU Presence</td>
</tr>
<tr>
<td></td>
<td>Unknown Persons Entering Polling Centre</td>
</tr>
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<td></td>
<td>Security Personnel Not Constantly Present</td>
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<tr>
<td></td>
<td>Under-resourced Security</td>
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<tr>
<td></td>
<td>Excessive Security</td>
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</tr>
<tr>
<td>Procedural Issues</td>
<td>Media Stopped from Carrying Out Duty</td>
</tr>
<tr>
<td></td>
<td>Management of PWD or Elderly Needs</td>
</tr>
<tr>
<td></td>
<td>Early Openings /Late Closings</td>
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<tr>
<td></td>
<td>Unprofessional Conduct by EC Staff</td>
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<tr>
<td></td>
<td>Unfair Treatment to Parties</td>
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<tr>
<td></td>
<td>Concerns over Secrecy of Ballot</td>
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<tr>
<td></td>
<td>Lack of Access to Accurate Information (incl. signage)</td>
</tr>
<tr>
<td></td>
<td>Told to Use Indelible Ink to Mark Ballot</td>
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<tr>
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<td>Indelible Ink Easily Removed</td>
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<td></td>
<td>Concerns over Application of Indelible Ink</td>
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<tr>
<td></td>
<td>Concerns over Integrity of Ballot Boxes</td>
</tr>
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<td></td>
<td>Concerns over Ballot Papers</td>
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<tr>
<td></td>
<td>Unsuitable Voting Material  (e.g. pen instead of pencil)</td>
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<tr>
<td></td>
<td>Inconsistent Ways of Crossing Out Names on Roll</td>
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<td>Concerns over Polling Process</td>
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*Parliamentary Constituencies / Misconduct*
<table>
<thead>
<tr>
<th>Parliamentary Constituencies with Misconduct (#)</th>
<th>Parliamentary Constituencies with Misconduct (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
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</tr>
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<td>13</td>
<td>15%</td>
</tr>
<tr>
<td>2</td>
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</tr>
<tr>
<td>1</td>
<td>1%</td>
</tr>
<tr>
<td>6</td>
<td>7%</td>
</tr>
<tr>
<td>2</td>
<td>2%</td>
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<td>28%</td>
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<td>7</td>
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<td>8%</td>
</tr>
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<td>1</td>
<td>1%</td>
</tr>
<tr>
<td>12</td>
<td>14%</td>
</tr>
<tr>
<td>1</td>
<td>1%</td>
</tr>
<tr>
<td>13</td>
<td>15%</td>
</tr>
<tr>
<td>10</td>
<td>11%</td>
</tr>
<tr>
<td>22</td>
<td>25%</td>
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</tr>
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<td>1%</td>
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</tr>
<tr>
<td>1</td>
<td>1%</td>
</tr>
<tr>
<td>16</td>
<td>18%</td>
</tr>
<tr>
<td>Parliamentary Constituencies with Misconduct (#)</td>
<td>Parliamentary Constituencies with Misconduct (%)</td>
</tr>
</tbody>
</table>
|-----------------------------------------------|-------------------------------------------------
| 4                                             | 5%                                              |
| 2                                             | 2%                                              |
| 4                                             | 5%                                              |
| 2                                             | 2%                                              |
| 1                                             | 1%                                              |
| 16                                            | 18%                                             |
| 21                                            | 24%                                             |
| 2                                             | 2%                                              |
| 6                                             | 7%                                              |
| 11                                            | 13%                                             |
| 10                                            | 11%                                             |
| 14                                            | 16%                                             |
| 8                                             | 9%                                              |
| 1                                             | 1%                                              |
| 15                                            | 17%                                             |
| 6                                             | 7%                                              |
| 17                                            | 20%                                             |
| 6                                             | 7%                                              |
| 8                                             | 9%                                              |
| 6                                             | 7%                                              |
| 2                                             | 2%                                              |
| 21                                            | 24%                                             |
| 10                                            | 11%                                             |
| 3                                             | 3%                                              |
| 10                                            | 11%                                             |
| 7                                             | 8%                                              |
| 6                                             | 7%                                              |
| 15                                            | 17%                                             |
Appendix 003: PEMANTAU Pledge and Code of Conduct

Pledge as a PEMANTAU

I, the undersigned, hereby pledge that:

I will serve as a non-partisan election observer at the 13th General Election (hereafter referred to as GE13). I am neither a candidate nor a political party worker/campaigner and will remain impartial to activities concerning the election process.

I will work in support of a genuine democratic election process, regardless of who wins or loses.

I will put aside my personal views about those seeking public office or issues presented in GE13, except when I exercise my right to cast a ballot in the secrecy of a polling booth.

I will respect and protect the integrity of the non-partisan election observation organisation, including by following this Code of Conduct, any written instructions and any verbal instructions from the organisation’s leadership.

I will refrain from making any personal comments about my observations to the news media or members of the public before the election observation organisation makes a statement.

I will attend all required domestic election observation and training sessions. I will strive to become familiar with the election law and regulations and other relevant laws as directed in the training workshops.

I will fully adhere to the methodologies employed by the organisation and will act in all domestic election observation activities to the best of my abilities.

I will report impartially, accurately (including positive as well as negative factors) as a non-partisan election observer.

I hereby vow that I have carefully read and fully understand the Code of Conduct for Non-partisan Election Observers and Monitors. I agree to promote its goals and principles and to comply with its requirements.

I further vow to resign from my role as an election observer or monitor if I should develop any conflicts of interest that would hinder me from fulfilling impartially, accurately and in a timely manner my non-partisan election observation activities or if I should violate the requirements of this Code of Conduct.
PEMANTAU Code of Conduct

**Neutrality**: Observers must be non-partisans and independent. This includes working independently from government in support of a genuine democratic election process, regardless of who wins or loses.

**Peace**: Observers must maintain strict adherence to the principle of non-violence. An observer is forbidden to carry weapons, explosives, or any hazardous substance in the course of his/her observation.

**Compliance**: An observer must comply with all applicable laws and regulations of the election and not participate in any act that interferes with the conduct of elections.

**Integrity and honesty**: Observers must obtain and report, without fear or favour and with complete transparency, surveillance data compiled in a way that meets the standards of the organisation.

**Objectivity**: Observers must report both the positive and negative, with sufficient documentation of all serious problems to permit verification of the events so as to provide an impartial and accurate picture of what took place.

**Responsibility**: Observers must perform tasks in line with the objective and purpose of the observation mission.

**Transparency**: Observers must be transparent and willing to testify about the methodology, data, analysis and conclusions related to their observation reports.

**Confidentiality**: Observers must be prepared to take an oath of confidentiality and will not do anything forbidden by Section 5 of the Election Offences Act 1954.

**Discipline**: Observers must endeavour to maintain a degree of self-discipline and avoid from engaging in any act that may jeopardize the reputation and integrity of PEMANTAU.
Appendix 004: Malaysian Civil Society’s Memorandum on Electoral Reforms in Malaysia 2010

10 July 2010
Initiated by the Coalition for Clean and Fair Elections 2.0 (BERSIH 2.0)

[BERSIH 2.0 presented and held a roundtable discussion with the Election Commission on 9 November 2010]

We the undersigned civil society groups hold that the only formula for stability, progress and prosperity in Malaysia is a vigorous and healthy multiparty democracy.

Following the 2008 elections, Malaysia is experiencing a changing style of government, from an authoritarian to a more democratic one. While the public have benefitted from the competition between the BN and PR which brought about some administrative reforms and more inclusive policies, it is still worrying that some quarters may resort to desperate means to influence the election, including the abuse of state apparatus or to change the election outcomes through defection and the deliberate denial of fresh elections when the old mandate is in question. Come the next general elections, should some political parties refuse to accept “democracy as the only game in town” and attempt to compete for power by rigging elections or rejecting election outcomes, Malaysia may sink into political turmoil.

The role of the Election Commission (EC) in ensuring political stability and democratisation is therefore paramount. Article 114(2) of the Federal Constitution stipulates the expectation of the EC to “[enjoy] public confidence”. This means the Election Commission should conduct elections with integrity and impartiality to ensure universal suffrage, a level playing field for all political parties and candidates, informed choices and facilitation of informed choices and inclusive representation. Bersih 2.0 believes that within the existing provisions of the law, the EC can conduct this important democratic exercise according to the international best-practice standards.

The EC can and must protect multiparty democracy by ensuring clean and fair elections, in their administration and enforcement of relevant laws and also through advocacy of necessary changes to the Constitution, laws and by-laws.

Driven by a common desire for a better tomorrow for Malaysia, we urge the EC bring about the following reforms. We hope the EC will engage us and the larger public for consultation and deliberation. We also call upon the Malaysian public to familiarise themselves with their rights as voters and to advance the reform agenda through their own available channels.

Immediate Concerns:

- Investigation of Election Offences. We hold that it is incumbent upon the EC to perform its public duty to cause an investigation of all election offences committed, particularly in the two recent by-elections, pursuant to the Election Offences Act. It would be a dereliction of duty to ignore the numerous reports filed in relation to election offences committed. In order to maintain its independence, the Election Commission should be given the power to prosecute violators of Election Offences Act.

- Obstruction to voters’ registration. We are alarmed to note the complaints of unreasonable restrictions relating to registration, such as limited forms available
to Assistant Registrars in voter registration drives despite the fact that some 4 million eligible voters have yet to be registered. Obstruction of universal suffrage is a cardinal offence against democracy. The EC must immediately remove the resistance to the voter registration drive or risk losing public confidence completely, thus making itself unfit constitutionally. The EC must be seen to be complementing the efforts of all parties towards facilitating (and not obstructing) the efficient registration of voters.

A. Suffrage and Polling

1. Automatic Registration – We hold that all eligible voters should be automatically registered as voters upon eligibility and their status and addresses be updated via the synchronisation of electoral rolls and the national registration database. This would do away with the many flaws in, and complaints relating to, the existing electoral rolls from phantom voters, incomplete addresses, address change to multiple registrations.

We are extremely concerned that the EC has rejected the idea of automatic registration of voters, particularly when this will resolve all complaints about the registration process.

2. Lowering of voting age – We hold that all Malaysians of 18 years old or above have the right to vote and be candidates in parliamentary and state elections. They are mature enough to participate in public life and greatly affected by government policies in education and employment. Nearly 90% of the countries in the world now – including our neighbours Indonesia, the Philippines, Thailand and Cambodia – have adopted 18 years or less as the voting age. There is no reason we should be left behind.

3. Absentee Voting for All – We hold that the current separate postal vote list should be abolished but all voters – civilians or members of security forces, whether home or abroad – should be able to opt for absentee voting if they have valid excuses and apply to do so before nomination day. This is perfectly possible with automatic registration and a longer campaign period. The abolition of separate postal voter lists means the police and military voters can now choose to vote like civilians if they are not on duty on polling days. This will eliminate fears and allegations that secrecy and free will are violated in postal voting.

4. Indelible Ink – We hold that indelible ink should be used in all elections to prevent multiple voting. The Cabinet had in fact made the decision to do this in 2007 and the rumour of sabotage that was used to justify its cancellation has been proven to be completely baseless. The EC risks being seen as covertly allowing multiple voting should it insist on opposing the use of indelible ink.

B. Constituency Redelineation

5. Minimising gerrymandering – We hold that constituencies should be delineated based on the communities of interests, amongst others, defined by administrative boundaries. Therefore, no parliamentary and state constituencies should cross the boundary of local authorities or administrative districts. Similarly, no local communities should be partitioned by electoral boundaries. The Thirteenth Schedule of the Federal Constitution stipulates that local ties should be respected.
6. Minimising malapportionment of constituencies – We hold that the EC must faithfully abide the instruction in Section 2, Part 1 Thirteenth Schedule of the Federal Constitution: “the number of electors within each constituency in a State ought to be approximately equal except that, having regards 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.” The rural weightage is not a licence for the EC to manipulate the constituency size.

That 17 out of 56 state constituencies in Selangor or 30% have more voters than Selangor’s smallest parliamentary constituency Sabak Bernam in the 2008 elections shows that the EC has blatantly violated the constitutional provision in the last constituency redelineation exercise. We demand that in the coming redelineation exercise, the EC should ensure that in no instance can any state constituency have an electorate larger than the 50% of electorate of the smallest parliamentary constituency in the same State.

C. Contestation and Media

7. Meaningful Campaign Period – We hold that the EC should stipulate a campaign period of not less than 21 days period. A longer campaign period would not only allow voters more time to gather information and deliberate on their choices, it would also reduce the election tension as the parties would have to stretch their resources for a longer period. Twenty-one days is not unreasonable as the British Colonial Government granted a campaign period twice as long, 42 days, in the first national elections in 1955. In the future, the EC should propose for the Elections Act to be amended to such effect.

8. Free and Fair Media Access – We hold that for the next general elections, the EC should press for the national broadcaster, Radio and Television Malaysia (RTM) to allocate airtime proportionately for all political parties that contest more than three seats and organise a televised prime-ministerial debate along the lines of what was held in the United Kingdom in May 2010. The EC should propose for the Elections Act to be amended to compel the state-owned media to provide free and equal coverage for all political parties; and private media to provide fair access.

D. Election Finance

9. Control of party expenses – We hold that the EC must propose for the Election Offences Act to be amended so that expenses such as advertising cost incurred by political parties will be accounted for on pro-rata basis as part of the candidates’ election expenses.

10. Public Finance of Party Expense – We hold that the EC should call upon the Federal and State Governments to financially support all political parties based primarily on vote share in the previous elections.
E. Multiparty democracy

11. Right to Contest Election after Resignation – We hold that the EC should propose to the Federal and State Governments to remove obstacles in the respective constitutions so that elected representatives may re-contest in elections after resignation. Most elected representatives are elected on party tickets. Should they change their party affiliation, they have the duty to resign and seek a new mandate. Removing these obstacles would take away the excuses of party hopping without resignation by elected representatives.

12. Administrative Neutrality – We hold that the EC must propose for the Election Offences Act to be amended such that no major and non-urgent decision including development projects and funding can be made by Federal, State and Local governments concerning the nation, a state or a parliamentary or state constituency after the Parliament/ State Legislature is dissolved or the seat is declared vacant.

13. Restoration of Local Government Elections – We hold that the EC should cooperate with any interested State governments to restore local elections in the spirit of Article 113(4) of the Federal Constitution. The EC must not act in violation of what the Constitution demands of it.

F. Electoral Administration

14. Full Judicial Scrutiny on Election Petitions – We hold that the EC should propose for the Election Offences Act to be amended so that election petitions can be filed on all grounds of electoral manipulation. The Act was amended in 2003 to the effect that the integrity of electoral rolls can no longer be challenged in a court of law.

15. Right to Observe Elections – We hold that the EC must prepare a transparent and inclusive guideline for domestic and international observers to be registered for the coming elections. The EC should also propose for the Election Act to be amended to provide for the right to observe elections.
Issued by:

Dato' Ambiga Sreenevasan
Chairperson
For and on behalf of BERSIH 2.0 (Coalition for Clean and Fair Elections)

Endorsed by:
1. Aliran
2. Amnesty International (Malaysia)
3. All Women’s Action Society (AWAM)
4. Coalition for Good Governance Penang
5. Council of Churches Malaysia (CCM) Youth
6. Centre for Independent Journalism (CIJ)
7. Child Development Initiative
8. DEMA (Gerakan Demokratik Belia dan Pelajar Malaysia)
9. Dewan Perhimpunan Cina KL-Selangor (Jawatankuasa Hak Sivil)
10. Educational, Welfare and Research Foundation Malaysia
11. Friends in Conversation (FIC)
12. Federation of Indian Non-Governmental Organisations
13. Group of Concerned Citizens (GCC)
14. Indian Malaysian Active Generation (IMAGE)
15. Independence People Action Committee (IPAC)
16. Islamic Renaissance Front (IRF)
17. Jaringan Rakyat Tertindas (JERIT)
18. Jemaah Islah Malaysia (JIM)
19. Klang Consumer Association
20. Komuniti Masyarakat (KOMAS)
21. Kumpulan Akhbar Independen (KAMI)
22. Labor Resource Centre (LRC)
23. LLG Cultural Development Centre.
24. Majlis Kelab Bell Belia Tamil Malaysia
25. Malaysian Association of Indian University Graduates
26. Malaysian Dravidian Association
27. Malaysian Hindu Youth Council
28. Malaysian Indian Development & Unity Association
29. Malaysian Indian Historical Association
30. Malaysian Tamil Forum
31. Media Action Group
32. Micah Mandate (The)
33. Oriental Hearts and Mind Study Institute (OHMSI)
34. Penang Independent Schools Educaataion Society.
35. Permas
36. Persahabatan Semparuthi
37. Persatuan Alumni Han Chiang, Malaysia.
38. Persatuan Alumni Han Chiang, Pulau Pinang.
39. Persatuan Hak Asasi Manusia (HAKAM)
40. Persatuan Kesedaran Komuniti Selangor (EMPOWER)
41. Research for Social Advancement (REFSA)
42. Rumah Anak Teater (RAT)
43. Sahabat Wanita
44. Saya Anak Bangsa Malaysia (SABM)
45. Sembang-sembang Forum
46. Sisters in Islam (SIS)
47. Solidariti Mahasiswa Malaysia (SMM)
48. Southeast Asian Centre for e-Media
49. Students Reserve Unit (SERU)
50. Suara Rakyat Malaysia (Suaram)
51. Tamil Foundation Malaysia
52. Tenaganita
53. University Malaya Association of New Youth (UMANY)
54. Women’s Aid Organisation (WAO)
55. Women in Disability Association
56. Women Institute for Research Development and Advancement (WIRDA)
57. Writers’ Alliance for Media Independence (WAMI)
58. Youth for Change (Y4C)
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