



Proposal for Reforms to Overseas Voting Process in GE15

INTRODUCTION

This document is a submission made by Global Bersih for the consideration of the Election Commission ("EC").

We propose comprehensive reforms to current voting procedures for Malaysians living abroad.

We call upon the EC to implement these reforms before the 15th General Election (GE15).

The EC has the power – under Section 16 of the Elections Act 1958 with the approval of the Yang di-Pertuan Agong – to make regulations for the conduct of elections and all matters incidental to that. We therefore strongly urge the EC to consider these recommended amendments to such regulations.

The following suggestions are made based on the outcome of the overseas voting process for the 14th General Election (GE14), and the data collection exercise carried out by Global Bersih during GE14:

- Implement automatic voter registration
- Lower the voting age to 18 years old
- Minimum 28-30 days campaign period
- Standardise on an on-going basis the system for overseas voters
- The EC to take responsibility for the overseas voting process
- Mobilise overseas Malaysians to vote

BACKGROUND

In GE14, a postal system was introduced for overseas Malaysian to vote. The process was as below:

- a) All overseas Malaysians could apply to be included in the overseas voting facility by filling up Borang 1B and sending it per fax/post/email to the EC before the dissolution of the existing parliament.
- b) Application requirements were (i) must be a registered voter; (ii) must have been in Malaysia or returned to Malaysia not less than 30 days within five years before the dissolution of Parliament or State Assembly; (iii) must reside overseas EXCEPT for those residing in southern Thailand (Narathiwat, Pattani, Yala, Songkhla, and Satun), Singapore, Brunei, Kalimantan province, Indonesia. All Malaysians residing in the excepted areas had to return to cast their votes
- c) All applications to receive a confirmation email from SPR upon application.
- d) All applications were to be processed, and a confirmation email sent out upon approval/rejection of the application.
- e) Once the Election date was announced, the ballots were to be sent out to the voters according to the address registered on the Borang 1b.
- f) The voters were to fill in their ballots and send the ballots back to the returning officer in the constituency before 5pm, 9th May 2018 (Election day).

REGISTRATION.

1) Automatic voter registration

Citizens that are eligible to vote must currently proactively register to vote to be added to the electoral roll. Registration can be done at any computerised post office, Election Commission branches, local district offices and by any accredited Assistant Registrar Officer (ARO). For Malaysians living overseas, they will have to register personally at the Malaysian Overseas Missions.

As the Electoral Roll is updated and gazetted every quarter, the process is subject to delays and inconsistencies. In reality, it can take up to six (6) months for new voters to be added to the electoral roll, sometimes more for overseas Malaysians. This process is time-consuming and unreliable as there have been many discrepancies in past General Elections.

Therefore we propose that qualified citizens be automatically registered to vote upon reaching the age of 18.

Many countries with a national register of citizens – including Norway, Denmark, Finland, Sweden, France, Germany, Austria, Belgium, Italy,

Estonia, Slovenia, Switzerland, Iceland, Israel, Argentina and Peru – have automatic voter registration.

The National Registration Department (NRD) already has the requisite information on Malaysian citizens, and through the existing Agency Link-Up System (ALIS), the Election Commission can easily carry out automatic voters registration.

Please note that automatic voter registration is not the same as compulsory voting.

Automatic voters registration will ensure that the registration process will be more efficient and less open to manipulation.

Automatic voter registration would require a constitutional amendment to Article 119(4)(b) in the Federal Constitution to change the definition of "qualifying date". It would also need changes in the Election (Registration of Electors) Regulations 2002.

2) The case for lowering the voting age

We believe that 18 is an ideal cut-off point for the voting age because it is a time when young people are pursuing tertiary education or working. It only makes sense to enfranchise this group of youths and encourage them to participate in the democratic process. Civics education should start early which would lead to a more engaged young electorate.

3) Standardised system for overseas voters

We call on the EC to develop and implement a standardised system for registration as overseas voters, on an ongoing basis as explained below:

- a) Any Malaysian living overseas for any length of time who fulfils all the requirements should be able to download Borang 1b from the EC website and apply to use the overseas voting process at any point in time;
- b) Once the application has been approved/ rejected, the EC should inform the applicants by e-mail or post;
- c) Once the application is approved, the status should be updated on the Semakan Daftar Pemilih;
- d) If there is a change of address, it is the responsibility of the applicant to inform the EC;
- e) As the election approaches, the EC should announce the registration deadline as early as possible or better yet, a standard deadline should be applied such as after the date of the parliament dissolution.

This ongoing registration will ensure that the EC will be able to process all applications on an ongoing basis without time pressure. At the same time, overseas Malaysians will also have a more transparent registration system

and are informed of their registration status. This system also allows overseas Malaysians to be prepared with all the requirements.

4) *Mobilising overseas Malaysians to vote*

The EC should also play its role to encourage more Malaysians to take part in the voting process by having campaigns to promote the democratic process. Information about the standardised voting system for overseas Malaysians should be disseminated.

At the same time, Malaysian missions abroad should be informed about the standardised system so they can encourage overseas Malaysians to vote and also be the primary contact point for information for those overseas.

The EC and Malaysian missions overseas should also engage with Malaysian civil society and organisations to disseminate the information on the registration process as they are also working towards enfranchising all Malaysians in the voting process.

Organisations like Global Bersih or Malaysian clubs abroad can help the EC and Malaysian missions to mobilise overseas Malaysians to register and vote.

VOTING PROCESS

5) *Standardised voting process*

Global Bersih encourages the EC to review the last two overseas voting processes that were used in GE13 and GE14, and decide on a standardised voting process for overseas Malaysians. The standardised voting process has to fulfil the four areas that we have brought up before in our overseas voting proposal (see Appendix):

- Enfranchisement of all Malaysians living abroad
- Maintenance of voter secrecy
- Maintenance of transparency and security
- The legitimacy of the elections outcome

We believe that a standardised overseas voting process that covers the four areas above will be a significant step in solving most of the problems that have arisen till now.

The voting procedure should be the same for all upcoming elections, and any changes or new requirements must be publicised at least six months before Nomination day.

Global Bersih also urges the EC to look into possible new overseas voting options like online voting before standardising the process. Online registration and voting have been successfully carried out by many countries around the world, including Switzerland and the Philippines.

6) The EC to take the whole responsibility for the overseas voting process

We call on the EC to take the whole responsibility in carrying out the overseas voting process, from registration to voting. This centralised system is to ensure that the EC is solely responsible for all matters involving overseas voting. **The best option will be to have a particular department focusing on overseas voting – an office for Overseas Voting.** Countries like the Philippines have a special department in their Commissions of Elections to handle overseas voting.

During GE14, the ballots were sent from the EC to the returning officer who then sent the ballots out to overseas Malaysians voters through Pos Malaysia Bhd. There was no accountability for the faulty system. The EC having the most appropriate jurisdiction should be the one sending out the ballots and must be able to track the ballots in case of discrepancies. This not only saves time but also ensures the credibility of the system as the ballots are not passed through so many different hands before being received by the voter.

7) Minimum 28-30 working days campaigning period

One of the major breakdowns in the overseas voting process in GE14 was the lack of time for the ballots to be returned from overseas locations. As there were only about 9-10 days between the day the ballots were sent out and the deadline on 9th May, it was nearly impossible for overseas Malaysians to receive their ballots and to return the ballots on time.

Therefore it is crucial and vital that there is enough time for the EC to be able to send out the ballots, and for the overseas Malaysians voters to return the ballot on time.

Global Bersih surveyed the duration of sending a registered letter to Malaysia from different locations all over the world. Global Bersih found that it takes at least 12 to 15 days for a registered letter to arrive in Malaysia. In GE14, Pos Malaysia Bhd was used to send the ballots to overseas Malaysians voters, and the ballots took about 5 to 8 days to arrive at the locations, depending on the distance and accessibility.

ACTION	WORKING DAYS
Ballots sent to Returning Officer	1 day after Nomination day

Ballots sent to voters by Returning Officer	2-3 days after Nomination day
Ballots arrival duration	5-8 days
Buffer time for ballot arrivals	2 days
Ballots return duration	12-15 days

The table above shows the possible duration for a ballot to travel from the EC to Malaysian overseas voters in the existing system. Because of this, there should be at least 28 to 30 working days in between the nomination day and the election date for all involved parties to carry out their responsibility correctly.

CONCLUSION

Our data collection during GE14 revealed that many Malaysians were prepared to trust the overseas voting process in place. They valued exercising their democratic right, a right that was often obstructed by the haphazard operations of the multiple parties involved. We believe that an integrated and standardized electronic system overseen by a central Overseas Voting office will greatly improve confidence in the process and will encourage a stronger uptake among overseas Malaysians.