Recommendations for ensuring an effective overseas postal voting system after the 15th General Elections (GE15)
By Global Bersih (March 2023)

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Background

Global Bersih (GB) has worked to enfranchise overseas voters effectively for many years. In 2019, GB compiled all the needed reforms in a document and has advocated these recommendations in recent years. Some of GB's recommendations that have been implemented in recent times have resulted in a significant increase in the numbers of overseas voters and made it easier for overseas Malaysians to exercise their right to vote and, at the same time, improved the efficiency of the system.

The recommendations that have been implemented are :
- The implementation of Automatic Voters Registration (AVR)
- Lowering of voting age to 18 (Undi 18)
- The introduction of online registration for overseas voters on the Election Commission(EC) platform
- Inclusion of Malaysians living in Singapore, South Thailand, Brunei, and Kalimantan in the overseas postal voting system.
- Removal of the requirement for overseas Malaysians to have been in Malaysia for 30 days in the last five years before the registration date.

The implementation of Undi18 and Automatic Voters Registration (AVR) alone has caused growth of 42% from 14.9 million in GE14 to 21.1 million voters in the previous electoral roll in Malaysia. Many of these "new" voters qualify as overseas voters.[1]

Thanks to the above reforms and other factors influencing this increase, it is undeniable that the number of overseas Malaysians entitled to vote will increase further. There were 7979[2] registered overseas postal voters for GE14, and for GE15, the numbers jumped to 48,109[3] registered overseas voters which indicated a drastic increase of 603%.

According to the United Nations Department of Economic and Social Affairs, the population of the Malaysian diaspora already stood at 1,860,037 as of 2020.[4]

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[1]https://www.themalaysianinsight.com/index.php/s/364145

[2] https://www.theborneopost.com/2018/05/07/only-212834-postal-voters-in-ge14-ec/

[3] https://themalaysianreserve.com/2022/11/15/ge15-ec-issues-365686-postal-ballot-papers/

[4] https://www.un.org/en/file/105459/download?token=oh_ySkJg

The recent GE15 again showed that even after implementing these recommendations, there is still a need to improve the existing system and find a way to navigate the most significant limitation of not having enough time for the ballots to be received and sent back due to the short campaign period and current delivery methods..

Below are the crucial changes needed to ensure an effective overseas postal voting process for the upcoming elections. These recommendations are based on
- Overseas Voting Reform Proposal (Global Bersih, 2019).[5]
- Discussions with related stakeholders such as overseas voters, Election Commission, political party, Wisma Putra parties, and other NGOs.
- Observation and data collection from GE14 and GE15

Global Bersih also has revisited the long term recommendations that we have worked on in our last Overseas Reform proposal in 2019 , at the end of this document.

Recommendations

1.Instead of the current short time frame, allow overseas Malaysians to register as overseas postal voters six months before the projected election dates, to remove the time pressure on EC and the applicants.

Once the voting rights of overseas Malaysians are included permanently in the regulations, it would be logical to allow overseas Malaysians to register to vote from overseas much earlier than the given period in the previous elections. According to Bersih, using the current process, the EC can handle up to 10 000 postal vote applications without running into severe backlogs and delays.[6]

Therefore, it is only logical to run a more lengthy registration period for overseas voters on the EC online platform. The registration period should be opened six months before the projected election dates. The EC should run regular and timely campaigns, especially before each election, to encourage and remind diaspora members to register as overseas voters.

Global Bersih advocates for a fixed parliament term to ensure more predictability and allow all related stakeholders to prepare for the elections.
The more extended online registration period will significantly remove the pressure on both the EC and the voters and avoid backlogs and delay in the process.

2. Allow enough time for the overseas ballots to be returned to the polling station before the polling day by setting a minimum campaign period of 21-25 days.

Currently, postal ballots have to be sent to overseas voters and returned by them to polling stations within the campaign period, which runs from the date for nominations up till polling day. The campaign period set by the EC in recent elections is as follows:

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[5] https://www.globalbersih.org/resources/overseas-voting-reform-proposal/

[6] https://bersih.org/download/evaluation-of-postal-voting-for-johor-2022-for-overseas-voters/

Elections	Campaign Period(days)
GE14	11
Sarawak State Elections	11
Melaka State Elections	13
Johor State Elections	14
GE15	14

Although complying with the statutory minimum duration of 11 days[7],these campaign periods need to be longer to accommodate the reality of overseas postal voting timelines without imposing costs on voters who are obliged to send votes through expensive courier services. The previous campaign periods also do not consider the continuing impact on the global postal system of the Covid-19 pandemic, which has increased costs and delays in international postal delivery.

We strongly recommend extending the campaign period to at least 21- 25 days to accommodate overseas postal voting logistics. At the moment, the 11 days minimum requirement of campaign days under Regulation 3(1) Elections (Conduct of Elections) Regulations 1981 does not reflect the reality of the overseas postal voting timeline, which is impossible to be accommodated within the 11 days minimum period.

GE 15 again saw overseas Malaysians struggling to send their ballots back using costly and unsafe methods under time pressure due to the short campaign time. Though it is encouraging to see Malaysians come together in resolving the short campaign time, the burden of the whole process should not be carried by overseas Malaysians.

Identifying a reasonable period could be done by engaging the Malaysian Foreign Missions (MFM) to partake in an exercise to test how long it takes for ballots to be sent out and returned. For example, a preliminary study could be conducted where the EC sends a document out to all MFMs worldwide, which will be signed and stamped, and then sent back to the EC using Pos Malaysia and the respective host countries' postal services (as needed). This exercise can give the EC a rough idea of the timeline needed for a workable overseas voting system and estimate an affordable process, especially for overseas postal voters who will incur the cost of returning the ballots. As MFMs are generally situated in large cities, additional time will need to be factored in for delivery to and from destinations outside main urban centres.

The minimum campaign period must be extended to 21-25 days to allow overseas votes to be returned and counted on time.

Again a fixed parliament term will ensure more predictability and allow all related stakeholders to be prepared for a sufficient campaign period.

The minimum campaign period extension also should include other changes such as changes to the allowed campaign spending.

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[7] Elections (Conduct of Elections) Regulations 1981, s 3.

3. Verification of the voter's identity in Form 2 should also be opened for non-Malaysians instead of only Malaysian citizens.

The requirement that Form 2 be signed and witnessed by a Malaysian has proven to be a stumbling block for overseas Malaysians as there may be situations where that voter may be the only Malaysian in that foreign town or city. This was proven again during the previous GE 15; Global Bersih had to run a Facebook campaign to enable Malaysians to look for fellow Malaysians to be their witness. Therefore the witness to the signing of Form 2 should be opened to anyone over 18 with valid identification. This change will enable more overseas Malaysians to take part in the process.

4. A standardised process of overseas ballot dispatch from the Pusat Pengeluaran Undi to overseas Malaysians

There is a need to have a transparent and standardised SOP on how ballots are dispatched to overseas Malaysians. During GE15, some overseas Malaysians received tracking numbers that enabled them to prepare beforehand on how to send the ballots back. Some Malaysians managed to use their tech avenues to obtain their tracking number; meanwhile, many were left in the dark as they didn't receive any tracking number.

The concept of the tracking number is a significant factor in an effective overseas postal voting system. It allows overseas Malaysians to prepare beforehand(especially with the short period to return the ballots), and it also makes the system more transparent, hence winning more trust from overseas Malaysians.

Global Bersih suggests that EC specifically identify the method to dispatch the overseas ballots, ensuring that there will be tracking numbers. Using the exercise mentioned in recommendation no 2 above, EC can identify the best affordable method to do this beforehand. This should be included in the 'buku kerja' for the 'pegawai pengeluaran undi pos.'

5. Overseas Voters Education and mobilisation

One of the Election Commission's roles is to carry out voter education for the masses. Voter mobilisation needs to be absorbed as one of the elements in the preparation of the pre-elections. Starting with the budget planning, EC needs to ensure that Akademi Pilihanraya will have enough resources to carry out effective voter mobilisation.

In communications with the related agencies, EC needs to include Wisma Putra , Mara and JPA in the process so accurate information and updates can be distributed to agencies related to overseas Malaysians.

There is a need for the EC(Akademi Pilihanraya) to have a voter education campaign focused on overseas voters. A section on the EC website should specialise in overseas postal voting. Even though overseas Malaysians still understand and speak the national language, they are not well versed with the rapid growth of the language in the last years due to not having a chance to use the language extensively. Therefore there is a need for all the information to be in BM and English to ensure effective messaging.In order to ensure that the overseas voting section on the website serves its purpose, the information below must be updated in BM and English:

- Automatic registration information to inform overseas Malaysians that they do not have to travel to the embassy to register as first-time voters and how to check their voting status.
- UNDI 18 reminders to inform overseas Malaysians that anyone aged 18 and above will be registered automatically.
- Creating a user account at MySPR guide. This should be an ongoing item because, with this, overseas Malaysians can register as overseas postal voters later. This section should include a step-by-step guide on creating the user account.
- FAQ for overseas postal voters; to be updated to reflect current situations such as state elections or general elections. Global Bersih created an extensive FAQ in BM and English for GE15 and was used extensively by overseas Malaysians.
- How to register as an overseas postal voter - A notice should be included to remind overseas Malaysians to create a user account to register as an overseas postal voter later, directing them to the first item. Once the registration for overseas postal voting is opened, this section will have a step-by-step guide on registering as an overseas postal voter.
- How to vote from overseas- The voting method for the last five elections (general and state) has undergone multiple changes. This page should have a general and updated step-by-step guide on voting from overseas and be updated to reflect any changes.

The EC should communicate all these items to the relevant departments and explicitly request them to spread accurate and updated information in the diaspora. Examples include Wisma Putra (overseas Malaysians in general), Ministry of Youth and Sports (for their overseas Malaysian youth outreach), MARA, and Jabatan Perkhidmatan Awam(for sponsored students) and so on.

6. Legislate the voting rights of overseas Malaysians instead of being gazetted as postal voters for each election.

Overseas Malaysians currently face uncertainty as to whether they will be able to vote from their country of residence as they are not explicitly designated as absent voters[8] and do not automatically qualify as persons entitled to vote as postal voters[9]. The right of overseas Malaysians to vote by post in any given election depends on whether the EC exercises its discretion to designate them as postal voters.

During GE14, overseas Malaysians were entitled to vote by post. The enabling legislative notice is PU(B) 35/2017, which appends a Schedule to the Elections (Postal Voting) Regulations 2003. The ad hoc use of the EC's discretionary power to decree the eligibility of overseas Malaysians for postal voting for each election, and the lack of transparent communication of the voting status have resulted in significant confusion among overseas Malaysians as to whether and how they can exercise their right to vote.

To ensure the permanency of Malaysians's ability to vote from outside the country, provisions entitling Malaysians living outside Malaysia to exercise their right to vote from their country of residence should be enshrined in the Election Regulations instead of being left to the discretion of the EC, as is currently the case.

This will create continuity and allow overseas Malaysians to understand and trust the system.

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[8] Elections (Registration of Electors) Regulations 2002, Regulation 2

[9] Elections (Postal Voting) Regulations 2003, Regulation 3[1] (a)

Moving forward

__Hybrid Overseas Postal Voting System__

All the above changes are crucial to ensure that the existing overseas postal system works. Our observations during the previous state and general elections have shown that the campaign period has stayed within 15 days. We understand that a long campaign period is taxing for many stakeholders, including EC, political parties, and voters. However, the current overseas postal voting system has a chance to work efficiently with a 21-25 days campaign period. It is unfair and unacceptable that overseas Malaysians are expected to fork out so much money and effort to practise their most basic right to vote in a democracy.

Moving forward, there is a need to shorten the ballot timeline, the time the ballots are produced and returned to the returning officer. This can be achieved by introducing more electronic elements in the certain step of the overseas postal voting process.

Implementing the online registration for overseas postal voters was a vast improvement. There were 7979 registered overseas postal voters for GE14, and for GE15, the numbers jumped to 48, 109 registered overseas voters which indicated a drastic increase of 603%.

Since the implementation of the online registration was done effectively by EC and the drastic rise of registered overseas postal voters, maybe it is time that we venture into more electronic/online elements in the ballots dispatching process . A hybrid overseas postal system involving a combination of online and offline elements will be the right way to move forward.

Global Bersih believes that one of the next steps will be for EC to introduce printable pdf voting documents. This should be distinct from online voting as here the voting will still be done per post and not online. The main idea is to introduce some electronic elements to shorten the ballot timeline, but the ballots will still be returned per post to the returning officer.

The basic idea is that the overseas postal voter will receive their digitised voting documents using their SPR user account as a PDF document to be printed by the overseas voter, marked, and sent back to the returning officer.

The ballot documents that will be sent to the user account to be printed are Form 2, ballot paper, and envelope slip to be pasted on an envelope.

During the registration process, overseas voters will receive a random code (secure PIN) that will be used to access printable voting documents later. This randomly generated code should be kept secret by the overseas postal voter because it will be used together with Mykad number, SPR user account password to access the printable voting documents.

A postal vote task force should be elected before election by EC and this task force will be responsible for creating the digitised voting documents. The documents that needs to be created will be

1. Form 2 - State and Parliament

2. Ballots - State and Parliament
   Either
3. Envelope A stickers - State and Parliament
4. Envelope B sticker
   Or
5. Printable and foldable envelope A
6. Printable and foldable envelope B

There are no changes to Form 2 and the ballots as it will be just a digital version of the existing version. There are 2 options for the envelopes : the first option is to create envelope stickers that can be pasted on the standard sized envelopes and option 2 is to create foldable envelopes that can be printed and folded.

After the creation of the voting documents, there should be representatives from political parties and PACA to monitor that the process of dispatching the ballots is carried out properly.There has to be high security measures to ensure the voters' trust and that this method will not be misused.

After nomination day, the task force will create the PDF version of the voting documents to be sent out to overseas voters. It would be optimal for a central department in the EC to be in charge of this exercise as it will be more structured and organised. We understand that this will be initially taxing for the central Election Commission office but in the long run, it will be cost effective and also involve less work as the electronic elements will replace the manual exercise of printing the ballots, preparing them and sending them. If there is a need, EC can involve the state EC officers in this process in order to lighten their workload. This will also ensure that the state level EC officers are also well informed and well versed with the system.

This exercise of producing and sending the ballots should take at most two days. This will mean that overseas postal voters can access their voting documents as early as 24 hours after the nomination day, giving them more time to print, mark and return the ballots. The ballot timeline will be shortened significantly. At the same time , this will also give overseas Malaysian voters enough time to use a cheaper/safest postal option instead of using the fastest(usually the more expensive)postal option to send their ballots back to the returning officer. This will alleviate the burden for overseas Malaysians voters who have to bear the cost of sending the ballots back themselves.

The overseas postal voters will receive their digitised voting documents on their SPR user account. The voting documents can be accessed directly on the SPR user account using a 2-Factor or 3-Factor Authentication. The Mykad number, SPR user account password, and secure PIN are needed to access the voting documents. The secure PIN is assigned randomly to overseas postal voters during registration.

There has to be clear instructions on how to print the voting documents. For example
- All documents need to printed on white A4 papers , one-sided
- Colour or black&white printing is allowed
- The envelope sticker needs to be cut and pasted on standard sized envelopes or printed and folded along dotted lines.

The overseas postal voter is prevented from electronically completing the digitised voting documents. Instead, they must print the ballot before completing it, so there is no chance that the voter's choice on the ballot is stored online. This will enable voter secrecy.

Also, there is no possibility to download the voting documents, so there is no chance of multiple printing.

Overseas postal voters can open the voting documents and print them once. The printing access will be automatically blocked if the voter has printed the voting documents once.

Once all the voting documents are printed, the overseas voters will need to fill out Form 2 and mark the ballots as they would in the current system .

For the envelopes in option 1 , the overseas postal voters need to use a standardised size for envelope A and envelope B (bigger than envelope A) . The printed out stickers should be cut and pasted on the envelope accordingly and then sent to the returning officer.

In the second option the digitised envelopes will be similar to the current envelopes and with all the marking and address on the envelopes. Overseas voters will need to print them out on an A4 and fold them to make an envelope.

There has to be a standardised SOP on how to print the documents and this needs to be shared extensively with all the stakeholders much earlier so everyone can be prepared.

As mentioned before, overseas postal voters can open the voting documents and print them only once. In case of any unforeseen difficulties and the overseas voter is unable to print the documents on the first try, voters will have to email/call UPUP (Unit Pengurusan Undi Pos) to re-release the ballots again to allow re-printing by submitting all the needed information to re-create a new case code. EC will check to ensure that the voting documents have not been printed and will be assigned a random new code to allow printing again.

Overseas postal voters will send the envelope with the voting documents back to the Returning Officer before 5pm on polling day.

We understand that the introduction of electronic elements comes with its limitations and set of problems. This is why electronic elements can only be implemented after an extensive pilot program, followed by extensive voter education for all related stakeholders.

Here are a few examples of what needs to be taken into account in the planning and implementing this hybrid method.

a)Legal Framework
There is a need to create a legal framework, meaning amendments to the existing laws in order to accommodate this method. Global Bersih has listed some of the main amendments that would need to be made as an example in (Attachment 1)

b)Budgeting
The central budgetary expense for the hybrid overseas postal voting system would be a long term investment and might seem to be high initially. In the long run it will be much more cost efficient compared to the existing system and more importantly , this investment will be able to overcome the short campaign period hurdle   In framing out the budget for the hybrid method , it is important to include not only hardware and

software, but also communication, evaluation, research, auditing, training and most importantly, voter education.

C)Digitised voting documents management body.
There is a need for a management body to identify the best way to carry out the implementation of the printable voting documents. There should be a group of specialists headed by EC working on this . Examples of the task forces are as below:

i)Security specialists including representatives of the Cybercrime Police Department, Malaysian Communications and Multimedia, and Cybersecurity Malaysia Malware Research Centre

ii)Technical specialist who are responsible for conducting the experiment and the implementation of the system including EC's IT department, CERT-Malaysian Computer Response Team, Malaysia Blockchain Association , Police IT Department , Ministry of Science , Technology and Innovation and MIMOS (National Applied R&D Center)

iii)Trainers to train electoral staff and civil society

iv)Legal experts and policymakers

v)Hackerton experts to detect and rectify the maximum number of faults in the system.

vi)A people's panel to give advice and feedback, comprising members of political parties , academics, representatives of local, regional and national authorities, and representatives of civil society organisations

vii)International technical experts , who should be involved so we can learn worldwide best practices.

viii)A communication task force, headed by Akademi Pilihanraya, to educate all stakeholders about the process. The task force should include representative from Ministry of Communications and Multimedia, and MFMs

The EC will have control of the development of the hybrid system, which should increase trust in the system as there would be no outside intervention.

Strengths

- The most significant advantage of this method is that the time taken for the ballot papers to reach the overseas postal voters and be returned to the returning officer is minimal. Voting documents can arrive at the voter within 24 hours after the Nomination day.

- The cost for overseas voters to send the ballots back will be reduced because the overseas Malaysian voters will be able to use cheaper postal options to return their ballots as they will be receiving their ballots earlier.

- In adopting electronic delivery of ballot papers to overseas postal voters, it is anticipated that EC will reduce its costs significantly in the

long term.

- This method will enfranchise 'nomadic' overseas Malaysians as it enables the receiver of the pdf voting documents to vote no matter where they are , not anchored to the postal address like the current system.

- The EC will have less pressure, and the electronic element will minimise human error.

Shortcomings

- It requires overseas postal voters to possess basic technical knowledge and equipment to print a hard copy of the ballot paper. This may adversely affect older or less technically capable people.

Ideas to overcome this shortcoming :
  - Ongoing online seminar or presentation on how the voting documents will be sent , received and should be printed. SPR(Akademi Pilihanraya)can work together with Global Bersih in disseminating the information.
  - MFM can provide guidance and printing service for those who need help to print out their voting documents.

- It requires a significant change of mindset among the stakeholders.

Ideas to overcome this shortcoming:
  - Consultation with all major stakeholders in the planning process to ensure that they understand and support the methods
  - Voter education and information dissemination regarding the process and value add this method can bring. Extra focus should be given on educating the voters on the security part of this system to win their trust.

- It requires amendments to the Elections (Postal Voting) Regulations 2003. (See attachment)for our suggested amendments.

In order to get best practice ideas and to navigate the limitations , Global Bersih has made first contact with experts from Adobe, the pioneer of PDF documents, and they are very interested in working with the EC to venture the possibility of having a hybrid overseas postal voting system for Malaysia.

Closing

All these recommendations above are essential to ensure that the voting rights of overseas Malaysians are upheld. We have proved our motivation and passion during the last two GE, and now it is time our voices are heard, and actions are taken to enfranchise us in the democratic exercise of Malaysia.

Global Bersih has been mooting these reforms since GE13, and now these reforms need to take place before the upcoming State elections, starting with the opening of the registration for overseas postal voting immediately.

The recent GE15 Observation Report by Bersih(released 10 March 2023) also reflected that all these recommendations that Global Bersih has been working on for the last few years need to happen to ensure a more effective overseas postal voting system.

The mobilisation of the diaspora and ensuring that Malaysians overseas can vote is consistent with the idea of an inclusive society and respect for all segments of the population, which are the core values of Madani - Sustainability, Prosperity, Innovation, Respect, Trust and Compassion. These core values can be strengthened by engaging more with Malaysians overseas and encouraging them to contribute to Malaysia's development. Involving them more in the democratic process will be a positive step in this direction

Global Bersih remains at your disposal for further communication on this matter, and we are willing to work together to reach out to the diaspora.
Global Bersih is a non-profit organisation established under the Swiss Civil Code. It aims to support Malaysian civil society's efforts to strengthen Malaysia's maturing democracy using peaceful and legal means of action. Global Bersih is proud to be part of the vibrant Swiss civil society as it enables a stronger international platform for it to advocate for its causes, taking advantage of the dynamic international human rights movement in Geneva, a global human rights capital.

We aim to achieve:
- The full and effective fulfilment of Malaysia's right to a free and fair election that includes ensuring transparency of electoral roll, reform of electoral process and procedures, strengthening of public institutions, eradication of corruption and culture of impunity, and enhancing participation of international observers and media to monitor the polls.
- An independent and effective Election Commission of Malaysia, especially in monitoring electoral discrepancies.

What We Do
- We provide a global platform for the voices and stories of ordinary Malaysians and civil society to reach out to the international community
- We enrich local and international exchanges of Malaysian issues, both in Malaysia and abroad to feed into national efforts related to electoral reform.
- We galvanize support and increase commitment from Malaysians across the globe towards creating a stronger international momentum for electoral and democratic reform in Malaysia.
- We carry out training and capacity building to encourage overseas Malaysians to participate in the civil society and electoral process.
- We promote all the above through peaceful and constructive dialogue.

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