

'Coalition Government Agreement' Is A Good Precedent But Parliament Must Be Empowered

The Coalition for Clean and Fair Election (BERSIH) hails the coalition government agreement ("Perjanjian Persefahaman Kerjasama") as a refreshing precedent necessary to stabilize Politics in hung parliament but also expresses concerns that some of its intentions may weaken Parliament.

Government of Parties

BERSIH stresses that the two previous governments, under Tan Sri Muhyiddin Yassin and Datuk Seri Ismail Sabri, were 'governments formed by individual MPs' and not 'coalition government formed by parties', hence could not be sustained under pressure from partners in coalition government. The 'Malaysian Unity Government' led by Datuk Seri Anwar Ibrahim may now escape this trap and serve a five year full term.

Thirty three months of political chaos since the Sheraton Move was caused by the flawed practice of treating government as an adhoc collection of parliamentarians, bound not by a cohesive government programme set by parties, but by the parliamentarians' personal allegiance to a Prime ministerial candidate and even deals in cabinet and GLC jobs or impunity from Court cases, all made possible by the flawed practice of 'government formation by Statutory Declarations' poisonously introduced since 2009.

Party-based negotiation in government formation and making coalition agreement public are two of the 10 proposals to stabilise post-GE15 politics made by Bersih on 19 November, and

Bersih is very pleased that the new government is taking the right steps.

BERSIH is concerned on how the coalition government agreement curtails the free will of parliamentarians in voting and holds that any compromise made must be limited to what is necessary to not result in dangerous executive dominance in our attempt to escape political instability and unaccountability.

Party-based Decision on Confidence and Supply

To prevent confidence and supply votes being turned into an alternative form of 'SD auctioning', BERSIH finds it acceptable at this stage of Malaysia's democratisation that voting decision is made party-based.

BERSIH nevertheless refutes misinterpretation that the MOU itself can in itself cause all of the 144 MP from the five government blocs (PH, BN, GPS, GRS and Warisan) to face by-election if they defy their party's instruction.

Point 4(a) of the Coalition Government Agreement only expresses its intention that all the five parties must support Prime Minister on matters of confidence, supply or any procedure that may constitutionally affect the government's legitimacy.

Point 4(b) go on to express another intention that the parties must make sure that their MPs who refuse, are reluctant or err to vote accordingly will be treated as having resigned or ceased to be a party member, which will cause their seats to be vacant under Article 49A of the Federal Constitution.

That intention can only become a reality if the parties' constitutions have provided for such failure, reluctance and error in confidence and Supply voting to be a ground of a lawmaker ceasing to be a party member, as in the cases of DAP and Amanah. Alternatively, the parties have to have other legally-binding instruments that can cause the same effect.

BERSIH is deeply alarmed by Point 4(d) which states that "[the parties to the agreement] has the sole prerogative in making sure the Members of Dewan Rakyat to vote on all motions, especially confidence in and supply by the Malaysia Unity Government, based on the parties' respective instruction." Going on "all motions", and not just confidence and supply matters, threatens to remove all autonomy of parliamentarians in voting. With a two-third majority government, that would be a blank cheque to constitutional amendments.

BERSIH urges any party intending to amend their party constitution to confine parliamentarians' voting freedom to limit it to only confidence and supply matters.

To this end of preserving parliamentarians' voting freedom, government's defeats in major legal and even constitutional bills MUST NOT be seen as an expression of no-confidence to the government. Otherwise, parties can force their will on their parliamentarians in the pretext to avoid a no-confidence Vote against the government.

Parliamentary Committees

BERSIH is pleased to learn, as implied by Point 3(b), that every ministerial portfolio would be scrutinized and checked by a Parliamentary Special Select Committees (PSSC).

However, the Government must make clear commitment to have one PSSC for one ministerial portfolio. It must not repeat the flawed practice of having one PSSC for multiple ministries. In the worst example, four ministries (Public Works, Transportation, Housing and Local Government, Rural Development) were tasked to one PSSC (Infrastructure and Development), making committee oversight a farce.

BERSIH is however disturbed by intentions stated in points 3(d) and 3(e) that the chairpersonship of the PSSCs, lumped together with membership in Cabinet, are to be allocated 'proportionally with the number of parliamentarians by parties forming the Malaysian Unity Government' and any changes in such allocation will be discussed by the Prime Minister and head of the parties.

This implies that the government may use its two-third majority to monopolise all PSSC chairperson Positions, and the Selection Committee and House Committee in Dewan Rakyat - which have both representatives from the Government and the Opposition and decide the allocation of committee membership and leadership - would be completely bypassed. This would be a terrible regression from the practice under Mahathir, Muhyiddin and Ismail when some committee chair positions went to opposition members.

BERSIH urges Prime Minister Datuk Seri Anwar Ibrahim and the Minister for Law and Institutional Reforms Datuk Seri Azalina Othman Said to ensure the following best practices are implemented:

1. Committee membership is allocated across coalitions parties based on the number of private MPs (who are not ministers, speaker or Deputy Speaker's), not all MPs. Allocation based on the number of all MPs unfairly over-represents parties with many ministers.
2. Committee membership should be allocated taking into account of the MPs' interest and expertise, not arbitrarily assigned by their party leaders.
3. Committee chairpersonship should be allocated parties based on their proportion of private MPs.
4. The chair and vice chair must come from the different sides of the political divide, one from the

government bench and one from the Opposition bench, to ensure check and balance within the committees.

5. Both the Committee chairs and vice chairs should be reasonably paid with additional allowances as Committees are expected to operate all years long, even when Parliament is in recess.

Meeting with PM, Law Minister and Parliamentary Opposition Leader

BERSIH looks forward to meeting with PM Anwar and Minister Azalina as well as Parliamentary Opposition Leader designate Datuk Seri Hamzah Zainuddin to further discuss on strengthening of multiparty democracy and parliament.

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