

PRESS STATEMENT 23 November 2020

Pahang's 5 Unelected ADUNs Will Give MB Unchecked Power

The Coalition of Clean and Fair Elections (Bersih 2.0) sees the creation of up to five unelected seats of State Legislative Assembly Members (ADUNs) in Pahang an insidious attempt to usurp democracy and give unchecked power to the Menteri Besar (MB).

By expanding the total of ADUNs from 42 to 47, more than expanding the BN-PN coalition government's current majority from 33:9 to 38:9, it will give the MB an absolute power to appoint loyalists as cheerleaders in DUN or potential candidates to target opposition-held constituencies with public fund.

With amendment of Article 18 and insertion of Articles 18A, 18B and 18C in Pahang's State Constitution, the extra 5 ADUNs:

(a) will be appointed with a motion passed in DUN with a simple majority, without going through

any elections or meeting any eligibility criterion [Article 18A(1)], effectively a blank cheque for the MB;

(b) will enjoy all power, salary and allowances as elected ADUNs, except the qualification to be appointed as Menteri Besar and Executive Council (EXCO) Members; [Article 18A(4)]

(c) can be terminated by the Ruler at the advice of Menteri Besar on the ground of “national interest”, “national security interest”, “government policy” or “public policy”, which the State Government has the sole power to decide and cannot be challenged in court. [Article 18B]

Bersih 2.0 is alarmed that these five bonus seats would make Pahang MB a powerful warlord unchecked not only by the opposition, but also allies in coalition government. And this would come at a whopping RM 3 Million cost annually borne by Pahang taxpayers.

Bersih 2.0 rejects completely MB Wan Rosdy Wan Ismail's false claim that such appointments are not politically motivated and the nominated ADUNs would need to justify their professional qualifications before appointment. If professional qualifications are key, why are they not included in Article 18A or other provision?

Bersih 2.0 also categorically debunks Wan Rosdy's bogus excuse that Pahang needs more ADUNs to serve the voters, on four grounds:

- Pahang ADUNs met only 11 days in the whole of 2019. We don't need to pay hundreds of

thousands for 5 more ADUNs.

- Better services are provided by better funded and more efficient government agencies including elected local authorities, not by increasing ADUNs.
- With an annual electorate growth rate of around 2%, Pahang has the 4th lowest voters per ADUN ratio (19,619 voters in 2018) in the Peninsula, completely dwarfed by Selangor (43,142), Johor (32,464) or Kedah (31,847).
- If Pahang ever needs more ADUN, then the state government should amend the state constitution to increase the number of seats, not creating nominated seats.

While absolutely opposing unelected bonus seats for government in Pahang and in Sabah, Bersih 2.0 support introduction of non-constituency lawmakers. If legislatures are actively scrutinising governments, with many select committees, non-constituency lawmakers with policy expertise may contribute substantively to lawmaking and policy formulation.

Non-constituency lawmakers can be elected on a separate Party-list ballot alongside the First-Past-The-Post (FPTP) ballot for constituency representatives, as in Germany, New Zealand, Japan, Korea, Taiwan and Italy. This is the standard two-ballot form of Mixed Member systems.

Alternatively, non-constituency seats can be proportionally allocated to parties based on their shares of FPTP votes, as in Thailand now and in Germany in 1949. With parties nominating their non-constituency candidates alongside the FPTP candidates in elections, the non-constituency lawmakers are strictly-speaking elected, not appointed. This is the rarer one-ballot form of Mixed Member systems.

If non-constituency seats are created without any electoral basis, they are only legitimate in two arrangements:

1. As “Best-loser” seats, where some of the strongest candidates who lost are appointed, so that voters of some losers in FPTP elections get to be represented. For example, Singapore guarantees opposition at least 12 seats in the Parliament. In the 2020 election, when only 10 MPs from Worker Parties are elected, two best performing candidates from Progress Singapore Party (PSP) are appointed as “Non-Constituency MP”

2. As “top-up” seats to ensure representation of women and ethnic or other demographic minorities. In 2003, Terengganu amended Article XXVII (2) of its State Constitution to provide for appointment of up to four nominated ADUNs to represent women or non-Muslims if none is elected. In 2018, Zuraida Md Noor was appointed as Terengganu’s first woman nominated ADUN.

Bersih 2.0 supports introduction of non-constituency seats in the above four ways: (1) two-ballot Mixed Member system, (2) one-ballot Mixed Member system, (3) best loser seats and (4) top-up seats, but oppose strongly bonus seats to give extra power to the state government.

Bersih 2.0 urge Pahang and Sabah to modify their bonus seat to the one-ballot, best loser or top-up variant.

Issued by:

BERSIH 2.0 Steering Committee

BERSIH 2.0 Secretariat

A-2-8, 8 Avenue Business Centre, Jalan Sungai Jernih 8/1, 46050 Petaling Jaya, Selangor, Malaysia. Tel. No. : +603-79314444

Fax No. : +603-79314111

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