

The Longer Term

Written by Tengku Razaleigh Hamzah

Thursday, 05 February 2009 00:00 - Last Updated Monday, 10 October 2011 10:28

Some BN leaders are already celebrating our 'seizing power' in the Perak state government via defections. One major newspaper, taking the matter as settled, is already devoting frontpage coverage to speculation about who will be the new Menteri Besar.

All this has happened because three state assemblymen from the Perak government have left their respective parties to become independents allied to BN, and the Bota state assemblyman has returned to BN.

A few words of caution are in order in in this extremely fluid situation.

For constitutional, ethical and political reasons, I think celebrations are premature.

Constitutional points

The Constitution and the role of the Ruler in such crises must be respected.

The defections may or may not topple the government of Perak, but some of us are behaving as if they have instantaneously transferred the government to BN. Defections are not the basis for the formation of a government. Elections are. Governments are formed after citizens have expressed their choice through free and fair elections. Our Constitution specifies a formal process for the formation of a government. The Ruler is sworn to uphold and protect this constitutional process. From among the elected representatives, the Ruler appoints as his Menteri Besar the individual who in his opinion commands the confidence of the majority in the assembly, or dewan. This choice belongs to him alone, although thereafter the Assembly may reject his choice by a vote of no confidence in the dewan. The Ruler's powers and those of the legislative assembly act as checks and balances on each other.

The Menteri Besar has sought the Ruler's consent for the dissolution of the State Legislative Assembly. The decision now rests with the Ruler. If the assembly is not dissolved, Dato' Seri Nizar Jamaluddin remains as Menteri Besar until he resigns of his own accord, or is removed by a vote of no-confidence in a formal sitting of the assembly. The Constitution makes no provision for his removal by press conferences or newspaper headlines declaring victory.

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Ethical and political issues

The ethical and political issues coincide because ethical failures are at the core of our political problem. Umno is in critical condition. Our biggest challenge, both as a party and as the governing party, is to tackle corruption at every level. We are under close public scrutiny in addressing this problem. Unless we implement radical reforms and are seen to be doing so, we are finished politically come next election.

Instead we are now seen to be “winning back” Perak with the crossover of exactly the kind of low calibre individuals, as one commentator has put it, that we should shun.

Two of the assemblymen whose allegiance we have suddenly gained are under investigation for corruption. I was clearly wrong about the integrity of the assemblyman from Bota. His justification for his record-breaking ten day double-hop is an insult to the public’s intelligence and nauseating in its insincerity. It is precisely this kind of open abuse of the public’s trust for the sake of personal gain that causes people to hate Umno.

The farcical circumstances of these defections, complete with mysterious disappearances, sudden reversals, and implausible explanations, show ample signs of illegal inducement. No matter what the truth of the matter, let us not fool ourselves. People will not believe that these crossovers were honest. This mistrust will taint any government formed on the back of these crossovers.

Elections are the sole source of the government’s authority in a democratic society.

In the end we shall have to face elections

If the Ruler decides not to accede to the MB’s request for the dissolution of Parliament, and BN is invited to form a state government on the basis of defections, what more dubious ones, I think it would anger a large section of the Malaysian public.

Our taking control without resort to elections would cement the enmity of the very people we should be trying to win back at the next elections. Come next General Election, they are are likely to reject both our state and parliamentary candidates with greater vehemence, and not

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just in Perak.

Contests in a democracy are not a fight for survival in which anything goes. They are competitions to serve.

BN should reform to improve its ability to serve with distinction. This is a long-term project that requires immediate focus. We do not need the distraction of transient, shaky victories when our task is to upgrade ourselves to win elections again, fair and square.

The is the only sustainable way to win the public back to BN.

NOTES

We are a democracy

The authority of our government derives solely from the consent of the governed. That consent is expressed primarily through elections. Free and fair elections are the bedrock of our system of government. Free and fair elections are the only source of the authority of the government.

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We are a parliamentary democracy .

At both state and federal level, governments are formed only after the people have expressed their will by electing their representatives to the legislative assembly. In the states, these are the state legislative assemblies, or Dewan Undangan Negeri. In the Federal government, this is the lower house of Parliament.

We are a **constitutional monarchy** that preserves the sovereignty of the Malay Rulers.

Acting on behalf of the people, and with the executive powers of the government vested in him, the Ruler appoints as his Chief Minister the member who in his view commands the confidence of the majority of the members of the assembly. The Ruler's discretion in this choice is absolute. However his choice can be tested by a vote of confidence in the assembly when it convenes formally.

Note that in this constitutional description there is no mention of parties at all. Each elected representative, whether a parliamentarian or a state assemblyman, enters the Dewan as an individual representing his constituents. From the point of view of the Constitution, the member's party affiliation is irrelevant. It may determine how he votes, and therefore which side of the assembly he sits on, but nothing else, so far as the State Assembly is concerned.

A government can fall when a majority in the assembly votes against the government in the Dewan. To preserve the integrity of the system, that "majority" is narrowly defined. It is the majority determined by a vote within a formal session of the Dewan. It is not a "majority" as established by opinion polls or by press conferences or signed letters.

This is why Dato' Seri Anwar Ibrahim could not take over the Federal Government last September simply on the basis of his claims that he had a majority of MP's with him. Signed letters of support or mass presence at press conferences were irrelevant to the question.

This is why in Terengganu last year Dato' Idris Jusoh could not form the government, despite having signatures from a majority of the state assemblymen.

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The Assembly is not a meat market, and the government is not up for auction.

The “majority” needed to form a government is defined in the formal way I have described.