

DIRECT DEMOCRACY OPTIONS FOR MALAYSIA

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In 2004, in the highly divided and hyper partisan country of Venezuela, a recall referendum was conducted on whether to sack or keep the charismatic leader, Hugo Chavez. In Venezuela, all offices that are elected by popular vote are subject to revocation through a recall mechanism. Venezuela is unique in applying this mechanism widely and even then President Chavez was not spared. The opposition in Venezuela collected signatures in 2003 and the process of validation of signatures was marked with controversy. In 2004, the election management body of Venezuela (CNE) certified that the opposition had collected sufficient signatures to trigger a recall vote. The question posed to the voters is whether the voters agreed to revoke the presidency term of Chavez or not. With a turnout of 70%, 58% of the voters voted to keep Chavez and 42% voted to sack Chavez. Chavez survived the recall attempt. In Asia, we have seen a similar example of recall elections carried out in Kaohsiung, Taiwan where the voters voted to sack the mayor in 2020. Both instances are good examples of direct democracy in action within the context of a representative democracy. In this article, we at Tindak Malaysia would like to explain what direct democracy options could be considered for Malaysia.

In simpler terms, a direct democracy is a form of democracy which enables its citizens to participate and decide for themselves on specific matters or policies. It is different from representative democracy where the citizens would vote for an elected representative to enact policies for the people who voted for them. The post GE14 era in Malaysia has revealed the various weaknesses of representative democracy in Malaysia. Most voters in Malaysia are finding they do not have much control over the politicians, and this can create disillusionment

Direct Democracy Options....

Written by admin

Monday, 05 July 2021 10:21 - Last Updated Monday, 05 July 2021 10:43

and apathy. At the same time, we can see organizations like Bersih calling for initiatives like recall elections to address the unending problems of party defections. With all of these in mind, Tindak Malaysia will briefly explore three mechanisms of direct democracy. They are referendums, recall elections and participatory budgeting.

Referendums

A referendum is a vote in which all the people in a country or an area are asked to give their opinion about or decide an important political or social matter. Referendums on key matters like distribution of oil revenues among regions in Malaysia or questions on reinstating local council elections would be better ascertained by the public compared to divided opinions in political party rooms. There are few types of referendums that Tindak Malaysia advocates for: mandatory and optional versions. Mandatory referendums should cover certain topics such as admission of new territories to Malaysia and significant amendments to specific articles on the Federal Constitution. Proposals of such drastic changes ought to be voted by the citizens. Optional referendums are not legally required to be carried out but initiated by the government, members of legislature or a number of citizens.

For example, we may want to consider holding a referendum to reinstate local council elections as our politicians from both sides have yet to deliver on this matter. Any citizen of the Federation of the age of 18 and above may launch the referendum on local council elections. Subsequently, this call ought to be backed by signatures of 10% of registered voters (i.e., the Federation). Such call shall be formulated as a general proposal or specific draft (i.e., amending part of the constitution). This call is submitted to the voters. If the 50% +1 of registered voters participating in the referendum approved the reinstatement of local council elections, the Parliament shall initiate the draft legislation for approval. The outcome of the referendum should

Direct Democracy Options....

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be binding unless 75% of Parliamentarians vote against such outcome.

Referendums can re-engage the citizens in the framework of representative democracy and solve deep divisions within the incumbent government in carrying or not carrying out certain legislations. While referendums can be expensive and require a higher level of awareness of voters on key issues, the benefits of referendums outweigh our current inability to influence the direction of the country. If referendums are adopted in Malaysia, it will require amendments to our Federal Constitution.

Recall Elections

Recall elections is a mechanism which allows the voters to end the term of elected representatives should the voters are able to meet the requirement of recall vote. There are three major considerations of recall elections: requirement for recall, holding the recall vote and choosing the successor when an elected leader is sacked. For the Malaysian context, a recall mechanism should be applied for our elected representatives of the state (DUN) and the federal level (including the Prime Minister). There are two ways to see the ground for recall elections: unrestricted or restricted. Unrestricted recall elections facilitate voters to remove underperforming or unpopular politicians midterm. Restricted recall elections impose certain grounds such as party defections, serious malfeasance or failing to carry out manifesto promises. As recall elections hinge on the will of the voters, unrestricted recall elections yield its main strength that is flexibility. Unrestricted recall elections can handle the wide spectrum of party defections and performance of politicians.

In Malaysia, we propose, a recall election can be activated no earlier than one year of the official term and no less than one year of the automatic dissolution of Parliament/DUN. We propose the following steps:

1. Recall election is to be initiated by a voter together with signatures of 1% of the voters of the constituency. The recall should bear a specific proposal such as "Shall [title and name of elected representative, the name of constituency he or she represents] be recalled (removed) from the Dewan Rakyat/State Legislative Assembly
2. Signatures should only be collected once the proposed initiative for recall is successfully filed at the Election Commission. Four months are given to collect signatures.
3. All signatures must be verified prior to the start of recall vote.
4. The recall vote will be only called should there be a verified signature collection of 10% of registered voters of the constituency (current at the time of initiation of the petition) before the recall takes place.
5. The process of recall vote and nominating the successor should be separate. The recall vote is to be initiated within 60 days when the recall vote is qualified.
6. The incumbent is removed on the basis if a majority of the registered voters participate in the recall and majority of the voters want to sack the incumbent.
7. Once the incumbent is removed, the speaker of the House or State Legislative Assembly shall notify the Election Commission of the vacancy. A by election is triggered.
8. The defeated incumbent should be given the right to contest in the by election.
9. To prevent abuses in the interim, should the recall election failed to remove the incumbent, another recall process should not be initiated against incumbent within that given term period.

The above process can be fine-tuned to close any deficiencies. Recall elections are expensive mechanisms and prone to abuse (from signature collection to the intent of recall). However, adjusting thresholds for initial signature collection and recall vote together with clear rules on signature collection can mitigate the impact of misuse. We, Tindak Malaysia, argue that the benefits of recall election outweigh its disadvantages. The flexibility of recall elections cannot be

Direct Democracy Options....

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underestimated. Similar to referendums, instituting recall elections will require amendments to our Federal Constitution. This leads to the third direct democracy option which is participatory budgeting (which does not require constitutional amendment).

Participatory Budgeting

Participatory Budgeting is a mechanism which enable the participation of citizens in the process of deciding how public money is being spent. It started in Porto Alegre, Brazil in 1989, where participatory budgeting was successful in dealing with deeply embedded corruption in Brazilian society while empowering the marginalized communities. Participatory budgeting has spread to over 7000 cities (ranging from metropolises to the small towns) around the world. In Malaysia, Penang is the only state known to practice this concept.

Participatory Budgeting has an annual cycle of engagement, and these are general steps of the engagement:

1. A steering committee that represents the community that create the rules.
2. Residents brainstorm ideas for their communities via meetings.
3. These ideas are converted into proposals by volunteers of the community.
4. Residents vote on the proposals that most serve the community's needs.

5. The government or institution funds and implements the winning proposal.

Let us look at the example of methodology used in Gender Responsive Participatory Budgeting (GRPB) in Penang. This methodology has few major steps:

1. A demographic survey of the community with focus group discussions. The focus group discussions involve understanding the local issues, the origins of the issues and how to solve them. Residents vote on a priority list that was developed from earlier discussions.
2. Planning and budgeting on the solution.
3. Project implementation.
4. Project monitoring and evaluation.

Let us examine the case of PPR Jalan Sungai. There were a couple of proposed community projects (i.e., building maintenance, security) in 2014 that were identified via the surveys. Most of the residents voted to have a building maintenance project, followed by cleanliness. As a result of the vote, a Community Cleaning Contract was implemented where residents of the community were invited to apply for roles for this contract project. Penang Women's Development Corporation (PWDC) allocated a preliminary RM70,000 to kickstart the project and this project was supervised by the council and local representative. Not only this GRPB generated some local jobs for the PPR, but it also facilitated closer relationships between the council and residents.

Direct Democracy Options....

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Any implementation of participatory budgeting is bound to face challenges such as level of awareness and ability of institutions to support GRPB projects. We believe participatory budgeting allows the public to assert control of the future of their local vicinity and prepare the voters for future local council elections. This concept is a tangible expression of citizens being the agents of changes, instead of abdicating their future to politicians. Unlike the other two proposals, participatory budgeting can be implemented without a constitutional amendment. A local council should allocate around 10% of its development budget for participatory budgeting projects.

By introducing these three options of direct democracy, Tindak Malaysia believes that we can arrest any further decline in public faith in our governance. By empowering voters to determine of their future, cynicism can be channelled into effective policy proposals. We should not be weighed down by the hopelessness of the current government or worrying about the disadvantages of direct democracy. We should start focusing on how to bring about these three forms of direct democracy options in reality. We can begin by lobbying our politicians to implement participatory budgeting first in local councils and push them to draft bills on recall and referendums. We must act now for a better Malaysia.

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