

SEW

Sibu Election Watchers

11D Jalan Bruang 96000 Sibul, Sarawak, Malaysia

Contact: +6016-3471853

Email. Mchuo@yahoo.com

Web site: <http://sarawaknews.wordpress.com>

Preliminary Report for P212 Sibul By-election Observation Mission

A. INTRODUCTION

The Sibul Election Watchers (SEW) has organized a 22-member observation mission for the Sibul by-election where the nomination day was May 8th and polling day, May 16th. SEW is glad to announce that it has found the very brief election period of 8 days to be organized in a peaceful and orderly ways but regret that the vote buying practices and abuses of government resources were rampant and done with impunity by the highest levels of the Executive branch of the State and Federal government. SEW is disheartened that the chief election administrators, the Election Commission (SPR) and the anti-corruption agency (MACC) did nothing to restrain the tremendous challenges to the election laws of the country. Under such trying circumstances SEW congratulate the Sibul voters for being able to come out with their own choice of Parliamentary representatives despite the tremendous undue influences which were brought upon them.

SEW divide its observers into 3 groups according to the 3 state constituencies under the Parliamentary constituency of Sibul viz Palawan, Nangka and Bawang Asan. SEW observers cover the 8 stages and aspects of the by-election cycle: pre-election period, electoral roll analysis, nomination day, campaign period, media coverage, financing of the campaign, polling day and performance of election administrators.

B. FINDINGS

1.Pre-election observation

SEW did a pre-election study of the Sibul constituency and found that the constituency with 54695 voters, including 2537 postal voters consisting mainly of the military and police personnel, to be facing considerable problems of disenfranchisement where there are sizable residents without identity documents and voters registration. This problems are particularly acute in rural areas on account of travel problems, illiteracy and poverty. The constituency which comprise 3 major ethnic groupings of Chinese, Dayaks and Melanau/Malay also face a common problem of youth working out of town and therefore unable to return to exercise their voting rights. Youth from 21 to 30 years of age make up only 9% of the registered voters –showing under-representation of youth among the voters.

2.Electoral Roll Analysis

In addition SEW found that there are thousands of voters who have been moved away from their previous polling centers without adequate notice. Even though they can check their polling centers

ahead of the election the ways to check this information, either on-line or through SMS, are still not accessible to older generations on the wrong side of the digital divide, or for those rural residents where mobile network is limited.

3.Nomination day

On nomination day SEW found that the proceeding was made unnecessarily confrontational due to the limited time ie 1 hour, for the filing of nomination paper for all the candidates. Huge number of police personnel were deployed at the nomination center at Dewan Suara, to stop any untoward incidence between the supporters from 2 sides.

The otherwise relatively orderly nomination proceeding where 3 candidates successfully get themselves nominated, was marred by the lack of exhibition of the candidates' paper to the public during the limited 1 hour exhibition time. The legal rights of the voters was thus denied, without any explanation from the Election Commission.

4.Campaign

The campaign for Sibiu by-election brought vote buying and abuses of Government resources to unprecedented height, and in so doing hugely distort the will of the people as reflected in the outcome from the ballot box. In all almost 20 ministers, led by the Prime Minister, and many more deputies, parliamentary secretaries, department officials from the Federal Government and their state government counterparts took turn to make allocations or promising the same, abuse government departments and programs, civil servants (chiefly teachers, police), vehicles, buildings etc to advance their campaigning agenda. There was no law enforcement on these activities which clearly violate the Election Offences Act 1954 and the Anti-Corruption Act 1997. Neither the Election Commission (SPR) nor the anti-corruption agency (MACC) bother to take action on them or just to reprimand them.

5.Media bias

SEW set up a working group to monitor print media coverage of the Sibiu by-election. The media monitor's 1st report was released earlier on May 13th. The final report is attached together with this report. The report found that the 4 main print media which are all owned by the major conglomerates initially were quite even handed in their coverage of the 2 parties involved in the election. However as it gets closer to the polling day one after another they turn to giving overwhelming prominence to the SUPP/BN candidate whose family owned the See Hua daily (Chinese) and the Borneo Post (English). The paper which were owned by the BN candidate's family business KTS led the turn to unbalanced reporting and editorials. SEW observed that the personal involvement of the media owner's family member was behind the charge towards partisan reporting by the KTS-owned paper. This means that if the family member of other paper are involved in future elections the paper involved could turn to partisan reporting even at the expense of their credibility as a trustworthy media.

6.Financing

There is no auditing conducted to check if the candidates and their party behind has over spent in terms of the legal limit of Rm200 000.00 specified for their election expenses under the Election Offences Act 1954. However by general impression both candidates together with their party could have breached the legal limit specified for a parliamentary seat. While there is a legal loophole to exclude party expenditure in the calculation of the officially required election expenses the lack of control on the election expenses allow elements of tremendous disproportionality and unfairness to the election. To make it worse the financing for the campaign for the incumbent party could come significantly from the public coffers at Federal and state levels!

7. Polling Day

Contrary to international practices SEW observers were not allowed to enter the polling centers on polling day on May 16th by the Election Commission. However the 20 observers who were split into about 10 teams with 2 members each were able to observe the election from around the polling centers to give meaningful insights into the operation of the polling day where polling, counting of votes, accumulation of returns from polling stations and announcement of the election result was carried out quite peacefully.

SEW laud the Election Commission and the Returning Officer for acting to stop party supporters from setting up tents outside the polling centers which could become a gathering point for the party members who insist on breaking the law against campaigning on polling day. Unfortunately such enforcement only occurred at urban polling centers and not in rural areas. In any case due to the lack of enforcement on this law many polling centers saw campaigning continuing for the whole day on polling day-some by quite senior leaders from both sides;

SEW also observed that in rural areas SPR do not supply wheelchairs for the disabled voters, unlike in urban polling centers.

SEW noticed that there were people who recorded voters' attendance at the gate of the polling centers either manually or with video camera, which can be intimidating to the voters recorded. Offenders include personnel from the PBB party, KEMAS(a government department) and DAP.

SEW brought a complaint to the Returning Officer about the new practice to record voters' serial number on the slip of paper given to voter to identify their polling stream/ classroom, which could create suspicion of the serial number also being used to breach voting secrecy. SPR should explain why this practice is introduced;

SEW was disappointed that the results of the election was not announced promptly at 9.00pm as announced by the SPR chairman before. It was announced 2 hours later at 11.00pm. The delay of announcement of election result gave a negative impression as if there were effort to temper with the results;

While SEW acknowledge that the candidate from the Sarawak opposition suffer huge disadvantages in the by-election there are also instances where their party workers and elected representatives are not willing to cooperate in upholding the no-campaign rule on polling day, contradicting the practice of democracies else where.

8. Election administrators

SEW take it seriously that the Election Commission alter its voters turn out rate from 59% to 70%, a change of over 10%, without any explanation. Such action could only seal the impression that the election administrator was either incompetent, manipulative or partisan;

While SEW thank police personnel for being responsive and cooperative to SEW observers during the election observation we find the deployment of 2000 outside police to be unjustifiable in peaceful Malaysia and a waste of money. By contrast Hulu Selangor by-election before this with a bigger electorate and area used only half the police to provide security.

Despite a doubling of the Election Commission budget of Rm1mil there is a visible over-deployment of personnel at urban polling centers while there is insufficient personnel at rural polling centers. In many instances the 50m boundary of the polling center were not marked off by a yellow tape which we understand had been provided to them.

C. CONCLUSION

From a survey of the various stages and aspects of the Sibuluan by-election SEW is of the opinion that the election was desperately in need of numerous improvements before it can be considered a free and fair election. Election and anti-corruption law was flaunted blatantly with the law enforcement agencies looking the other way. The media too failed to highlight such transgression to the readers/voters, but proceeded to paint the vote buying attempts into what the Prime Minister and BN chairman's defense of such actions to be : 'action to help the people'. In truth such actions would distort the will of the people –the highest reference for a government in a democracy. If this negative trend is not checked Malaysian democracy could in time to come, slide into a state where it no longer reflect the will or choice of the people. All citizens will then suffer all the dire consequences of dictatorship.

D. RECOMMENDATIONS

Pre-Election period

1. IC and voters registration problems should be addressed as a matter of urgency so as not to disenfranchise huge section of the Malaysian citizens;
2. Moving of voters to other polling centers should be informed to voters;
3. SPR should clarify policies on moving voters to eliminate suspicion of political interference;
4. Voters education by SPR should be improved to increase voting rates;

Nomination period

5. Candidates' papers should be displayed to the public outside restrictive zone of nomination center as provided by the law;
6. Nomination period should be extended to 1 week to avoid the tense atmosphere at nomination center when party supporters from opposing sides converge in restricted spaces;

Campaign period

7. Campaign period: no public allocation, announcement of new projects or awarding of contracts as soon as election is known to be due eg when the vacancy of seat is verified;
8. MACC should pro-actively investigate and prosecute vote buying instances which are rampant in this and previous by-election
9. There should be no abuse of local, State or Federal government facilities, buildings, personnel eg civil servants, vehicles, programs etc for campaigning purposes;
10. Tuai rumah should give equal access to all parties for campaign purpose so as not to deny balanced information to long house residents/voters;
11. Press freedom during election should be addressed by banning party ownership of media;

Polling Day

12. Disable/universal access need to be improved at polling center eg avoid steep slopes, long distance to get to polling stations; provision of wheel chairs especially in rural areas
13. Stopping party tents should be enforced in urban center as well as in rural areas;
14. Voters identification by SPR should be improved eg use indelible ink; use JPN's data base ie automatic registration of voters; this is to address persistent complaints that voters found their vote having been cast by someone else;
15. Party members should not be recruited as polling officials to avoid them campaigning while doing their duty within the polling center;
16. Announcement of election results should be prompt-delay by 2 hours undermine credibility of election administration;
17. Essential info eg voting rate, should be correctly and regularly publicized; the last minute adjustment of voting rate by 10% need clarification by SPR;

Postal Votes

18. SPR should conduct postal votes in ways which as much as possible do not deviate from standard polling procedures with their safeguards. The postal voters should not be allowed to bring voting paper out of the polling station in case they are used for selling the vote-an illegal practice. 2ndly the votes should be counted on the spot just as standard procedure.
19. To address the significant proportion of especially young voters who cannot return from outstation to vote the SPR should allow postal votes for these voters and /or setting up polling stations in big cities eg Kuala Lumpur, Johor Baru, Penang and Kuching where there are a certain number of verifiable voters' presence. This will help address the persistent pattern of below average voters turn out in Sibü and other parts of Sarawak.

Observers

20. All bona fide election observers groups –both local and international, should be accredited to enter polling stations without being subjected to restrictions which hamper their job.

By

Wong Meng Chuo

Chief of Mission

Sibu by-election Observation Mission

Coordinator

Sibu Election Watchers

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Note: A final report of the Sibü by-election will be published after all election complaints are disposed off.

Sibu Election Watchers (SEW) is a newly formed Sibü based election observation group consisting of many trained and experienced election observers from many years back. Members of the group has observed elections in 2006 Sarawak state elections, 2008 General Elections and Batang Ai by-election. SEW is a network member of Malaysian Election Observers network (MEO-Net)