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## **RESEARCH ON POSTAL VOTING/ ABSENTEE VOTING<sup>1</sup>**

### ***Right to Vote***

1. The right to vote is guaranteed in article 119 (1) of the Federal Constitution. This right can be enjoyed by every citizen who has attained the age of 21 years old and a resident of a constituency on the date he or she applies for registration as an elector in a constituency.<sup>2</sup>
2. A registered voter is entitled to vote in that constituency in any election to the House of Representatives or the Legislative Assembly unless he is disqualified under article 119(2) of the Federal Constitution or under any law relating to offences committed in connection with elections.
3. To ensure that citizens have an effective opportunity to enjoy the right to vote, the government promulgated the Elections Act 1958 and a number of regulations.
4. There are two ways that registered voters are able to cast their votes: - firstly, direct voting in person at a polling station on polling day;<sup>3</sup> and secondly, voting by post.<sup>4</sup>

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<sup>1</sup> Supported by a grant from the Open Society Foundations.

<sup>2</sup> Article 119(4)(a) of the Federal Constitution.

<sup>3</sup> Section 19 of the Elections (Conduct of Elections) Regulations 1981.

<sup>4</sup> Elections (Postal Voting) Regulations 2003 and Elections (Registration of Electors) Regulations 2002.

### ***Direct voting in person***

5. Direct voting is done in person, by going to a polling station and marking the ballot paper issued to the voter and placing the ballot in the ballot box.<sup>5</sup>
6. A registered voter is only able to cast his or her vote at a polling station in the constituency to which that part of the electoral roll contains his or her names has been assigned. Exceptions are made only if a voter is employed as a presiding officer or in any other official capacity at a polling station other than that where he is registered.<sup>6</sup>
7. For voters who are blind or who are physically unable to mark the ballot paper at the polling station, section 19(7) of the Elections (Conduct of Elections) Regulations 1981 allows a relative<sup>7</sup> or the presiding officer to mark the ballot paper and place the marked ballot paper into the ballot box for and on behalf of the said disabled voter.

### ***Postal voting/absent voters***

8. The Elections (Postal Voting) Regulations 2003 and the Elections (Registration of Electors) Regulations 2002 allows postal voters and absent voters to vote by post.
9. Absent voters are the following categories of persons:<sup>8</sup>
  - a) A serving member of any regular naval, military or air force of Malaysia, the Commonwealth or other country;
  - b) The spouse of a serving member of any regular naval, military or air force of Malaysia, the Commonwealth or other country;

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<sup>5</sup> Section 19 of the Elections (Conduct of Elections) Regulations 1981.

<sup>6</sup> Section 15 of the Elections (Conduct of Elections) Regulations 1981

<sup>7</sup> Section 19(7) of the Elections (Conduct of Elections) Regulations 1981 defines “relative” as father, mother, brother, sister, wife, husband, son or daughter.

<sup>8</sup> See Regulation 2 of the Elections (Registration of Electors) Regulations 2002.

- c) A person in the public service of the Government or of any State or in the service of any local authority or statutory authority, who is on duty outside Malaysia;
- d) The spouse of a person in the public service of the Government or of any State or in the service of any local authority or statutory authority, who is on duty outside Malaysia, who is living with his or her spouse outside Malaysia;
- e) A person engaged in full-time studies at any university, training college or any high educational institution outside Malaysia; or
- f) The spouse of a person engaged in full-time studies at any university, training college or any high educational institution outside Malaysia who is living with his or her spouse outside Malaysia.

10. Persons entitled to vote by post are<sup>9</sup>:

- a) An absent voter;
- b) A person certified by the Election Commission to be an election officer and liable for duties on polling day;
- c) A member of any police force established by any written law in force in Malaysia other than a member of the Police Volunteer Reserve Force;
- d) A member of the Election Commission appointed under article 114 of the Federal Constitution; or
- e) A member of any category of persons designated as postal voters by the Elections Commission, by notification in the Gazette.

11. Regulation 3(2) of the Elections (Postal Voting) Regulations 2003 provides that election officers, members of the Election Commission and any person designated as

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<sup>9</sup> Regulation 2 and Regulation 3(1) of the Elections (Postal Voting) Regulations 2003.

postal voters by the Election Commission in the Gazette, who desires to vote by post shall apply to do so using Form 1 in the Schedule.

12. If the application is approved, the returning officer shall issue a postal ballot paper to the applicant. If the application is not approved, the returning officer shall inform the applicant and shall state his grounds for not approving the application.<sup>10</sup>

### *Disenfranchisement of voters*

13. It appears that the current provisions in the Elections (Postal Voting) Regulations 2003 and the Elections (Registration of Electors) Regulations 2002, the Elections (Conduct of Elections) Regulations 1981 and the consequent administrative and operation provisions related to electoral registration and voting itself, limits the exercise of the right to vote, particularly, of the following categories of persons:

- **Voters residing outside their registered constituency**, particularly Sabah and Sarawak voters;
- **Overseas voters**, i.e., registered voters living outside Malaysia or who happen to be outside Malaysia on election day, due to employment or other reasons;
- **Detainees**, who are in detention under any one of the preventive detention laws, such as the Internal Security Act 1960 (ISA); and
- **Persons with disabilities**.

### *Voters residing outside their registered constituency*

14. Currently, a registered voter is only able to cast his or her vote at a polling station in the constituency to which that part of the electoral roll contains his or her names has been

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<sup>10</sup> Regulation 3(4) of the Elections (Postal Voting) Regulations 2003.

assigned. As such, most voters would have to travel to the state/constituency in which he or she is registered as a voter or transfer his or her registration to a different locality.<sup>11</sup>

15. In particular, this requirement to cast one's vote at the registered constituency unduly burdens voters from Sabah and Sarawak as the cost to return to the registered constituency could be high. It appears that this could have an effect on voter turnout. In the 2008 Parliamentary elections, only 58 percent of Sarawakians turned out to vote; some have argued that one contributing factor was the travel cost to Sarawak, of voters working and residing in Peninsular Malaysia.

#### *Overseas voters*

16. The narrow definition of 'absent voter' and 'postal voter' in the Elections (Registration of Electors) Regulations 2002 and Elections (Postal Voting) Regulations 2003 limits a number of Malaysians residing outside Malaysia from exercising their right to vote. The definition, which only includes members of the public service, regular naval, military or air force of Malaysia or full-time students and their spouses, electoral personnel and the police force, excludes voters (and their spouses) who are resident outside working in the private sector or international organisations, retired or unemployed.
17. According to a joint report of the World Bank and the Economic Planning Unit of the Prime Minister's Department, there are about one million Malaysians working overseas as of April 2011.<sup>12</sup>

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<sup>11</sup> Regulation 12 of the Elections (Registration of Electors) Regulations 2002.

18. Although these voters may be designated as postal voters by the Elections Commission, by notification in the Gazette pursuant to Regulation 3(1)(f) of the Elections (Postal Voting) Regulations 2003, the requisite Form 1 in the Schedule of the 2003 Regulations limits the application for postal ballots only to election officers, or members of the public service who will be on duty on polling day. As such, in practice, voters who do not fall within this category would not be permitted to apply.
  
19. Also, it remains unclear how the Election Commission will decide upon an application by a person who is not an election officer or a member of the public service who will be on duty on polling day. To date, no categories of persons have been designated as postal voters by the Election Commission by notification in the Gazette pursuant to Regulation 3(1)(f).

### ***Detainees***

20. While international human rights standards allow the restriction of the right to vote of convicted persons so long as the restriction is objective and reasonable,<sup>13</sup> persons who are deprived of liberty but who have not been convicted should not be excluded from exercising their right to vote.
  
21. At this juncture, it is noted that detainees detained under the ISA are not qualified to apply or be categorised as postal voters under Regulation 3(1)(f) of the Election (Postal Voting) Regulation 2003. In *Yazid bin Sufaat & Ors v Suruhanjaya Pilihanraya*

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<sup>12</sup> *One million Malaysians working abroad, says Devamany*, The Star Online, 1 November 2011, [www.thestar.com.my](http://www.thestar.com.my)

<sup>13</sup> General Comment No. 25 (12/07/1996) CCPR/C/21/Rev.1/Add.7, paragraph 14, Committee on Civil and Political Rights, Office of the High Commissioner for Human Rights, <http://www.unhchr.ch>

*Malaysia*,<sup>14</sup> applicants who were detained under the ISA filed an application to compel the Election Commission to make provisions to allow them to vote while in detention at the 11<sup>th</sup> general elections. The Courts accepted the argument put forward by the Election Commission that the detainees could have applied using Form 1 to be registered as postal voters but did not and as such there was no duty on the Election Commission to make provisions which would allow them to exercise their right to vote.

22. However, it should be noted that the current regulations do not provide for voters who are in detention to be categorised as postal voters. As with overseas voters (see above), Form 1 and the certificate required under Regulation 3(1)(f) of the Election (Postal Voting) Regulations 2003 does not facilitate the application to the Election Commission for detainees to be categorised as postal voters.

### ***Persons with disabilities***

23. Although section 19(7) of the Elections (Conduct of Elections) Regulations 1981 (see paragraph 7 above) contains provisions to allow a relative or the presiding officer to mark the ballot papers of the blind and physically disabled voters, this assistance is only available to persons with disabilities who are able to personally go to the polling station on election day.
24. For voters who, due to their disability, are unable to physically go to a polling station to cast their votes, section 19(7) is not applicable. This, coupled with the lack of access to the same postal voting arrangements as other voters, denies voters with disabilities and the aged, from exercising their right to vote.

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<sup>14</sup> [2006] 3 MLJ 587 (High Court); [2009] 6 MLJ 222 (Court of Appeal); [2009] 6 MLJ 152 (Federal Court).

25. Other barriers to exercising the right to vote of persons with disabilities include the lack of accessible polling stations (most schools are used as polling stations and do not contain structures which would enable physical access to persons with disabilities, such as ramps) and the lack of ballot papers in accessible formats, such as Braille and in formats other than print, means they are not able to cast a secret ballot.
26. The Persons with Disabilities Act 2008 does not contain any provisions, which ensures that voting procedures, facilities and materials are appropriate, accessible for voters with disabilities.

***Recommendation 1: Enact a new category of voters known as external voters***

27. The right to vote is a human right essential to a citizen's right to participate in every election. Therefore, where there are circumstances such as illness, disability and being abroad, make it difficult for Malaysians to exercise their right to vote, provisions in the law and regulations should be amended to allow these categories of voters the right to vote. This would increase political participation and contribute to legitimacy of the elected government.
28. Article 119 of the Federal Constitution, which guarantees the right to vote should include provisions which would enable the enfranchisement of citizens. This includes the obligation of the Election Commission, which is given the power and responsibility to conduct elections, to ensure that any eligible voter may exercise his or her constitutional right to vote, by enacting the appropriate laws and provisions.

29. The degree of participation of voters during elections is very much dependant upon the requirements of entitlement to external voting; external voting is defined as the provisions and procedures, which enable some or all voters of a country who are temporarily or permanently outside the country to exercise their voting rights from outside the territory of the country.<sup>15</sup>
30. Some countries, like Malaysia, restrict in accordance with activity abroad, such as diplomatic staff or those employed by the government or armed forces, students - for example in Bangladesh, Ireland, India, Laos and Zimbabwe.<sup>16</sup> Some countries restrict in accordance with the length of stay abroad. In Mozambique, a voter needs to be a resident abroad for at least one year before being able to avail himself or herself to vote from abroad. In Gibraltar, Guernsey, Isle of Man and Jersey, a voter can only vote if the stay abroad is provisional.<sup>17</sup>
31. Australia, Canada, Denmark, New Zealand and Norway has the most flexible provisions as it allow voters who are in transit travelling or provisionally abroad to vote externally.<sup>18</sup>
32. Also, in the United Kingdom (UK), any voter is entitled to request a postal vote without giving a reason or whether he or she is residing within or outside the UK. Registered voters who wish to vote by post must submit an additional application form to the Election Registration Officer at their local authority stating whether they want their

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<sup>15</sup>Voting from Abroad. The International IDEA Handbook, <http://www.idea.int.at> pg. 67.

<sup>16</sup>Voting from Abroad. The International IDEA Handbook, <http://www.idea.int.at> pg. 19.

<sup>17</sup> Voting from Abroad. The International IDEA Handbook, <http://www.idea.int.at> pg. 21.

<sup>18</sup> Voting from Abroad. The International IDEA Handbook, <http://www.idea.int.at> pg. 21.

ballot paper to be sent for one single election, all elections until a specified date or indefinitely. They must also submit their date of birth, and signature specific on the form.<sup>19</sup>

- 33. Therefore, to ensure a high degree of participation by voters, it is recommended that the Elections (Postal Voting) Regulations 2003 and the Elections (Registration of Electors) Regulations 2002 should be amended to create a new category of voters known as external voters.**
  
- 34. The definition of external voters should be wide enough to include the current categories of persons within the definition of postal voters and absent voters and also all voters who are unable to personally go to a polling station on polling day, regardless of reason; this would include, *inter alia*, Malaysians not residing in the registered constituency, Malaysians who are abroad for whatever reason, persons with disabilities who are unable to physically access a polling station and detainees.**

***Recommendation 2: Facilitate registration of external voters***

35. In most countries, voters are registered in respect of particular locations – usually their home residence – so that they can establish their right to vote in particular electoral districts. Simple registration on the normal electoral register is sufficient for an external elector to retain the right to vote, without the need for special registration as an external voter. Where a person is absent for a longer period, many countries require special registration as an external elector. In most cases it would be appropriate to apply the

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<sup>19</sup> The UK Election Commission, <http://www.aboutmyvote.co.uk>

same level of authentication requirements to registration as an external elector as apply to the normal electoral registration process.<sup>20</sup>

36. In Australia, external voters must satisfy the normal requirement for electoral registration in Australia. Registered electors who leave Australia and intend to return within six years can apply to be registered as ‘eligible overseas electors’ and retain the right to remain on the electoral register and vote while overseas. Eligible overseas electors who are overseas for longer than six years can apply for 12-month extensions indefinitely.<sup>21</sup>
37. In Canada, citizens who have lived abroad for less than five years consecutive years since their last stay in Canada and who intend to resume their residence in Canada may apply for registration on the register of non-resident Canadians and become entitled to vote while abroad.<sup>22</sup>
38. In the UK, British citizens living abroad are eligible to register and vote as overseas electors if their name was previously on the electoral register for an address in the UK and no more than 15 years have passed between the qualification date of that register and the date on their application to register as an overseas elector.<sup>23</sup>
- 39. In Malaysia, there are currently no requirements of minimum or maximum number of years to be eligible or disqualified as a postal voter or absent voter. It is recommended that there is no need to introduce any such requirement.**

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<sup>20</sup> Voting from Abroad. The International IDEA Handbook, <http://www.idea.int.at> pp. 97-98.

<sup>21</sup> Voting from Abroad. The International IDEA Handbook, <http://www.idea.int.at> pg. 99.

<sup>22</sup> Voting from Abroad. The International IDEA Handbook, <http://www.idea.int.at> pg. 99.

<sup>23</sup> Voting from Abroad. The International IDEA Handbook, <http://www.idea.int.at> pg. 99.

40. It is however recommended that Malaysians who wish to be external voters should apply to the Election Commission to be an external voter. External voters must satisfy similar requirements as internal voters, such as age (21 years) and citizenship requirements.
41. However, care should be taken to ensure that the right to vote of external voters are not hindered by other administrative and technical requirement.<sup>24</sup> As such, it is recommended that Form 1 and the certificate required under Regulation 3(1)(f) of the Election (Postal Voting) Regulations 2003 should be amended to allow all categories of registered voters to apply to the Election Commission to be categorised as an external voter; the said form and the certificate should not contain specific categories of persons.

*Recommendation 3: Increase voting procedures for external voters*

42. A review of a number of countries show that there are five main voting methods for external voting:-
- a) Personal voting at diplomatic missions or other designated places;
  - b) Postal voting;
  - c) Voting by proxy;
  - d) Electronic voting; and
  - e) Voting by fax.<sup>25</sup>
43. The different methods have their advantages and disadvantages. Proxy voting is technically simple and involves low cost but it could be used to obtain additional vote

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<sup>24</sup> Voting from Abroad. The International IDEA Handbook, <http://www.idea.int.at> pg. 22.

<sup>25</sup> Voting from Abroad. The International IDEA Handbook, <http://www.idea.int.at> pg. 23.

or multiple voting and could infringe the principle of equal suffrage. As regards voting in person at a diplomatic mission or a designated place, it is a transparent procedure provided that whoever is tasked to oversee the voting is perceived to be independent and unbiased. Postal voting is easier to organise and low in cost but transparency of voting is not as high as if vote is cast in person.<sup>26</sup>

44. Most countries employ one method of voting with the most common method being personal voting at a polling station that is specially set up, for example at diplomatic mission or other designated place.<sup>27</sup>
45. Twenty-seven countries (Algeria, Australia, Belgium, Benin, Chad, Cook Islands, Estonia, France, Gabon, Guinea, India, Indonesia, Japan, Latvia, Lithuania, Mali, Micronesia, Netherlands, New Zealand, Palau, Philippines, Portugal, Slovenia, Spain, Sweden, Thailand, United Kingdom) have a mixed system where two or more different voting procedures for external voting is used.
46. Twelve countries (Cook Islands, Indonesia, Japan, Latvia, Lithuania, Micronesia, Palau, Philippines, Portugal, Slovenia, Spain and Thailand) use personal voting in combination with postal voting.
47. Six countries (Australia, Belgium, Estonia, the Netherlands, New Zealand and Sweden) have three or more alternative ways of casting a vote abroad – Australia (personal, postal, fax), Netherlands (postal, proxy, e-voting), New Zealand (personal, postal, fax); in Australia and New Zealand, voting by fax is possible for restricted groups of voters

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<sup>26</sup> Voting from Abroad. The International IDEA Handbook, <http://www.idea.int.at> pg. 23.

<sup>27</sup> Voting from Abroad. The International IDEA Handbook, <http://www.idea.int.at> pg. 23.

who otherwise could easily be deprived of the opportunity to cast their vote – those living in inhospitable areas or areas that are very difficult to reach, such as the polar zones. Access by fax requires special application and is used only when absolutely necessary.

48. In Belgium, voters abroad can cast their votes personally at diplomatic missions where the voter has been registered, proxy voting or voting through a representative or postal voting. These countries also do not impose any additional requirements such as a set period of time abroad or a set number of voters having to be abroad. This clearly shows their intention of reaching the greatest number of voters.<sup>28</sup> In the Philippines, in 2004, external voters could vote by personal voting at diplomatic mission and other official premises in 80 locations and postal voting in three locations (Canada, Japan and the UK).
  
49. In the recent years, a number of countries have begun to introduce electronic voting for its citizens living abroad. In France, in June 2003, French citizens residing in the USA were given the possibility of electing their representatives to the Council of French Citizens Abroad, since 2004, the *Seemlee des Francaise de l'etranger*, by remote electronic voting. In the Netherlands, the evaluation of the use of electronic voting during the elections to the European Parliament in June 2004 showed that electronic voting made voting more accessible and convenient.<sup>29</sup> In Australia, in 2001 and 2004, electronic voting was available at four pre-polling voting centres over a two to three week period for the elections to the Australian Capital Territory Legislative Assembly.

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<sup>28</sup> Voting from Abroad. The International IDEA Handbook, <http://www.idea.int.at> pg. 26.

<sup>29</sup> Voting from Abroad. The International IDEA Handbook, <http://www.idea.int.at> pp. 119-220.

50. Electronic voting makes it easier for citizens abroad to participate in elections and offers a faster way of voting compared to postal voting and personal voting at an embassy. Electronic voting may save human resources and at the same time increase voter participation and strengthen democratic legitimacy.<sup>30</sup>
51. However, there are special security concerns with regard to electronic voting. This includes using the Internet as a means of transmitting confidential information, fear of hackers and undue influence exerted on the voter during the voting process. Also, voters, especially the elderly and those with poor literacy skills may have difficulty with using the Internet, there is significant risk of fraud and technical software errors.<sup>31</sup>
52. It is noted that combination of procedures encourages participation and compensates for limitations on inadequacies that may arise from the use of only one system.<sup>32</sup> Providing a number of options for Malaysian external voters to cast their vote would ensure the widest possible participation of voters during elections. As election is the expression of the will of voters, more voters casting their vote would mean that the elected government would enjoy higher legitimacy. **As such, it is recommended that the Elections (Conduct of Elections) Regulations 1981, Elections (Postal Voting) Regulations 2003, the Elections (Registration of Electors) Regulations 2002 and other relevant laws and regulations are amended to offer a variety of ways which, all external voters, are able to cast their votes. Specifically, it is recommended that external voters should be given the following options to cast their vote:-**
- a) **In person at diplomatic missions or other designated places;**
  - b) **Postal voting; or**
  - c) **Voting by proxy.**

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<sup>30</sup> Voting from Abroad. The International IDEA Handbook, <http://www.idea.int.at> pg. 221.

<sup>31</sup> Voting from Abroad. The International IDEA Handbook, <http://www.idea.int.at> pg. 222.

<sup>32</sup> Voting from Abroad. The International IDEA Handbook, <http://www.idea.int.at> pg. 25.

***Recommendation 4: Provide equal opportunity for persons with disabilities to cast their votes***

53. It is stressed that persons with disabilities have the same rights and opportunities to political participation as all other members of society. As such, it is unreasonable to restrict the right to vote on the ground of physical disability.<sup>33</sup>
54. Although the Persons with Disabilities Act 2008 does not explicitly confer the right to vote for persons with disabilities, the preamble to the Persons with Disabilities Act 2008 recognises that persons with disabilities are entitled to equal opportunity and protection and assistance in all circumstances and protection of rights as provided by the Federal Constitution.
55. In the UK,<sup>34</sup> all polling stations must provide a tactile voting device and at least one large print display version of the ballot paper, for the blind or visually impaired. Should a disabled person find it difficult to go to a polling station, they are able to cast their vote through postal voting or voting by proxy (appointing someone else to act as proxy to vote on his or her behalf).
56. In Australia<sup>35</sup>, the Electoral and Referendum Bill 2010 includes provisions to allow persons who are blind or low vision to vote by telephone from more than 130 sites across Australia. Accessible electronic voting machines (EVM) were trialed in Australia's 2007 Federal Elections in 29 out of 150 electoral divisions; EVMs allow

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<sup>33</sup> General Comment No. 25 (12/07/1996) CCPR/C/21/Rev.1/Add.7, paragraph 10, Committee on Civil and Political Rights, Office of the High Commissioner for Human Rights, <http://www.unhchr.ch>

<sup>34</sup> <http://www.directgov.co.uk>

<sup>35</sup> Election Access Guide Book – Ensuring the Right to Political Participation for Persons with Disabilities, The Centre of Citizens with Disabilities – Access for Elections (PPUA PENCA) (March 2011), Australia – Indonesia Partnership, at pg.22.

persons who are blind or low vision to cast their vote in secret. 850 ballots were cast electronically using EVMs.

**57. As the government has the responsibility and should make every reasonable effort to ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, including the right and opportunity for persons with disabilities to vote, it is recommended that the law and regulations are amended to:**

- **Ensure that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;**
- **Protect the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation;**
- **Guarantee the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice.<sup>36</sup>**

***Recommendation 5: Increase security of external voting***

58. With increased voting procedures for external voting, security and control of registration and voting materials will assume greater importance, as election materials are transported to and from several countries. Secure transport is required to assure observers, candidates and voters that election materials are not tampered with.<sup>37</sup>

59. In countries where postal voting is used, concerns have been raised with regard to the secrecy of the vote and whether voters are able to vote freely without another person's

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<sup>36</sup> Article 29 of the UN Convention on Rights of Persons with Disabilities.

<sup>37</sup> Voting from Abroad. The International IDEA Handbook, <http://www.idea.int.at> pg. 122.

coercion. In Malaysia, concerns have been raised regarding the security, transparency and secrecy of postal votes.

**60. As such, it is recommended that the Election Commission take additional measures to guarantee the requirement of the secrecy of the vote for external voters,<sup>38</sup> to prevent fraud and to increase voter confidence in the elections.**

61. In this regard, procedures and processes must be as close as possible to those in place for in-country voters to ensure similar registration and polling process, regardless of location.<sup>39</sup>

**62. Therefore, it is recommended that the following addition steps are taken to enhance the secrecy and integrity of the ballots:-**

- a) Diplomats or any persons who are involved in establishing polling stations are trained to ensure the integrity of the vote;**
- b) For postal votes, to include a statement, which must be filled in by the voter with his/her date of birth and signature;<sup>40</sup>**
- c) For postal votes, the returning officer should verify the date of birth and signature filled in on at least 20 percent of the postal voting statements from each postal voters ballot box with the details provided on the original postal vote application forms;<sup>41</sup>**

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<sup>38</sup> General Comment No. 25 (12/07/1996) CCPR/C/21/Rev.1/Add.7, paragraph 20, Committee on Civil and Political Rights, Office of the High Commissioner for Human Rights, <http://www.unhchr.ch>

<sup>39</sup> Voting from Abroad. The International IDEA Handbook, <http://www.idea.int.at> pg. 113.

<sup>40</sup> <http://www.directgov.co.uk>

<sup>41</sup> <http://www.directgov.co.uk>

**d) If there are few external ballot papers, external ballot papers should be mixed with internal ballot papers to prevent disclosure.<sup>42</sup>**

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<sup>42</sup> International IDEA/IFE, pp. 124-125.

## **SUMMARY OF RECOMMENDATIONS**

- Amend the Elections (Postal Voting) Regulations 2003 and the Elections (Registration of Electors) Regulations 2002 to include a new category of voters known as external voters. Definition of external voters should wide enough to include the postal voters and absent voters and also all voters who are unable to personally go to a polling station on polling day, regardless of reason.
- Amend Form 1 and the certificate required under Regulation 3(1)(f) of the Election (Postal Voting) Regulations 2003 to allow all categories of registered voters to apply to the Election Commission to be categorised as an external voter, without any specific categories of persons.
- Amend the Elections (Conduct of Elections) Regulations 1981, Elections (Postal Voting) Regulations 2003, the Elections (Registration of Electors) Regulations 2002 and other relevant laws and regulations to allow external voters to cast their vote in person at diplomatic missions or other designated places, by post; or by proxy vote.
- The government should make every reasonable effort to ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others.
- The Election Commission to take the following additional measures to enhance the security and integrity of votes:
  - Diplomats or any persons who are involved in establishing polling stations are trained to ensure the integrity of the vote;
  - For postal votes, to include a statement, which must be filled in by the voter with his/her date of birth and signature;
  - For postal votes, the returning officer should verify the date of birth and signature filled in on at least 20 percent of the postal voting statements from each postal voters ballot box with the details provided on the original postal vote application forms;
  - If there are few external ballot papers, external ballot papers should be mixed with internal ballot papers to prevent disclosure.