

MALAYSIAN GENERAL ELECTION: OFFENCE AND MISCONDUCT OF BRIBERY

By

Ahmad Hafiz b Abdul Hair (2011233636)

Akmal Syahmi b Khalid (2011234204)

Mohd Hakimie b Ab. Hadi (2011220962)

Zulhakimi b Johan (2011252294)

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The students/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

ABSTRACT

The topic of our project paper is quite difficult to be conducted, in term of how we obtained the resources for the references. We initially decided to conduct this project paper, due to the fact that there are a lot of allegations on the misconduct of some of the campaigners in order to ensure that the voters in the constituencies vote in favour for the candidates. In spite of the fact that this topic is quite controversial to be discussed, we did try our best to take this challenge as we believe that the topic must not only to be analyzed from the perspective of political view, but it is also important for us to look at it from the perspective of academic analysis. The main reason for this research is to study, especially on judicial approaches relating the problem. We started our research with some reading and analysis on the issue in this topic. It was not as difficult as it ought to be, on the basis of the availability of the sources to be accessed electronically, especially by using online resources. Then, we started to analyze all those information by comparing the cases that we have in Malaysia with the cases decided in United Kingdom. The outcome of the research were then be presented and then were put in the recommendation on how such weaknesses are to be improved.

TABLE OF CONTENTS

Acknowledgement	ii
Abstract	iii
Contents	iv
List of Cases	vii

CHAPTER ONE: INTRODUCTION

1.0 Research Background	1
1.1 Research Questions	3
1.2 Research Objectives	4
1.3 Research Methodology	5
1.4 Scope of the Research	7
1.5 Limitation of the Research	9
1.6 Significance of the Research	10
1.7 Research Plan	11

CHAPTER TWO: LITERATURE REVIEW 12

CHAPTER THREE: MALAYSIA POSITION ON OFFENCE OF BRIBERY IN ELECTION

3.1 Introduction	21
3.2 Relevant Laws and Issues	22
3.2.1 Cases	25

CHAPTER FOUR: UNITED KINGDOM POSITION ON OFFENCE OF BRIBERY DURING ELECTION

4.1 Significance of English law	28
4.2 Survey reports	29
4.3 Types of corrupt practices	31
4.4 Illegal Practices	32
4.4.1 Other types of election offences	33
4.4.2 Other types of general offences	34
4.5 Analysis of alleged electoral malpractice in 2011 by The Electoral Commission and the Associations of Chief Police Officers	35
4.6 Conclusion	37

CHAPTER 1: INTRODUCTION

1.0 RESEARCH BACKGROUND

This research focused on what is actually happening in Malaysia with regards to the issue on election offences and misconducts. We refer to the latest report made by the Corruption Perception Index (CPI) in 2012, with regards to the position of the countries, according to the score from the aspect of bribery. Thus, by having this information, it comes to our knowledge that the bribery is very serious problem that we have in terms of election in Malaysia.

This argument is not only with the concerning to the report made by CPI. We also refer to the report made by the local authority that is Malaysia Anti Corruption Commission (MACC). The information provided by them, stated that the offence of bribery is one of the main problem in Malaysia and it is worsening from time to time. The report also mentioned, when it come to the Election days, the problem is worsen. This is because; this is the time when the candidate tries their best to win the vote from the voters. Thus, there are several ways how the candidates try to win the vote and one of the ways is to provide 'gift' to the voters in the constituencies. But the question here that needs to be clarified is what conduct is amounted to bribery? Thus, by this concern, we refer to several references. For example, we refer to statutes, cases and etc. One of them is that we look at Section 10 of Election Offences Act 1954. This section provides the definition of bribery and some conduct that amount to bribery. Since this is a legal research, it is insufficient for to just merely depend on the statute. Thus, we try our best to conduct some research on the cases that related closely especially on the definition of the bribery. Thus, the cases also help us to understand further by providing us with the illustration. In order to make our research various in perspectives, we refer to the cases decided in United Kingdom and also in Malaysia.

The existing laws that we have to govern the act of bribery are the provisions in the Penal Code as well as provisions in Election Offences Act 1954 are not sufficient to counter this problem. Thus, the establishment of MACC in 2008 is aimed to overcome the problem of bribery. But still, we observed that this establishment is not so much helpful to overcome the