

# **MALAYSIA'S COMING ELECTION: BEYOND COMMUNALISM?**

Asia Report N°235 – 1 October 2012

## TABLE OF CONTENTS

|  |           |
|--|-----------|
| <b>EXECUTIVE SUMMARY .....</b>                     | <b>i</b>  |
| <b>I. INTRODUCTION .....</b>                       | <b>1</b>  |
| <b>II. MALAYSIA'S COMMUNAL POLITICS.....</b>       | <b>2</b>  |
| A. THE 1969 RIOTS .....                            | 3         |
| B. POLITICAL GAME CHANGERS.....                    | 4         |
| 1. Expanding middle class .....                    | 4         |
| 2. Competition over Islam.....                     | 5         |
| 3. Manipulation of Sino-Malay tensions.....        | 6         |
| 4. Reformasi and the growth of civil society ..... | 7         |
| <b>III. THE ELECTORAL SYSTEM.....</b>              | <b>8</b>  |
| <b>IV. THE BERSIH MOVEMENT .....</b>               | <b>10</b> |
| <b>V. THE ISSUES.....</b>                          | <b>12</b> |
| A. THE ECONOMY AND BARISAN HAND-OUTS .....         | 12        |
| B. CORRUPTION.....                                 | 13        |
| C. DEMOCRACY AND HUMAN RIGHTS .....                | 14        |
| <b>VI. SOME ELECTION CALCULATIONS.....</b>         | <b>16</b> |
| A. SABAH AND SARAWAK .....                         | 16        |
| B. THE CHINESE AND INDIAN VOTE .....               | 17        |
| C. PAS AND DAP .....                               | 18        |
| D. TIMING .....                                    | 18        |
| <b>VII. CONCLUSION .....</b>                       | <b>19</b> |
| <b>APPENDICES</b>                                  |           |
| A. MAP OF MALAYSIA.....                            | 20        |

## MALAYSIA'S COMING ELECTION: BEYOND COMMUNALISM?

### EXECUTIVE SUMMARY

Malaysia's thirteenth general election, which Prime Minister Najib Razak will have to call by April 2013, could be a watershed in communal relations. More than ever before, there is a chance, albeit a very small one, that opposition parties running on issues of transparency, economic equity and social justice could defeat the world's longest continually-elected political coalition, the National Front (Barisan Nasional), that has based its support on a social compact among the country's Malay, Chinese and Indian communities. That compact, granting Malays preferential status in exchange for security and economic growth, has grown increasingly stale as the growing middle class demands more of its leaders. Both ruling party and opposition are using images of the Arab Spring – the former to warn of chaos if it is not returned to power, the latter to warn of popular unrest unless political change comes faster.

Social and demographic change, coupled with effective opposition leadership and the rise of a broad-based movement for electoral reform, are likely to make this election at the very least a close contest. The ruling coalition, composed of the dominant United Malays Nationalist Organisation (UMNO); the Malaysian Chinese Association (MCA); and the Malaysian Indian Congress (MIC), as well as several smaller parties, faces the People's Alliance (Pakatan Rakyat), composed of the People's Justice Party (Partai Keadilan Rakyat, PKR), led by former Deputy Prime Minister Anwar Ibrahim; the Democratic Action Party (DAP) and the Pan-Malaysian Islamic Party (Partai Islam Se-Malaysia, PAS). More than ever before, the swing vote may be the Malay middle ground: urban professionals, students and "netizens" – internet users – who have benefited from constitutionally-protected preferential status for Malays but who are tired of cronyism and corruption and are chafing under the tight controls on civil liberties.

The deck is stacked against the opposition for many reasons, not least because of an electoral system based on questionable voting rolls and carefully gerrymandered, single-representative constituencies where victory requires only a plurality (first past the post). Demands for a more level playing field gave rise in 2007 to a broad-based civil society movement, the Coalition for Free and Fair Elec-

tions, known as Bersih (Clean), that has held four mass street rallies drawing tens of thousands of participants: in November 2007; July 2011; April 2012 and August 2012. The first three were broken up by police with hundreds of arrests. In the third, violence on the part of a few participants led to harsh police counter-actions and allegations of brutality. Former Prime Minister Mahathir Mohamad, now retired but leading UMNO's ultra-conservatives from the sidelines, has been warning Malaysians to expect more violence in the streets if the opposition loses.

The big issues are the economy, corruption and political reform. Bread-and-butter topics matter most to the electorate, and Barisan's vast resources enable it to dole out economic favours to strategic constituencies in the lead-up to the election. The opposition is getting plenty of mileage out of corruption scandals involving top UMNO officials, although UMNO is fighting back with legal challenges and defamation suits. Political reform is seen by both sides as a political winner. Prime Minister Najib has rolled back or reworked some of the draconian legislation – most notably the colonial-era Internal Security Act (ISA) – that Mahathir used to curb dissent during his 22 years in power, but the opposition denounces it as too little, too late.

Two huge issues are largely off the official agendas of both coalitions but dominate them in many ways. One is the preferred treatment for Malays in virtually all spheres of public life and whether opening political space and promoting social justice would diminish that status. The ultra-conservatives within UMNO are determined to protect Malay rights at all costs. The other is the question of Islamic law and religious tolerance. Under Mahathir, Malaysia embarked on a program of Islamisation of the government and bureaucracy, culminating in his declaration of an Islamic state in 2001. PAS, once known for a hard-line Islamist agenda, is now led by pragmatists who are willing to put contentious issues like Islamic criminal justice on hold, at least temporarily, in the interests of trying to defeat Barisan. But neither side is above trying to scare non-Malay communities, particularly the Chinese, by predicting greater intolerance if the other wins. Within the opposition coalition, relations between PAS and the Chinese-dominated DAP remain fragile.

Both sides are furiously making calculations about tactics to win seats, tailoring their message to the communities concerned. The two eastern states of Sabah and Sarawak could be kingmakers, because they control 25 per cent of the available seats.

Ultimately the question Malaysians will have to answer on election day is which of the two choices will be better able to accommodate political change, while protecting minorities against the hardline forces that more openness can produce.

**Jakarta/Brussels, 1 October 2012**

## MALAYSIA'S COMING ELECTION: BEYOND COMMUNALISM?

### I. INTRODUCTION

Sometime later in 2012 or in the first half of the following year, Malaysians will go to the polls for the country's thirteenth general election, one many see as a watershed. It will be a test of whether the world's longest continuously-elected political coalition, the National Front (Barisan Nasional), can maintain its hold on power. Given the way the deck is stacked against the opposition, it will be something of a miracle if it does not, but some are beginning to suggest that a miracle could happen. Both sides warn darkly of possible violence once results are announced: in street protests, if the opposition feels cheated of victory; by Malay hooligans, if they see Malay superiority under threat. The warnings are almost certainly overdrawn. But Malaysia is changing, and no one is quite sure what direction it will take.

The elections could be a turning point in communal politics in a country of 28 million people, where ethnic Malays and other indigenous groups, collectively known as *bumiputera* (literally "sons of the soil") are 60.3 per cent of the population; Chinese 22.9 per cent; and Indians 7.1 per cent, with Europeans and Asian-Pacific immigrant groups making up most of the rest. Barisan, with three main component parties – the dominant United Malays National Organisation (UMNO), the Malaysian Chinese Association (MCA) and the Malaysian Indian Congress (MIC) – has always explained its control over the political process as necessary to prevent a recurrence of the devastating 1969 racial riots. The unstated agreement was that Malays would have preferential status in political and economic life in return for a promise of security and economic growth for all. It produced what for more than four decades has been, with Singapore, one of South East Asia's most stable states, one with all the outward trappings of democracy, but maintaining tight restrictions on civil liberties and many policies discriminatory to non-Malays.

Until recently, the main opposition parties, with programs that are officially non-communal, had no hope either of challenging Barisan on their own or of overcoming their differences long enough to forge a viable coalition. The Pan-Malaysian Islamic Party (Parti Islam se-Malaysia, PAS) could compete with UMNO for the Malay vote in some areas but was seen as too Islamist to partner effectively with

Barisan's other main foe, the Democratic Action Party (DAP), a socially progressive party with a Chinese-majority membership.

Two major changes over the last five years have put cracks in the façade of Barisan invincibility, one political, one social. Charismatic former Deputy Prime Minister Anwar Ibrahim, sacked and jailed by his former boss, then Prime Minister Mahathir Mohamad, emerged from prison in 2004 to become a formidable opposition leader through his People's Justice Party (Partai Keadilan Rakyat, PKR).<sup>1</sup> In March 2008, after widespread mobilisation of civil society and better coordination than ever before, the opposition succeeded for the first time in breaking Barisan's two-thirds majority in parliament, winning control of five state governments and shaking UMNO to its core.

A month later, Anwar brought PKR, DAP and PAS together in an informal coalition, the People's Alliance (Pakatan Rakyat, or simply Pakatan), that advocates major reforms in civil liberties, internal security, economic management and education. It also urges anti-discrimination laws, though not to the point of repealing the constitutionally-protected preferential status for Malays. DAP and a reformist-led PAS found enough common ground under Anwar's aegis to join forces against Barisan in the next election, although tensions over PAS's stated support for Islamic criminal penalties (*hudud* ordinances) still surface.

The other major change is the transformation of Malaysian society: more urbanised, better educated, more sophisticated and wired: 61.7 per cent of the population used the internet as of 2011, with just under half on Facebook.<sup>2</sup> Barisan's tried and tested methods of political control have become less effective, its political base more open to other influences, as this transformation has taken place. Acknowledging the need to adjust, Prime Minister and UMNO leader Najib Razak has embarked since late 2011 on a political reform program, repealing, replacing or amending some of the most draconian laws, including the Internal Security Act (ISA), with a view toward beating Pakatan at its own game. The reforms seem to have slightly boosted Najib's

<sup>1</sup> Anwar Ibrahim is a former member of Crisis Group's Board of Trustees.

<sup>2</sup> See [www.internetworldstats.com/asia.htm](http://www.internetworldstats.com/asia.htm).

popularity among the electorate, while alienating some of his conservative base.

The question is whether these changes taken together can make a significant dent in Malaysia's deeply entrenched identity politics. UMNO's right wing, with Mahathir as its cheerleader, is doing its best to suggest that anything but a Barisan victory would lead to non-Malay (read: Chinese) domination and an end to Malay rights. But more than any other previous election, this will be a competition for the Malay middle ground, with two centrist coalitions facing off. Barisan holds most of the cards, but the rules of the game are changing in a way that could affect political fault lines.

This report, Crisis Group's first on Malaysia, is based on interviews with a broad range of political actors conducted in-country in June and July and follow-up communications.

## II. MALAYSIA'S COMMUNAL POLITICS

Communalism has been the basis of Malaysian politics since the British colonial government brought in hundreds of thousands of Indians and Chinese between about 1870 and 1930 to work the tin mines and rubber and tea plantations. The colonial government largely ruled through the ethnic Malay elite, so as the country moved toward independence in the mid-1950s, occupation and status were defined by ethnicity. Malays, then about 50 per cent of the population, dominated the civil service while Chinese, about 37 per cent, dominated domestic trade. Indians, about 12 per cent of the population, were largely confined to plantation labour, clerical and service sectors.<sup>3</sup> The urban working class was overwhelmingly non-Malay.

Tensions between the Malays and Chinese had been fuelled by the Japanese occupation during the Second World War, when a small, mostly Malay anti-colonial nationalist force, trained and armed by the Japanese, was opposed by mostly Chinese anti-fascist forces, armed by the British. Major Sino-Malay race riots that broke out in August-September 1945 following the Japanese surrender lasted for two weeks and may have taken as many as 2,000 lives.<sup>4</sup>

These divisions were reflected in post-war political arrangements. In preparation for independence, the British in 1946 proposed a Malaya Union that would bring together the Straits Settlements, including Singapore, and the Federated and Unfederated States of Malaya and give Indians and Chinese equal citizenship with Malays.<sup>5</sup> Fierce opposition to the plan was led by the United Malays National Organisation (UMNO). It supported an alternative plan, the Federation of Malaya Agreement, in which Malays were given preferential status, and citizenship for non-Malays was restricted. The agreement recognised the sovereignty of traditional rulers (*raja*) in the Malay Peninsula and excluded Singapore, with its Chinese majority. Sabah and Sarawak, in Borneo, were also left out.

The Chinese and Indian communities eventually accepted the agreement, the latter because it had little bargaining power, the former because of an understanding that its economic power would not be challenged, even if political

<sup>3</sup> Harold Crouch, *Government and Society in Malaysia* (Ithaca, 1996), p. 15.

<sup>4</sup> Martin Vengadesan, "May 13, 1969: Truth and Reconciliation", [www.thestar.com.my](http://www.thestar.com.my), 11 May 2008. According to Dr Khoo Kay Kim, a scholar quoted in the above article, the riots were caused by the decision of the Communist Party of Malaya (CPM) to punish collaborators after the occupation had ended. There was little resistance from suspected Chinese and Indian collaborators, but when the CPM arrived in Malay areas, the Malays, especially the Banjar sub-group, fought back.

<sup>5</sup> Meredith L. Weiss, *Protest and Possibilities* (Palo Alto, 2005).

power was securely in Malay hands.<sup>6</sup> To defend its interests in the Malay-dominated polity, the Western-educated elite among the Chinese formed the Malaysian Chinese Association (MCA) in 1949, while their mostly Tamil counterparts formed the Malaysian Indian Congress.<sup>7</sup> These three bodies joined in what became known as simply the Alliance, the forerunner of the National Front (Barisan Nasional), to contest elections in 1955 for seats in the pre-independence legislative council. The coalition won 81 per cent of the popular vote and all but one of the seats available.<sup>8</sup> At that time, many non-Malays were not citizens and therefore not registered as voters. When the Federation was formally granted independence in 1957, the UMNO-dominated alliance was in charge and has been in control ever since.

In 1963, Singapore, Sabah and Sarawak joined the Federation, and the country became known as Malaysia.<sup>9</sup> Singapore remained only for two years. Race riots there between Chinese and Malays in July and September 1964 led to its expulsion – and Singapore's independence – the following year. The riots took place after a bitter election fight in March 1964 between UMNO and the largely Chinese People's Action Party (PAP), led by Lee Kuan Yew. Lee, who became the leader of the new city-state, has ever after blamed ultra-nationalists in UMNO for the violence.

The inclusion of the two eastern states on Borneo also had a profound impact on electoral politics, in part because they were able to negotiate a significant share of seats in the parliament as a condition for entry: at the time, almost

a third, today a quarter. This number has put them today in what many see as a kingmaker position.

## A. THE 1969 RIOTS

Racial tensions remained high after the formation of Malaysia, but the watershed event that seared the national psyche and has coloured politics ever since was the eruption of race riots in the immediate aftermath of national elections on 10 May 1969. Discontent with the government had been growing, and several racial clashes had occurred in the lead-up to the vote, particularly in Penang.<sup>10</sup> The key issues were all communally charged, especially between Malays and Chinese: Chinese wanted Mandarin made a second national language, in addition to Malay; quotas and other privileges for Malays gradually eliminated; and more support for Chinese-language schools.<sup>11</sup> On 9 May, the mostly non-Malay Labour Party of Malaya had held a funeral march in Kuala Lumpur for a youth killed by police five days earlier in Kepong; with 3,000 marchers, it turned into a "massive, racially incendiary" demonstration.<sup>12</sup>

The 10 May polls showed significant gains for the opposition, with disaffected Malays turning to the Islamist PAS and non-Malay opposition parties taking thirteen seats from the Alliance, mostly from the MCA. It also won control of two states: Kelantan, the PAS stronghold, and Penang, won by the Chinese-dominated Gerakan party. The Alliance lost its majority in two others states, Selangor and Perak.

The opposition celebrated on the two nights that followed. On 13 May, violence erupted, starting with the burning of two Chinese-owned trucks. Events remain highly contested to this day – the Malay ruling elite at the time laid the blame variously on opposition provocation or Communists, while more recent research has suggested there may have been more deliberate political planning by conservatives within UMNO.<sup>13</sup> Malaysian security forces turned a blind eye to young Malay thugs breaking the curfew, and Chinese bore the brunt of the casualties; the official death toll

---

<sup>6</sup> Ibid.

<sup>7</sup> Unlike UMNO, which really did represent the majority of Malays, the MCA was always weaker as a communal voice, seen as a British-backed alternative to the then powerful Chinese-dominated Malaysian Communist Party, which recruited primarily from the mines and plantations and headed an active armed insurgency in the 1950s. Other Chinese joined the People's Action Party (PAP), based in Singapore. When Singapore was expelled from the Federation in 1965, the PAP became the Democratic Action Party (DAP).

<sup>8</sup> Weiss, *Protest and Possibilities*, op. cit.

<sup>9</sup> Sabah and Sarawak joined on the basis of an agreement on constitutional safeguards known as the Twenty Points, including that Islam as the state religion was not applicable to the two states; the state governments would have control over immigration; English rather than Malay would be the official language; people from Borneo would run the civil service; and no change to any of the twenty points would be made without agreement of the state governments. The federal government's backsliding on some of these issues has been a source of contention ever since, but Barisan officials have maintained that the agreement was only for a transitional period until both states were fully integrated. See James Chin, "Going East: UMNO's Entry into Sabah Politics", *Asian Journal of Political Science*, June 1999, pp. 21-22.

---

<sup>10</sup> On 24 April, an UMNO youth was assaulted by Chinese youths and later died of his wounds; his attackers reportedly smeared his face with red paint. See JJ Raj Jr, "The Struggle for Malaysian Independence", extracted on <http://happysus.blogspot.com/2007/07/13-may-tragedy-from-jjraj-jr-struggle.html>.

<sup>11</sup> Ibid, and [www.malaysianbar.org.my/echoes\\_of\\_the\\_past/watershed\\_elections\\_of\\_1969.html](http://www.malaysianbar.org.my/echoes_of_the_past/watershed_elections_of_1969.html).

<sup>12</sup> The youth had been part of a group that attacked three police officers who tried to stop them from writing anti-government slogans on the road. See <http://happysus.blogspot.com>, op. cit.

<sup>13</sup> See Kua Kia Soong, *May 13: Declassified Documents on the Malaysian Riots* (Kuala Lumpur, 2007). The book, which is banned in Malaysia, suggests the riots were part of a premeditated coup to bring Tun Razak to power.

of 196 may have been an underestimate.<sup>14</sup> On 15 May, the king, Malaysia's head of state, declared a state of emergency, and governmental powers were turned over to a National Operations Council, headed by Tun Razak, the current prime minister's father.<sup>15</sup> The emergency lasted for the next two years.

## B. POLITICAL GAME CHANGERS

The riots led to a consolidation of Malay power, the introduction of the New Economic Policy (NEP) to help Malays compete economically with the Chinese and the expansion of the Federal Land Development Authority (FELDA) that benefited the rural Malays who were UMNO's base.<sup>16</sup> They also led to the rise of Dr Mahathir Mohamad, who after a brief expulsion from UMNO, became deputy prime minister in 1976 and prime minister in 1981.<sup>17</sup> For the next 22 years, he would preside over a "repressive-responsive" state that tightly guarded the preferential status of Malays, curbed civil liberties, destroyed judicial independence – and delivered steady economic growth with plenty of patronage to go around.<sup>18</sup>

In addition to Mahathir's authoritarianism and the growth of "illiberal democracy",<sup>19</sup> post-1969 political developments were marked by an expanding middle class; competition within the Malay community between UMNO and the opposition PAS; Sino-Malay tensions; and the slow but steady growth, especially from 1998 onwards, of a civil society movement that began to transcend communal barriers. One or more of these factors have been responsible for most of the major shake-ups in politics over the last four decades.

## 1. Expanding middle class

The NEP, in place from 1971 to 1990 and continued thereafter in modified forms (and under different names), had two aims: to reduce poverty for all and to restructure society "to correct economic imbalance so as to reduce and eventually eliminate the identification of race with economic function".<sup>20</sup> In the first, it succeeded dramatically. Those living below the poverty line fell from 49.3 per cent in 1970 to 16.3 per cent in 1990, just over the government's stated target of 16 per cent; by 2002, the rate had fallen further to 5.1 per cent.<sup>21</sup>

Social restructuring took place through an affirmative action program designed to increase the percentage of *bumiputera* in business, commerce and professional roles to enable them to compete economically with Malaysian Chinese.<sup>22</sup> It involved increasing Malay corporate stock ownership, creating and supporting *bumiputera*-owned enterprises and imposing racial quotas for access to employment and tertiary education. In a purely quantitative sense, this was also successful. The Malay share of equity ownership rose from 1.5 per cent in 1969 to 18 per cent in 1990, less than the target of 30 per cent but still impressive.<sup>23</sup> Malay employment in the "registered professions" rose steadily from 4.9 per cent in 1970 to 37.2 per cent in 2002.<sup>24</sup> And in Malaysian universities, *bumiputera*, overwhelmingly Malay, rose from 40.2 per cent of those enrolled in 1970 to 62.6 per cent in 1990.<sup>25</sup> But in terms of fostering inter-ethnic harmony, a prominent Malaysian scholar argues that it did the opposite:

Associating improved inter-ethnic relations almost exclusively with reduced inter-ethnic disparities among

<sup>14</sup> Beh Lih Yih, "What actually happened during the 1969 tragedy", *malaysiakini.com*, 11 May 2007.

<sup>15</sup> On Malaysia's unique system of rotating monarchs, see below, Section III.

<sup>16</sup> FELDA, which began in 1956, was a program to resettle the country's rural Malay poor with land grants of 10 hectares. Those settlers became the staunchest supporters of UMNO. FELDA stopped giving out land in 1988.

<sup>17</sup> Mahathir attracted national notoriety with a public letter in June 1969 accusing the then Prime Minister Tunku Abdul Rahman of having caused the riots by his "pro-Chinese" policies, declaring that all Malays hated him and demanding that he resign. The letter led to Mahathir's temporary expulsion from UMNO but also turned him into a hero in the Malay community. See Barry Wain, *Malaysian Maverick*, 2nd edition (London, 2012), pp. 25-26.

<sup>18</sup> The term "repressive-responsive" is from Crouch, *Government and Society in Malaysia*, op. cit.

<sup>19</sup> The term "illiberal democracy" appeared in Daniel A. Bell, David Brown, Kanishka Jayasuriya and David Martin Jones, *Illiberal Democracy in Pacific Asia* (London, 1995), quoted by Weiss, *Protest and Possibilities*, op. cit., with reference to Malaysia.

<sup>20</sup> Second Malaysian Plan, Chapter 1, 1971, [www.pmo.gov.my/dokumenattached/RMK/RMK2.pdf](http://www.pmo.gov.my/dokumenattached/RMK/RMK2.pdf).

<sup>21</sup> Jomo K.S., "The New Economic Policy and Interethnic Relations in Malaysia", *Identities, Conflict and Cohesion Programme Paper no.7*, UN Research Institute for Social Development, 2004. The author notes the definition of poverty and calculation of household income have changed over time, as well as the difficulty of access to the data used in compiling government statistics. Nevertheless, no one questions the dramatic decline in poverty, in part due to state intervention.

<sup>22</sup> At the time the NEP was instituted, 54 per cent of *bumiputera* were Malays, mostly from peninsular Malaysia, while 12 per cent were non-Malay indigenous groups from eastern Malaysia. The latter did not benefit nearly as much as the Malays from these affirmative action policies. See Hwok-Aun Lee, "Affirmative Action in Malaysia: Education and Employment Outcomes since the 1990s", *Journal of Contemporary Asia*, no. 42, May 2012.

<sup>23</sup> Jomo K.S., op. cit., p. 16.

<sup>24</sup> Ibid. The registered professions, which are mostly in the private sector, include doctors, lawyers, engineers, architects, dentists and accountants.

<sup>25</sup> Hwok-Aun Lee, op. cit., p. 239.



the respective business communities and middle classes has in fact generated greater ethnic resentment and suspicion on both sides.<sup>26</sup>

In the non-Malay community, resentment over cronyism and corruption has been particularly pronounced, as described below.

## 2. Competition over Islam

A critical point in understanding Malaysia's communal politics is that "Malay" and "Muslim" go hand in hand. It is possible to be a Muslim and not be ethnically Malay, as are many Malaysians of Indian descent, but it is impossible to be Malay and belong to any religion other than Islam.<sup>27</sup> This has meant that preferential treatment of Malays has entailed government support for Islamic institutions, to the point that the Mahathir years witnessed a steady increase in state-sponsored Islamisation, affecting, among other things, education, banking, immigration, the legal system and enforcement of morality.<sup>28</sup> It also affected UMNO's relations with PAS.

Within the Malay community until the late 1990s, PAS was the only real political alternative to UMNO.<sup>29</sup> Like UMNO, its stronghold was in the rural Malay heartland, but where UMNO was centred among the farmers settled on FELDA land, mostly devoted to plantation agriculture, PAS drew its strength from the Islamic school (*pondok*) network and farmers who worked the paddy fields of the north. It had some vague vision, never fully articulated, of an Islamic state, but its real aim, to which its leaders were passionately devoted, was the maintenance of Malay supremacy. For a brief period in the mid-1970s, it found common ground with UMNO and joined the Barisan Nasional – the post-1969 name for the Alliance.

The break-up of this partnership coincided with an international Islamic resurgence, inspired by the Iranian Revolution and the emergence of new, Middle Eastern-educated

leaders in PAS with a much stronger Islamist orientation.<sup>30</sup> But Mahathir had a trump card to play in the person of the charismatic young Muslim leader, Anwar Ibrahim, who to the shock of many, joined UMNO in 1982 and quickly shot to the top of party ranks. With Anwar on board and UMNO successfully projecting itself as the champion of Islamic values, PAS was trounced in the 1986 polls.<sup>31</sup>

Through most of the 1990s, PAS was associated with unsuccessful efforts to introduce *hudud* ordinances – punishments mandated by Islamic law for serious crimes – in the states it controlled: Kelantan, its base, and after the 1999 elections, Trengganu. These efforts, popular with the grassroots base, scared away moderates and limited PAS's ability to draw voters from the Barisan Nasional or build alliances with opposition parties, particularly DAP.

Mahathir lost no opportunity to portray PAS as extremist, rejecting the *hudud* ordinances and, after 2001, linking PAS to the regional terrorist organisation Jemaah Islamiyah.<sup>32</sup> At the same time, he moved forward with the Islamisation of the bureaucracy and gave increasing authority to UMNO-controlled Sharia (Islamic law) courts, including, controversially, on apostasy cases. On 29 September 2001, he declared Malaysia an Islamic state.

In the midst of it all, PAS itself underwent a reform and regeneration process, with pragmatists gradually moving into positions of influence. The turning point in attitudes toward PAS for many non-Malays came on the "Allah" issue. In 2007, the home ministry banned a Catholic newspaper from using that word to refer to God, on the grounds that only Muslims could use it, though it had become the standard word for God in the Malay language. Christians sued the ministry, and after the High Court in Kuala Lumpur on 31 December 2009 ruled in their favour, arson attacks by Malay hooligans took place against churches. By mid-January 2010, eleven churches and a Sikh temple had been burned. PAS defended the Christians' right to use "Allah", arguing that the Prophet Mohammed's father had been named Abdullah, meaning "servant of Allah", and since he could not have been a Muslim, the use of "Allah" for God by non-Muslims must be permitted. It strongly condemned the attacks, in a way that showed how

---

<sup>26</sup> Jomo K.S., op. cit., p. 19.

<sup>27</sup> Conversion from Islam to another religion is illegal; those who do convert are considered not just apostates, but also no longer Malay. Some 9.2 per cent of the country is Christian, including many Chinese and some of the indigenous groups in eastern Malaysia.

<sup>28</sup> Joseph Chinyong Liow, *Piety and Politics: Islamism in Contemporary Malaysia* (Oxford, 2009).

<sup>29</sup> Periodic splits have cost UMNO votes briefly, but none have had the staying power of PAS. For example, a breakaway faction established a new party in 1989, Semangat '46 (Spirit of 1946, the year UMNO was founded), to contest the 1990 elections. But the power of UMNO patronage networks doomed it. See Crouch, *Government and Society in Malaysia*, op. cit., pp. 119-126.

---

<sup>30</sup> The new leadership repeatedly challenged UMNO's religious legitimacy, branding the government as *kafir* (infidel). Relations between UMNO and PAS reached a nadir with an incident in Memali, Kedah, in November 1985.

<sup>31</sup> Liow, *Piety and Politics*, op. cit., p. 41.

<sup>32</sup> Among those arrested in 2001 under the ISA on suspicion of terrorist activity was Nik Adli bin Nik Aziz, son of the chief minister of Kelantan, a PAS leader. Released in 2006, he was believed to be a member of a Jemaah Islamiyah affiliate, Kumpulan Mujahidin Malaysia (KMM). PAS as a party had no truck with JI or KMM but some of its members had communication with one or both organisations.

far the leadership had moved beyond narrow parochial concerns and made it a viable partner for DAP.<sup>33</sup>

But the *hudud* issue has not gone away; in August 2012, a highly publicised spat on the question between Karpal Singh of DAP and former PAS Deputy President Nasharudin Mat Isa broke, much to the delight of Barisan columnists.<sup>34</sup> UMNO *ulama* (scholars and religious authorities) jumped into the fray to portray DAP as anti-Muslim and anti-Malay for stressing its commitment to a secular state, albeit with Islam as the state religion. In August, a headline in the government Malay-language paper, *Utusan Malaysia*, proclaimed it *haram* (forbidden) for Muslims to vote for DAP.<sup>35</sup>

### 3. Manipulation of Sino-Malay tensions

Ever since the 1969 riots, the Barisan Nasional has had a history of manipulating racial concerns, occasionally playing to Chinese fears of Islamist Malays but, far more frequently, to Malay fears of Chinese domination. It has not hesitated to encourage party-linked thugs when the need arises.

During the Mahathir years, racial tensions were used to tighten political control. The most striking example was Operasi Lalang (Operation Weeding), when Mahathir, beginning on 27 October 1987, had 119 mostly civil society critics and political opposition leaders arrested on accusations they were trying to stir up racial tensions.<sup>36</sup> Many had been involved in protests over an earlier education ministry decision to appoint non-Mandarin-speaking administrators in many Chinese schools – since independence, maintenance of Chinese-language education has been a touchstone issue for the Malaysian Chinese community. UMNO organised a counter-rally, with distinct anti-Chinese overtones, on the spot where the 1969 riots had erupted. Mahathir used the mounting political temperature to have his critics arrested and detained under the draconian In-

ternal Security Act. The arrests were followed by a tightening of controls on freedom of expression and assembly.<sup>37</sup>

Restrictions on Chinese vernacular schools and ethnic quotas in the education system are two of the issues that periodically draw Chinese away from the MCA and the Barisan Nasional – and fear of ethnic riots draws them back. Since independence, Chinese have been concerned that their vernacular schools would be gradually eliminated and replaced with Malay schools. Their fears were not unfounded: Chinese-language high schools were phased out in the 1960s, and the government repeatedly put forward plans to replace Mandarin with Malay in Chinese primary schools, though the community was able to resist.<sup>38</sup> If the pressure on Chinese schools had been accompanied by equal opportunity for Chinese in the national education system, the issue might have been less fraught, but racial quotas in the public university system, with a majority of the places reserved for Malays, added to the resentment.

The Barisan Nasional's education policies are one reason that the MCA has never fully represented the Chinese community, and many Chinese are in opposition parties, particularly the DAP. But when fears of riots are stoked, support for the MCA rises. In the 1999 elections, for example, the government played on the spectre of anti-Chinese violence in Indonesia the year before to convince Chinese, in the aftermath of Mahathir's sacking of Anwar Ibrahim and the rise of the Reformasi movement, that this was what happened when strong governments fell: chaos and anarchy.<sup>39</sup> As a result, the MCA got a large percentage of the Chinese vote.

Since Mahathir stepped down, the government has moved to ease some of the quotas, but the issue has not gone away. Nor has UMNO's playing of the anti-Chinese card,

---

<sup>33</sup> Crisis Group interview, DAP politician, Kuala Lumpur, 29 July 2012. PAS religious scholars cited the opinion of well-known Islamic cleric Yusuf al-Qaradawi as a basis of their argument.

<sup>34</sup> Karpal said the *hudud* ordinances were not in the national interest; Nasha, as the PAS leader is known, accused him of being anti-Islamic. Karpal then threatened to sue Nasha for defamation. See "Karpal going ahead with suit against Nasharudin", *New Straits Times*, 11 September 2012.

<sup>35</sup> "DAP says shares stand on Islam with first three PMs", [www.themalaysianinsider.com](http://www.themalaysianinsider.com), 9 August 2012.

<sup>36</sup> "Lalang" is a kind of wild grass, considered a weed, so it is sometimes translated as "Operation Wild Grass". It was understood, however, to mean the weeding out of the opposition.

---

<sup>37</sup> See Wain, *Malaysian Maverick*, op. cit., p. 61; Liow, *Piety and Politics*, op. cit., pp. 56-57; and "Operasi Lalang", Human Rights Resource Center Malaysia, <http://hrforall.wordpress.com/operasi-lalang/>. The detainees included Dr Chandra Muzaffar, then head of the NGO ALIRAN; DAP leaders Lit Kit Siang and Karpal Singh; MCA Vice President Chan Kit Chee; PAS youth leaders Halim Arshat and Moh Fahmi Ibrahim and a few UMNO members.

<sup>38</sup> Today there are 1,293 Chinese-language primary schools in Malaysia. Crisis Group interview, Rita Sim, Sin Chew Media, Kuala Lumpur, 29 June 2012. Writing in 2007, DAP opposition leader Lim Guang Eng noted that the number of schools had decreased from 1,346 in 1970 to 1,288 in 2006, while the number of Chinese students had increased by 45 per cent over the same period. See "Setting and strengthening institutions of democracy and good governance more effective in protecting the rights of Chinese community", <http://dapmalaysia.org/english/2007/aug07/lge/lge714.htm>.

<sup>39</sup> Crisis Group interview, DAP politician, Kuala Lumpur, 29 July 2012, and Weiss, *Protest and Possibilities*, op. cit.

with Mahathir, in his retirement, leading the charge. In a speech in June 2012, he warned “Chinese voters will decide who forms the government after the general election, and this has forced PKR, PAS and UMNO to cede to Chinese demands”.<sup>40</sup> Mahathir has also championed the ultranationalist Malay rights group, PERKASA, which has been accused of fomenting racial hatred.<sup>41</sup>

#### 4. Reformasi and the growth of civil society

The most transformative development in Malaysia in recent years, one that could well affect the 2012 elections, is the growth of a vibrant civil society movement, closely linked to opposition political parties, that crosses communal lines. Hopes were raised and dashed before – in 1999 and 2004 respectively – that it could make a major dent in communal politics. Social, political, demographic and technological changes have raised hopes again that a popular movement can carry the opposition into power, but the obstacles remain formidable.

Until 1998, civil society was straitjacketed by state controls and entrenched communalism. The secular advocacy NGOs working for social and economic justice were mostly staffed by non-Malays; the Malay community was more likely to make demands of the government, political parties (UMNO and PAS), or Islamic organisations.<sup>42</sup> On the heels of the 1997-1998 Asian economic crisis, Mahathir's sacking of Anwar Ibrahim in 1998 followed by Anwar's arrest and imprisonment on abuse of power and sodomy charges seemed to presage a change. Outraged supporters left UMNO in droves, turning to a new party, Justice (Keadilan) established by Anwar's wife, Dr Wan Azizah, and, in greater numbers, to PAS, which at one point was signing up 15,000 members a month.<sup>43</sup> In less than a month between his removal from office and arrest, Anwar mobilised a reform movement, Reformasi, the chant of the protestors who brought down Soeharto in Indonesia earlier that year. Discontent was palpable but insufficient

to topple Mahathir. In the 1999 elections, Barisan Nasional lost fourteen seats but kept a two-thirds majority.

The Reformasi movement managed to bring PAS, DAP and Keadilan into a short-lived coalition, the Alternative Front (Barisan Alternatif). But PAS instituted Islamist policies in the states it controlled,<sup>44</sup> and DAP gave its support to a list of demands from some Chinese associations that Malays saw as threatening their status. By September 2001, the coalition had fallen apart.

Mahathir continued to be the focus of criticism until he stepped down in October 2003, turning power over to his mild-mannered deputy, Abdullah Badawi. Badawi's low-key style was a welcome change from Mahathir's stridency. His adoption of some of the key planks of the Reformasi platform, especially a commitment to curb corruption and his promotion of “Civilisational Islam” (Islam Hadhari), suggested a non-threatening evolution to greater communal harmony and a little more justice, with the stability that ongoing Barisan Nasional patronage could buy.<sup>45</sup> By seeming to personify change and putting a more affable face on power, Badawi secured one of the biggest Barisan victories ever that year, getting over 63 per cent of the vote and more than 90 per cent of the parliamentary seats.<sup>46</sup>

It seemed as though the civil society movement, which had emerged with such promise only five years before, had declined into irrelevance. But the next year Anwar Ibrahim was released from prison, and suddenly civil society and the opposition had a charismatic figure to rally around. Grievances against the Badawi government quickly mounted, some of them linked to UMNO-sponsored Islamisation, some of them to corruption. A few high-profile apostasy cases showed the government to be weak and dithering, raising concerns among minority groups. In November 2007, Indian Hindus, concerned by treatment of Hindus who had converted to Islam and the destruction of temples to make way for development projects, mobilised 10,000 protestors under the banner of the Hindu Rights Action Forces (HINDRAF). Suddenly communalism seemed as much on the agenda as ever, and the broader issues raised by the Reformasi movement seemed to have fallen off it.

It was in this context that civil society and opposition politicians began organising the Coalition for Free and Fair Elections, known as Bersih (Clean), with a goal of getting the opposition a more even playing field for the twelfth

---

<sup>40</sup> “Dr M: Racism and Chinese will decide polls”, *Free Malaysia Today*, 29 June 2012.

<sup>41</sup> PERKASA is a Malay rights group headed by a member of parliament, Ibrahim Ali, who though officially an independent has close ties to UMNO. The group was set up after the 2008 elections and claims to have 300,000 members. Its members have been responsible for attacks, verbal and physical, against DAP leader Lim Guang Eng and have called Ambiga Sreenevasan the *dajjal* (false messiah). See, for example, “Perkasa: Act against Ambiga, the ‘anti-christ’”, *malaysiakini.com*, 2 November 2011, and “Attacks against Guang Eng intensify ahead of GE13”, *www.themalaysianinsider.com*, 1 July 2012. In Islamic eschatology, the *dajjal* is the embodiment of evil. The group's website is [www.pribumiperkasa.com](http://www.pribumiperkasa.com); Mahathir serves as its patron.

<sup>42</sup> Weiss, *Protest and Possibilities*, op. cit.

<sup>43</sup> Wain, *Malaysian Maverick*, op. cit., p. 207.

---

<sup>44</sup> These included a ban on gambling, restrictions on alcohol and guidelines for women's dress. It also proposed a land tax for non-Muslims but later withdrew the idea.

<sup>45</sup> Islam Hadhari was a concept that stressed Islam's compatibility with democracy, justice and economic development.

<sup>46</sup> The 1995 election produced a slightly higher popular vote but fewer seats.

general elections, in 2008. More than any other popular movement to date, it has captured a cross-section of Malaysian society. Its aims, first set out in a November 2006 communiqué signed by political parties, NGOs and others, have been clear, well-articulated, relatively free of communalism and practical. Somewhere between 10,000 and 30,000 turned out in the streets for the first Bersih rally on 10 November 2007, according to the government's and organisers' respective estimates.

The demonstrators had only four demands: clean up the electoral rolls; use indelible ink; abolish postal voting for military and police personnel; and grant fair access to media for all parties. They could not get a permit because of the tight restrictions on assembly, and police broke up the rally with tear gas and water cannon. Some 245 people were arrested.

Just a few months later, on 8 March 2008 the general elections were held – and produced what became known as the political tsunami: for the first time in Malaysian history, Barisan lost its two-thirds majority. It won just over 50 per cent of the popular vote, its worst showing since 1969, to the opposition's nearly 47 per cent. This translated into 140 seats to the opposition's 82, an indication of the skewed nature of the constituencies; in fact in peninsular Malaysia, the opposition won the popular vote. This was disaster on a major scale for Barisan and UMNO and perceived as a sea-change that could eventually spell the end of Barisan dominance. PAS increased its seats from seven to 22; DAP from twelve to 28 and Keadilan from one (held by Anwar's wife) to 31. The ruling party also lost control of more states than ever before: Kelantan, Kedah, Penang and Selangor, as well as Perak, until a coup of sorts returned it to Barisan.<sup>47</sup>

### III. THE ELECTORAL SYSTEM

The electoral system has been a natural focus for a popular movement because it is so clearly stacked against the opposition. Malaysia is technically a constitutional monarchy, with a king elected every five years by and from among nine hereditary sultans on the Malay Peninsula. National parliamentary and state legislative elections use a one-round, first-past-the-post plurality system of geographically-based single-member constituencies. At the national level, 222 national parliamentary seats are at stake for five-year terms, but the prime minister can ask the king to dissolve the parliament at any time during that period.

Legislative assemblies in the thirteen states are also elected for five-year terms, usually but not always at the same time as the national elections. (The three federal territories, Kuala Lumpur, Labuan and the capital district, Putrajaya, do not have legislative assemblies.) The chief minister of a state can call elections at any time. The danger in the opposition-controlled states of separate elections is that the Barisan can then focus all its energies on winning back those areas.<sup>48</sup>

Elections at both the national and state levels are conducted by a supposedly neutral election commission (EC) appointed by the king on the advice of the prime minister; both the competence and impartiality of the EC have been repeatedly questioned.<sup>49</sup> In addition to responsibility for administering the elections, the EC also has the all-important task of ensuring the integrity of the electoral rolls and periodically updating them. The unreliability of those rolls, stacked in the opposition's view with fictive or otherwise illegal voters, or marred by the unwarranted removal of eligible voters, has been a perennial complaint, but questioning them is difficult. In 2002, after a court annulled the 1999 election in a constituency in Sabah because of allegations of fictive voters, the EC pressed for and got an amendment to the 1958 Elections Act banning any questioning of the electoral rolls in court.<sup>50</sup>

Resources are also an issue. The EC must publicly display new names registered at the end of every quarter. Parties have two weeks to protest, but they have to pay RM10 (\$3.20) for every name challenged. "If UMNO comes up

<sup>47</sup> The opposition won 31 seats to Barisan's 28, but then two assembly members elected from the opposition switched sides.

<sup>48</sup> Crisis Group interview, PKR politicians, Kuala Lumpur, 2 July 2009.

<sup>49</sup> See, for example, Lim Hong Hai, "Making the System Work", in Mavis Puthucheary and Norani Othman (eds.), *Elections and Democracy in Malaysia* (Kuala Lumpur, 2005). Since the mid-1960s, the members have been retired civil servants who have close working relations with the government.

<sup>50</sup> *Ibid.*, p. 256. The amendment is Section 9A of the Elections Act.

with 300 new voters in a particular state, the opposition has to spend huge resources first trying to verify them, then trying to challenge them before the lists are closed and gazetted", said a political analyst.<sup>51</sup>

For the first few years after independence, the EC also had responsibility for delimiting constituencies in accordance with a formula ensuring that their numbers would be proportional to the number of voters, with a maximum 15 per cent variation between urban and rural areas. That formula was set aside in 1962, at the same time as the final decision-making role on the boundaries and size of constituencies was given to the parliament.<sup>52</sup> The EC still has considerable authority to periodically review the constituencies and make recommendations for changes to the prime minister, who forwards them for parliamentary approval. The constitution requires that the constituencies be reviewed at intervals of not less than eight years. The number of seats has steadily increased, rising after the most recent review, in 2003, from 193 to 219, with three more added later.

One complaint from the opposition is that there has been serious gerrymandering, with many more constituencies in the UMNO heartland than in opposition strongholds. A DAP politician said that UMNO seats represent on average 20,000 to 40,000 people, while his in Penang is for 69,000.<sup>53</sup> Between 1969 and 1999, after three EC reviews, the number of Malay-majority constituencies increased from 57.7 per cent to 69.3 per cent, though the Malay percentage of the population rose by only 1 per cent.<sup>54</sup> The 2003 review produced 25 new seats that bore little relation to population growth or density; the main beneficiaries were again UMNO strongholds, while the variation between largest and smallest was 325 per cent.<sup>55</sup> Not surprisingly, opposition politicians said the principle of one person, one vote was being violated.

Other aspects of elections have also drawn the ire of opposition politicians and pro-reform groups. The minimum campaign period by law is ten days (in the 2008 elections, the EC allowed thirteen, the longest ever), with no open-air public rallies permitted. Indoor meetings require permits that are sometimes difficult to get, and the opposition's access to the state-controlled media is subject to strict controls.

On 7 June 2012, in what the government portrayed as a major concession, the EC ruled that all parties could present their election manifestos over Radio Television Malaysia (RTM) – but not live, "to avoid sensitivities detrimental to an individual's personality, race and religion as well as security and public order". If presentations were live, the EC chair said, "RTM may not be able to control what is being said".<sup>56</sup>

Later the same month, the EC, in response to the demand for election monitors, appointed five local NGOs as observers.<sup>57</sup> There was no consultation with the NGOs, which, while highly respected, have no expertise in election monitoring. The conditions placed on observation were so tight as to render serious monitoring meaningless. The monitors would be prohibited, among other things, from observing the ballot-counting process; taking photographs of fraud without the presiding officer's approval; speaking to party agents and polling staff; moving from the assigned polling station; and releasing information to a third party before reporting to the EC.<sup>58</sup> An activist said in disgust, "Burma is more open than we are".<sup>59</sup>

<sup>51</sup> Crisis Group interview, Ibrahim Suffian, director, Merdeka Center, Kuala Lumpur, 26 June 2012.

<sup>52</sup> Lim Hong Hai, "Making the System Work", op. cit., pp. 252-253.

<sup>53</sup> Crisis Group interview, Kuala Lumpur, 29 June 2012.

<sup>54</sup> Lim Hong Hai, "Making the System Work", op. cit., p. 268. The constituency reviews took place in 1974, 1984 and 1994.

<sup>55</sup> Jeremy Grace, "Malaysia: Malapportioned Districts and Over-Representation of Rural Communities", [http://aceproject.org/ace-en/topics/bd/bdy/bdy\\_my](http://aceproject.org/ace-en/topics/bd/bdy/bdy_my).

<sup>56</sup> EC: Election Manifesto over RTM will be via recording", *New Straits Times*, 22 June 2012.

<sup>57</sup> These were the Merdeka Center, the survey organisation; two think-tanks, Institute for Democracy and Economic Affairs (IDEAS) and Asian Strategy and Leadership Institute (ASLI); Transparency International-Malaysia; and the Association for Promotion of Human Rights (PROHAM).

<sup>58</sup> "Bersih: EC's appointed observers mere PR exercise", *malaysiakini.com*, 1 July 2012.

<sup>59</sup> Crisis Group interview, Lawyers for Liberty, Kuala Lumpur, 26 June 2012.

#### IV. THE BERSIH MOVEMENT

In all of this, there was plenty of fodder for popular protest, and the Bersih movement grew from being a political tactic of opposition politicians to something much bigger. In November 2007, Bersih 1 had been endorsed by 25 NGOs and five opposition political parties: DAP, PAS, Partai Keadilan Rakyat (People's Justice Party, the new name for Anwar's party); the tiny Socialist Party of Malaysia (PSM); and the Sarawak National Party (SNAP).

Emboldened by the 2008 election results, organisers resolved to continue the push for free elections in the lead-up to the thirteenth general election, initially expected to be called in mid-2011. By this time, the political landscape had changed again. Prime Minister Abdullah Badawi was forced to step down after the 2008 debacle and was replaced by his deputy, Najib Razak, a man frequently referred to as an UMNO "prince" because of his privileged background and the fact that his father had been prime minister in the 1970s. Najib understood that the only way to keep hold of a restive electorate was to move toward reform in many areas – but electoral reform initially did not seem to be one of them.

On 9 July 2011, a second rally (called Bersih 2.0) was held, co-chaired by human rights lawyer Ambiga Sreenevasan, a Malaysian Indian, and Datuk A. Samad Said, the country's poet laureate and an ethnic Malay. Four new demands were added to those of Bersih 1: a minimum 21-day campaign period; strengthening of political institutions; no corruption; and no dirty politics. This time it was an NGO-only affair, with 62 organisations endorsing the eight-point platform. No political parties took part, so that it would be recognised for what it was, a popular movement. More people turned out than for the first rally, but it too was broken up by police. This time Prime Minister Najib set up a parliamentary select committee to review the demands and come up with proposals for change.

With no election in sight, but speculation increasing that it might be called in September 2012, organisers decided to go forward with Bersih 3.0. On 12 April, the select committee released its report, with 22 recommendations for reform, seven of which, including the use of indelible ink, were to be implemented before the next election.<sup>60</sup> But because the existing election commission was tasked with

implementing them and because they did not go far enough, spokespersons for Bersih said they were unacceptable.<sup>61</sup> A survey taken by the independent Merdeka polling organisation in mid-April showed that only 20 per cent of those surveyed were "very confident" that the electoral process could be trusted, and 49 per cent did not trust that the system was "free from irregularity".<sup>62</sup>

On 28 April 2012, thousands of people in yellow shirts turned out for Bersih 3.0 in Merdeka Square in central Kuala Lumpur, as police with tear gas and water cannons stood by.<sup>63</sup> All major opposition leaders were present. Three demands were added to the previous eight: that the existing election commission resign; that the previous demands be implemented before the thirteenth general election; and that international observers be permitted to monitor the polls. This time 84 NGOs endorsed the demands, and downtown Kuala Lumpur was turned into a sea of yellow, by far the biggest rally to date: organisers claimed upwards of 100,000 in attendance, the state news agency 22,000.<sup>64</sup> The most striking aspect for one participant was how ethnically mixed it was.<sup>65</sup>

For most of the day, the demonstration was peaceful; then around 3pm, after a handful of demonstrators crossed a police barricade, violence erupted and police fired tear gas at short range. In the melee that followed, dozens of demonstrators and several police were injured, virtually every moment caught on mobile phone cameras and posted on YouTube and other sites.<sup>66</sup>

A Malaysian Bar Council report, issued two weeks after the event and based on eyewitness accounts by its own team of 78 monitors, said some demonstrators had shouted abuse at police, but the latter's use of force was "indiscriminate, disproportionate and excessive".<sup>67</sup> The commander

<sup>60</sup> "EC: Seven PSC Proposals for 13th General Election", *The Star*, 12 January 2012. The other proposals included early voting by police and armed forces and their spouses; extending the electoral roll display from seven to fourteen days; abolishing the objection process and withdrawal period for candidates; cleaning up of the electoral roll (but not in a way that would meet the demand of reformers); and strengthening the Election Commission.

<sup>61</sup> "Bersih 2.0's point-by-point responses", *malaysiakini.com*, 3 April 2012.

<sup>62</sup> "Survey: almost half don't trust electoral process", *malaysiakini.com*, 25 May 2012.

<sup>63</sup> Yellow was chosen because the organisers said it represented citizens' movements worldwide and had also become the symbol for press freedom in Malaysia. "Bersih People's Gathering", press release, *www.bersih.org*, 22 October 2007.

<sup>64</sup> "Photographs from 7 locations used to determine Bersih 3.0 headcount", *New Straits Times*, 21 May 2012.

<sup>65</sup> Crisis Group interview, Malaysian Human Rights Commission, Kuala Lumpur, 27 June 2012. In one interview, Crisis Group was told that participation was "about 80 per cent Malay", in another, that it had a particularly strong Chinese component and in a third that it was mixed. It is clear from the videos that there was strong representation from all three communities.

<sup>66</sup> "Cops release protestors in batches", *The Star*, 29 April 2012.

<sup>67</sup> "Final Report of the Malaysian Bar on Bersih 3.0 rally held on 28 April 2012 in Kuala Lumpur", *www.malaysianbar.org.my/index.php?option=com\_docman&task=doc\_details&gid*

of the elite Federal Reserve Unit (FRU), responsible for crowd control, said later his men had had anger management training after the first two rallies.<sup>68</sup> If so, the impact was not evident.

About the same time, on 15 May, a government-controlled television station aired a half-hour documentary, "Bersih 3.0 is Dirty" (Bersih 3.0 itu kotor), with a very different version of events. It showed protestors hurling trash at police and beating up a journalist who tried to help an injured officer. It also showed Anwar Ibrahim and his deputy at the rally and suggested both that Anwar gave the signal to breach the barricades and that he was planning to use the rally to seize power.<sup>69</sup> He and two other PKR leaders were charged with taking part in an illegal rally and abetting rioting under a Peaceful Assembly Act that the government had billed when it was adopted in 2011 as increasing the scope for freedom of assembly in a liberalising Malaysia.<sup>70</sup>

Two inquiries were set up. A government-appointed inquiry board, led by a former police commander, has been largely boycotted by witnesses because of concerns about possible bias – "like sending Dracula to look after the blood bank", said a member of the Malaysian Human Rights Commission (Suruhanhaya Hak Asasi Manusia Malaysia, SUHAKAM).<sup>71</sup> Another, set up by SUHAKAM, began its work on 5 July 2012 with a mandate to determine whether human rights violations had occurred and if so how to prevent them in the future. By mid-August, it had heard detailed testimony from dozens of participants and police, and hearings were ongoing.<sup>72</sup>

There were ugly incidents in the aftermath of Bersih 3.0. Ambiga Sreenevasan, the co-chair, was vilified so thoroughly – and sometimes so crudely – by right-wing elements that many believed it would have an impact on ethnic Indian support for Barisan in the coming election.<sup>73</sup> Ambiga

noted wryly that there was no such campaign against her male Malay co-chair.<sup>74</sup>

Mahathir, as acerbic as ever in retirement, blamed the violence entirely on the Bersih organisers and said it was a prelude to what would happen if the opposition lost the elections: "Their defeat will be followed by violent demonstrations that will go on and on so that the election results are rejected and a new government is put in place that is approved by the opposition."<sup>75</sup>

The most important result of Bersih 3.0 was that despite everything, it put a non-communal issue – electoral reform – at the front and centre of the national debate with several months to go before the election.

---

=3709&Itemid=332. Several prominent Bar Council members were among the organisers of Bersih, including the co-chair, Ambiga Sreenevasan.

<sup>68</sup> "Riot police underwent 'anger management' courses", *malaysiakini.com*, 2 August 2012.

<sup>69</sup> The video is available at [www.youtube.com/watch?v=8SNrt9m55vs](http://www.youtube.com/watch?v=8SNrt9m55vs).

<sup>70</sup> "Peaceful Assembly bill not 'draconian': Najib", *New Straits Times*, 28 November 2011.

<sup>71</sup> Crisis Group interview, SUHAKAM commissioner, 27 June 2012.

<sup>72</sup> "Suhakam panel visits sites of Bersih 3.0 rally", [www.the-sundaily.my](http://www.the-sundaily.my), 21 September 2012.

<sup>73</sup> Crisis Group interview, business leader, Kuala Lumpur, 1 July 2012. Even the state-controlled Tamil newspaper complained about the harassment against her, which included sidewalk vendors linked to a right-wing organisation representing Malay traders setting up "burger stalls" (Ambiga is a vegetarian Hindu) outside her home and soldiers doing "butt exercises",

---

calisthenics that featured bending over with their rears pointed toward the house. A UMNO parliamentarian said publicly that she should be hanged.

<sup>74</sup> Crisis Group interview, Ambiga Sreenevasan, Kuala Lumpur, 29 June 2012.

<sup>75</sup> "Dr M: Bersih 'violence' a warm-up to Pakatan GE loss", *malaysiakini.com*, 25 May 2012.

## V. THE ISSUES

The other key issues for the thirteenth general election are the economy and equitable distribution of resources; corruption and transparency; and human rights and democracy.

### A. THE ECONOMY AND BARISAN HAND-OUTS

Both coalitions are acutely aware that bread-and-butter issues resonate strongly in the electorate and want to convince voters that their standard of living will be protected, even in the face of a rising cost-of-living, steady-state wages and a possible future recession caused by developments beyond Malaysia's control, such as the European debt crisis. Most of those interviewed believed an economic downturn would favour the opposition, and the longer the prime minister delayed in calling an election, the more he would risk running headlong into one.

In the long term, Najib is banking on the success of the government's Economic Transformation Program (ETP), announced in 2010, that seeks to make Malaysia a high-income country by 2020, with a rise in per capita income from \$6,600 to \$15,000.<sup>76</sup> In the short term, though, Barisan Nasional is doling out favours, systematically targeting particular groups of constituents. "I think BN can still win because the government is spending money non-stop under different names", said former MCA President Dr Ling Liong Sik.<sup>77</sup>

Some of the spending is related to Najib's signature program, "1Malaysia", announced on Malaysia Day (16 September) 2010. It continues a practice initiated by Mahathir to periodically articulate broad strategic goals – Mahathir's was "Vision 2020", aiming for a fully-developed country by that year. Najib's is designed to promote good governance, national identity and ethnic harmony.<sup>78</sup> It is also a way of responding to non-Malay concerns about cronyism and discrimination, especially with an election looming. In governance, the cornerstone of the policy is the use of key performance indicators (KPI) to evaluate government agencies and the civil service in several areas, deemed National Key Result Areas (NKRA). These are reducing crime, fighting corruption, improving student outcomes, raising living standards of low-income households, improving rural infrastructure, improving urban transport and addressing the cost of living.<sup>79</sup> While laudable in their own right, the program also provides the opportunity for

distribution of government largesse to key constituencies at a strategic time.

In March 2012, the government announced salary increases of between 7 and 13 per cent for the 1.4 million civil servants, as well as increases in the cost-of-living allowances for those in semi-urban and rural areas.<sup>80</sup> The prime minister made the announcement to an audience of 10,000 civil servants in the Putrajaya Convention Centre, the most politically prominent venue available in the country's administrative centre.<sup>81</sup>

Senior high school and university students in all private and public higher education institutes were beneficiaries of book vouchers worth RM200 (\$62) in the national 2012 budget, unveiled in October 2011.<sup>82</sup> Younger Malay voters are widely seen as a possible swing group, therefore particularly important to keep or get on board, although research carried out by a think-tank linked to UMNO suggested that the segment of the Malay population most disenchanted with the government was not the 21- to 30-year-olds but those aged 30 to 50 with more financial commitments.<sup>83</sup> The budget also included one-off cash handouts of RM500 (\$156) to low-income households that were seen as a tactic to keep the rural Malay base intact, since many of the recipients were farmers.<sup>84</sup>

On 24 June, Prime Minister Najib announced that RM35 million (\$11,475) would be set aside for tyre rebates for taxi drivers, with each registered driver receiving a voucher for RM520 (\$170.50) to enable the replacement of four tyres within a two-year period. This announcement was at the National Stadium, in a government-organised event that made the Malaysian Guinness Book of Records for the largest taxi gathering ever, with 10,000 vehicles parked outside.<sup>85</sup> According to a state-controlled newspaper, the

<sup>76</sup> For details on the ETP, see [www.etp.pemandu.gov.my](http://www.etp.pemandu.gov.my).

<sup>77</sup> "BN can win GE battles with money splash, says Dr Ling", [www.themalaysianinsider.com](http://www.themalaysianinsider.com).

<sup>78</sup> See the government's website, [www.pemandu.gov.my/gtp/](http://www.pemandu.gov.my/gtp/).

<sup>79</sup> *Ibid.*

<sup>80</sup> "Pay rise for civil servants", [www.thestar.com.my](http://www.thestar.com.my), 9 March 2012. An earlier revision to the salary structure, the Public Service New Remuneration Scheme, was announced in January 2012 but withdrawn after objections from CUEPACS, a coalition of civil service unions, that senior officials benefited more than those at lower ranks. Accused of politicking, the government said this merely showed its responsiveness to "the voice of the people". See "DPM: Scheme scrapped not due to polls", [www.thestar.com.my](http://www.thestar.com.my), 9 March 2012.

<sup>81</sup> Putrajaya, a planned city, became the new seat of the Malaysian government, replacing Kuala Lumpur, in 1999. The international convention centre opened in 2004.

<sup>82</sup> "Budget 2012: Students to get RM200 Book Voucher from January 3", [www.malaysia-students.com](http://www.malaysia-students.com), 10 December 2010.

<sup>83</sup> Crisis Group interview, Rita Sim, Sin Chew Media, Kuala Lumpur, 29 June 2012.

<sup>84</sup> "Handouts are limited, Najib warns", [www.themalaysianinsider.com](http://www.themalaysianinsider.com), 24 June 2012.

<sup>85</sup> "Taxi drivers get RM250 tyre voucher", [www.ntv7.com.my](http://www.ntv7.com.my), 24 June 2012.



program “is a show of appreciation for the taxi drivers’ contribution, and it is the brainchild of the prime minister, who advocates the well-being of all segments of society”.<sup>86</sup> In July, Najib announced a program to give RM5,000 (\$1,560) per family to 400 families of FELDA settlers to restore traditional houses surrounding FELDA developments.<sup>87</sup> The list goes on and on.

The opposition cannot compete with the handouts but believes the political impact is short-lived. The longer an election is delayed, the less voters will factor in the largesse received, a DAP politician said.<sup>88</sup> The 2013 budget is due to be presented on 28 September, however, and could contain a new round of benefits, including another round of RM500 payments to the poor, despite Najib’s efforts to dampen expectations.<sup>89</sup>

Barisan has not only the resources to keep up the handouts, but also the power to deny development allocations to opposition-controlled constituencies. One of these is Lembah Pantai, represented by Nurul Izzah, who is PKR’s vice president and Anwar Ibrahim’s daughter. She told a journalist: “Millions of ringgit [RM] from the federal government for the constituencies are bypassing us, being channelled through BN”, a reason Barisan leaders are confident of winning back seats they lost in 2008.<sup>90</sup>

## B. CORRUPTION

Another key issue is corruption. A survey conducted by the Merdeka Center in June 2012 showed it is the issue that Malaysians feel most needs government attention.<sup>91</sup> Pakatan strategists described with glee the number of scandals involving UMNO officials that had become a matter of public debate.<sup>92</sup>

The juiciest politically is the National Feedlot Corporation (NFC) scandal that started when Abdullah Badawi was prime minister. In an effort to reduce beef imports, the government created the NFC in 2006 and loaned it RM250 million (\$78,000,000) at 2 per cent interest to set up a National Feedlot Centre to purchase cattle. In 2010, the auditor-general’s annual report noted that the NFC

had failed to achieve its target, and the PKR’s Rafizi Ramli started asking questions, in part because of the political connections involved. The NFC chairman was Mohamad Salleh Ismail, husband of the women, family and community development minister and UMNO Women’s chair, Shahrizat Abdul Jalil.<sup>93</sup> One of their sons, Wan Shahinur Izmir, was the CEO; two other children, Izran and Issana Fatrimah, were directors. None had any previous experience in farming or cattle-raising.

On 12 March 2012, Mohamad Salleh was formally charged with misappropriating NFC funds as partial payment for two units of a luxury condominium. He pleaded not guilty and has denied all wrongdoing. Earlier, his son had argued publicly that nothing in the loan agreement prevented the company from making investments unrelated to cattle; the opposition produced a copy of the agreement to show otherwise.<sup>94</sup> The day after her husband was charged, Shahrizat announced her resignation as minister effective 8 April but kept her party position, as opposition leaders pressed the Malaysia Anti-Corruption Commission (MACC) to investigate her role in the awarding of the NFC contract to her family. She has always maintained that she took no part in the process, and on 31 May 2012, the MACC declared there was no case against her.<sup>95</sup> The opposition immediately deemed this a whitewash; Rafizi Ramli pointed out that though he had been the one exposing alleged wrongdoing from the outset, the MACC never called him to testify.<sup>96</sup>

“Cowgate”, as it is known in Kuala Lumpur, has had a deeper impact than any other scandal because it is one the Malay heartland can relate to. According to Rafizi Ramli:

We had scandals in the past, but our failure then was our inability to translate them into issues that would swing the undecided. This cow thing has been a godsend. The idea of cows and condos, everyone understands. It went beyond our wildest expectations because it’s about what hits [rural Malays] most. Everyone knows how much a kilogram of beef costs.<sup>97</sup>

It also has particular importance because of the importance of the women’s vote to UMNO, which relies on a system

<sup>86</sup> “Vouchers to help taxi drivers”, [www.themalaysiantimes.com](http://www.themalaysiantimes.com), 24 June 2012.

<sup>87</sup> “Don’t be envious of FELDA settlers”, says Najib”, [www.themalaysianinsider.com](http://www.themalaysianinsider.com), 20 July 2012.

<sup>88</sup> Crisis Group interview, DAP politician, Kuala Lumpur, 29 June 2012.

<sup>89</sup> “Handouts are limited, Najib warns”, *op. cit.*

<sup>90</sup> “KL seats: BN confident, Pakatan optimistic”, *Free Malaysia Today*, 25 July 2012.

<sup>91</sup> “National Public Opinion Survey, June 2012”, Merdeka Center, [www.merdeka.org](http://www.merdeka.org).

<sup>92</sup> Crisis Group interviews, PKR headquarters, July 2012.

<sup>93</sup> Shahrizat had been a member of parliament from Lembah Pantai, Selangor, but lost her seat to Anwar Ibrahim’s daughter, Nurul Izzah, in the 2008 elections. She was appointed a senator when Najib took office and served until 8 April 2012 when her term expired.

<sup>94</sup> “Pua reveals NFC’s controversial loan agreement”, <http://mocsarawak.wordpress.com>, 25 February 2012.

<sup>95</sup> “Shahrizat testifies in her suit against 2 PKR leaders”, *The Star*, 6 August 2012.

<sup>96</sup> “MACC blamed for alleged whitewash in Shahrizat-NFC probe”, [www.themalaysianinsider.com](http://www.themalaysianinsider.com), 31 May 2012.

<sup>97</sup> Crisis Group interview, Rafizi Ramli, 2 July 2012.

called *kepala sepulu* (head of ten), in which one party member, often a woman, is responsible for ten households. Middle-aged women are the mainstay of UMNO's political machine in rural areas, not least because while men are all paid, women are not. Even if he wanted to, Najib would not risk disassociating himself from Shahrizat, because he needs her UMNO women to turn out the vote. The result is that both she and "Cowgate" stay in the headlines.<sup>98</sup>

Rafizi Ramli's efforts in bringing the NFC scandal to light have led to a stream of revelations and documents sent his way by whistle-blowers and concerned sources in the government, which he and others in the opposition see as evidence that the UMNO façade of unity is cracking from within.<sup>99</sup> But it has also led to legal troubles. On 1 August, Rafizi was charged under the Banking and Financial Information Act with leaking private banking details related to the NFC, a charge that carries a possible three-year prison sentence. He was already being sued for defamation by Shahrizat in a case that has been ongoing since January.

Other scandals have dropped in the opposition's lap, such as the publication in June 2012 by the online news agency Asia Sentinel of leaked documents in a French judicial investigation relating to Malaysia's purchase of two Scorpene submarines in 2002.<sup>100</sup>

Barisan's response in part has been to level allegations at the opposition. To this end, government media in June and July gave major play to a thirteen-year-old case in which a state bank official alleged that Anwar Ibrahim had amassed RM3 billion (\$983 million) in state funds and channelled it to private accounts. The probe was started in 1999 by the anti-corruption agency and dropped a year later for lack of evidence.<sup>101</sup> It is hard to see how its resurrection in the midst of the NFC and Scorpene scandals was anything but politically motivated.

### C. DEMOCRACY AND HUMAN RIGHTS

For the first time in the lead-up to any election, Barisan has tried to move out in front of the opposition on human rights, with limited success. For as long as Mahathir was in power, opposition parties, particularly Keadilan and the DAP, had a monopoly on human rights advocacy. "Dr M",

as he is widely known, was not bothered by being labelled authoritarian; he revelled in it, portraying human rights as a creation of the West that was of no interest to ordinary Malaysians. He said in a speech in 2000:

As we all know the pressure to democratise and respect human rights is not due to concern for the well-being of people, but for the benefit of those rich people wishing to reap more profits for themselves in more countries.<sup>102</sup>

But Prime Minister Najib and some of his inner circle realise that Malaysian society has changed, a leading UMNO politician said, and that the battle with Pakatan will be about capturing the middle ground: university students, professionals, the middle class and "netizens", the huge community in Malaysia that relies on social media for news and communication because the print and broadcast media are so tightly controlled. There is a real demand for direct political participation: "People want to define their own interests rather than have the government define it for them".<sup>103</sup>

Dismantling – or being seen to dismantle – Mahathir's machinery of repression was, therefore, a carefully considered strategic move. The most important part of that machinery was the Internal Security Act (ISA), a holdover from the colonial era that allowed preventive detention of security suspects for two-year periods, indefinitely renewable. More than anything else, the ISA symbolised the "illiberalism" of Malaysian democracy, and its removal had been a key demand of the Reformasi movement and civil society. On 15 September 2011, Najib announced plans for its repeal.<sup>104</sup> This was followed in November by the introduction in parliament of a Peaceful Assembly Act; amendments to the 1971 Universities and University Colleges Act in April 2012 to allow students to take part in political activities; announcement in July of the planned repeal of the Sedition Act; and liberalisation in August of the Printing Presses and Publishing Act to allow greater freedom of expression.

All these actions were lauded in the government-controlled media as evidence of Najib's credentials as a reformer.<sup>105</sup>

<sup>98</sup> Crisis Group interview, PKR politician, Kuala Lumpur, 29 June 2012.

<sup>99</sup> Crisis Group interview, Rafizi Ramli, 2 July 2012.

<sup>100</sup> John Berthelsen, "Deep and Dirty: Malaysia's Submarine Scandal", [www.asiasentinel.com/index.php?option=com\\_content&task=view&id=4626&Itemid=178](http://www.asiasentinel.com/index.php?option=com_content&task=view&id=4626&Itemid=178). See also "Malaysia denies corruption allegations in French submarine sale", Reuters, 26 June 2012.

<sup>101</sup> "Anwar Gave Order", *New Straits Times*, 12 June 2012.

<sup>102</sup> "Agenda for a New Asia", address by Prime Minister Mahathir, Hong Kong Center Fall Gala Dinner, 28 October 2000.

<sup>103</sup> Crisis Group interview, Saifuddin Abdullah, 28 June 2011.

<sup>104</sup> "Najib announces repeal of ISA, three emergency declarations", [www.themalaysianinsider.com](http://www.themalaysianinsider.com), 15 September 2011.

<sup>105</sup> The major Malaysian print and broadcast media are owned by companies linked to Barisan Nasional. The main English language newspaper, the *New Straits Times*, and a Malay paper, *Berita Harian*, are both owned by Media Prima, a company linked to UMNO, as is the company behind *Utusan Malaysia*, another Malay-language paper. Sin Chew Media, which publishes the major Chinese-language newspaper, is linked to MCA, as are the owners of *The Star*. Government control over content is exerted through a licensing system and other provisions of

As a columnist summed up the proposed changes, “previously, everything was prohibited unless permitted. Now everything is permitted unless prohibited. This is a significant shift in civil rights thinking”.<sup>106</sup> Criticism, however, came from all sides: from the UMNO right wing, including Mahathir, that the reforms were a sign of weakness, to the opposition saying they did not go far enough. Even a reformist member of UMNO acknowledged they were less than they seemed on close examination.<sup>107</sup>

The ISA was replaced in June 2012 by the Security Offences (Special Measures) Act that did away with preventive detention but left enough gaping loopholes, including overly broad definitions of security offences, to raise serious concerns in the human rights community.<sup>108</sup> The 45 people detained at that point under the ISA, including terrorism suspects, will serve out the remainder of their two-year detention orders and then are expected to be released.<sup>109</sup>

The April amendments to the Universities and University Colleges Act lifted a ban on students joining political organisations or campaigns or expressing “support, sympathy or opposition” to any party. The revised law still banned party activity on campus, however, and left it up to university boards to prevent students from joining organisations deemed “unsuitable to the interests and well-being of the students or the university”.<sup>110</sup>

The Peaceful Assembly Act, passed in June, no longer requires a police permit for gatherings of more than three people but specifically bans street demonstrations, defined as “walking in a mass march or rally” – which would seem to be directed against Bersih.<sup>111</sup>

The liberalised Printing Presses and Publishing Act removed in August the need for annual renewal of media licences

---

the Printing Presses and Publications Act, recently amended, and the Official Secrets Act.

<sup>106</sup> Shad Saleem Faruqi, “Learn more about the new Assembly Act”, *New Straits Times*, 27 June 2012.

<sup>107</sup> Crisis Group interview, Saifuddin Abdullah, deputy minister of higher education, 28 June 2012.

<sup>108</sup> Mickey Spiegel, “Smoke and Mirrors: Malaysia’s ‘New’ Internal Security Act”, East-West Center, *Asia-Pacific Bulletin*, 14 June 2012. The full law is available at [http://malaysianlaw.my/attachments/Act-747-Security-Offences\\_85130.pdf](http://malaysianlaw.my/attachments/Act-747-Security-Offences_85130.pdf).

<sup>109</sup> Of the 45, 29 are detained for trafficking. Those detained include six Indonesians, three Filipinos, two Iraqis, four Pakistanis seven Sri Lankans, two Indians and one Bangladeshi. The rest are Malaysians. Information from SUHAKAM, 27 June 2012.

<sup>110</sup> “Malaysian students seek full political rights”, *The New York Times*, 23 April 2012.

<sup>111</sup> The new law replaces provisions of the Police Act. It still gives police wide discretion to place restrictions on public meetings. See Shad Saleem Faruqi, “Learn more about the new Assembly Act”, op. cit.

from the home ministry but did not eliminate them altogether and left the minister with significant powers to restrict press freedom. As a senior journalist noted, “the oppressive instruments of censorship remain largely intact”.<sup>112</sup>

At the same time, the parliament passed amendments to the Evidence Act that went into force on 31 July 2012 and imposed severe restrictions on internet freedom. According to one analysis:

Section 114A as it stands creates a presumption that any registered user of network services is presumed to be the publisher of a publication sent from a computer which is linked to that network service, unless the contrary is proved. The section also provides that any “person whose name, photograph or pseudonym appears on any publication depicting himself as the owner, host, administrator, editor or sub-editor, or who in any manner facilitates to publish or re-publish the publication is presumed to have published or re-published the contents of the publication unless the contrary is proved.”<sup>113</sup>

This removes the presumption of innocence, a critic said: “If I receive a seditious Facebook message and don’t delete it, I can be charged with disseminating false news – and it’s even worse if I comment on it”.<sup>114</sup> The Centre for Independent Journalism in Malaysia called for a one-day internet blackout on 14 August to protest these provisions and demand their repeal; the prime minister and the cabinet were said to have taken note of “public dissatisfaction” and be studying a possible response.<sup>115</sup>

The repeal of the Sedition Act, which Mahathir had used to punish political dissent, was more widely welcomed, but it was to be replaced by a proposed National Harmony Act designed, in Najib’s words, “to balance the right of freedom of expression as enshrined in the constitution, while at the same time ensuring that all races and religions are protected”.<sup>116</sup> The new act would punish incitement of racial hatred but also “those who question any right, special position, privileges and prerogatives enshrined and protected under Part 3 or Articles 152, 153 and 181 of the Federal Constitution” – which include preferential status for Malays and the Malay language.<sup>117</sup>

---

<sup>112</sup> Bob Teoh, “Censorship remains despite press law changes”, *malaysiakini.com*, 4 May 2012.

<sup>113</sup> “Press Release: Repeal Section 114A of Evidence Act 1950”, *Malaysian Bar*, [www.malaysianbar.org](http://www.malaysianbar.org), 13 August 2012.

<sup>114</sup> Crisis Group interview, UMNO member, 25 July 2012.

<sup>115</sup> “Don’t politicize Section 114A Evidence Act”, *Malaysian Mirror*, 20 August 2012.

<sup>116</sup> “Malaysia to repeal repressive sedition law”, *The Guardian*, 12 July 2012.

<sup>117</sup> “New Harmony Act to protect multi-racial society”, *The Star*, 12 July 2012.

The “middle ground” of the Malay community may be buying the reforms, however partial, even as the Malay right attacks them, with Mahathir’s encouragement. Najib’s popularity ratings remain high, which could spell problems for the opposition; a woman in Barisan claimed that support for the ruling coalition was higher than at any time since the 2008 elections.<sup>118</sup> Polls in June suggested, however, that while Najib had the approval of 65 per cent of the population, support for Barisan had slipped under 50 per cent – and a man in UMNO suggested that because opinion surveys were still relatively new in Malaysia, more people would probably say they supported the government than was actually the case.<sup>119</sup>

## VI. SOME ELECTION CALCULATIONS

Pakatan is counting on keeping most of its gains from the 2008 elections and picking up a significant number of seats in Sabah and Sarawak. It is also hoping to capture some additional seats in the UMNO heartland in rural peninsular Malaysia. Barisan is determined to win back the state of Selangor and regain its two-thirds majority. As the election approaches, both coalitions are furiously making calculations about tactics and strategy.

### A. SABAH AND SARAWAK

The two eastern states control 25 per cent of the seats in parliament, making them potential kingmakers, especially in a close election. Until the mid-1990s, both were controlled by local parties led by strongmen who were not always willing to do Barisan’s bidding, even though they were usually part of the coalition. The rise of strong nationalist sentiment among one of Sabah’s largest indigenous ethnic groups and achievement of political power in the 1980s led Barisan, and UMNO in particular, to assert itself more directly; since 1994, Sabah has been under UMNO control.<sup>120</sup> In Sarawak, one man, Abdul Taib Mahmud, has been chief minister since 1981. His party, Parti Pesaka Bumiputera Bersatu (PBB), is part of the Barisan coalition. Persistent allegations of corruption have made Taib a sometimes difficult ally for the ruling party, and he reportedly has been urged to step down, but the coalition may need him more than ever for these elections.<sup>121</sup>

---

<sup>120</sup> Sabah’s population of 3.2 million is roughly 40 per cent Muslim *bumiputera*; 40 per cent non-Muslim *bumiputera*, of whom the Catholic Kadazan-Dusun are the most prominent, and 20 per cent Chinese. The Kadazans, worried among other things by what they saw as assertive Islamisation, formed the Sabah Unity Party (Parti Bersatu Sabah, PBS) in 1985 and won the state elections that year. PBS initially joined the Barisan coalition but pulled out just before the 1990 election. Within months, its head was detained on corruption charges, and his brother was held under the ISA for allegedly plotting secession. With no strong local Muslim party available to use as a proxy, UMNO decided it was time to take control. With strategic use of patronage, promises of economic development and a commitment from Mahathir that the chief ministership would rotate among the three main population groups, it succeeded in developing a political base. From 1994 onwards, Sabah has been controlled by UMNO. See Chin, “Going East”, op. cit.

<sup>121</sup> The alleged corruption of Taib, who is also finance minister and resource planning and environment minister, was a subject in several cables from the U.S. embassy made public by WikiLeaks. See “Taib ‘Highly Corrupt’ – Secret U.S. documents put pressure on FBI!”, *Sarawak Report*, 31 August 2011. In June 2011, the government’s Malaysian Anti-Corruption Commission said it was investigating reports of Taib’s corruption. “Taib

---

<sup>118</sup> Crisis Group interview, MCA member, 29 June 2012.

<sup>119</sup> Crisis Group interview, UMNO leader, 2 July 2012 and “National Public Opinion Survey”, Merdeka Center, op. cit.

In 2008, Barisan lost to the opposition in peninsular Malaysia; it was only the seats in the east that enabled it to retain power.<sup>122</sup> Barisan has already resigned itself to losing some non-Malay seats in Sabah and Sarawak; in August 2012 alone, there were three high-profile defections of local leaders from its ranks.

The issue that matters most to voters, especially in Sabah, is the influx of non-Malaysians who many claim have been given documentation to vote – illegal immigrants and foreign workers, especially from the southern Philippines and Indonesia, and refugees from the southern Philippines in the 1980s. Figures presented to parliament noted that the population of Sabah had been 651,304 in 1970; 929,299 in 1980; 1.5 million in 1990 and 2.47 million in 2000; this had jumped to 3.2 million a decade later.<sup>123</sup>

In what many saw as a pre-election strategy to keep these states in the fold, Najib on 11 August 2012 established a Royal Commission of Inquiry to investigate how so many came to be given Malaysian identity cards and/or citizenship and whether they had been illegally registered to vote.<sup>124</sup> The commission, headed by a respected former chief of the Sabah and Sarawak High Court, has six months to complete its work. Some have interpreted the time frame as meaning that Najib will not call an election before March 2013, when the commission's report is in, but more likely, the election will be over and done with before the report can have any impact.<sup>125</sup>

Some in the opposition noted that setting up the commission placed Najib on a collision course with Mahathir, because if any wrongdoing is found, the policies that led to the influx will be traceable back to Mahathir's years as prime minister – and especially the period when he was concurrently home minister (1986-1999).

Pakatan, like Barisan, is making a concerted push in Sabah and Sarawak. On 16 September 2012, in Kuching,

---

Mahmud Being Investigated, says MACC", *The Star*, 9 June 2011. No results were ever announced from the probe. Taib has consistently denied all allegations of corruption. See for example "Malaysia Borneo leader denies secret Swiss account", Associated Press, 2 June 2011.

<sup>122</sup> Barisan received 49 per cent of the popular vote on the peninsula to the opposition's 51 per cent, but it took 54 of the 56 seats available in Sabah and Sarawak, giving it a majority in parliament.

<sup>123</sup> "RCI gets six months to probe illegal immigrant problems", Bernama (Malaysian news agency), 11 August 2012. See also Francis Loh, "Strongmen and Federal Politics in Sabah", in *Elections and Democracy in Malaysia*, op. cit.

<sup>124</sup> "Wide-ranging terms of reference for RCI", malaysiakini.com, 11 August 2012.

<sup>125</sup> "Sabah RCI to open a Pandora's box of tumult", malaysiakini.com, 12 August 2012.

Sarawak, it announced the "Kuching Declaration", promising that if elected, it would restore autonomy to the two states; increase power sharing with peninsular Malaysia; establish a royal commission to look into citizenship and immigration issues; restore native customary rights over land and set up a land commission; increase oil royalties; and develop infrastructure to bring them to the level of the rest of Malaysia.<sup>126</sup>

## B. THE CHINESE AND INDIAN VOTE

Even the MCA acknowledges that many members have joined the opposition, in part because it has not delivered on issues that matter most to the Chinese: protecting vernacular schools and reducing or ending discriminatory quotas in public universities. This means the opposition has a good chance of gaining seats in Chinese-majority districts, fuelling Malay nationalist fear-mongering that a vote for the opposition means Chinese domination.

It also means some of the constituency redrawing Barisan did after 1999 could come back to haunt it. As noted, ethnic Chinese voted overwhelmingly for Barisan in 1999, many influenced by the anti-Chinese riots in Indonesia. In the next major delimitation exercise (2003), some constituencies in Malay-majority areas that had voted for the opposition were redrawn to include non-Malay areas that had voted for the ruling party. PAS in particular claimed this brought more non-Malays into the areas it controlled so as to weaken its base.<sup>127</sup> But Chinese voters who overwhelmingly voted for Barisan in 1999 have since been leaving it, mostly for DAP, and leaving the MCA struggling to explain the loss.

The MIC has always been the weakest, most ineffectual part of the coalition, reflecting the small size and lack of economic clout of the mostly Tamil Hindu, but very diverse, Indian community.<sup>128</sup> Anger at Barisan and defections from MIC, reached a high in 2007 with the HINDRAF protests against temple destruction, marginalisation of Tamil schools and issues surrounding the conversions of some Hindus to Islam. There was massive defection from the MIC in the 2008 elections, and two top leaders lost seats.

HINDRAF, however, self-destructed in factionalism, and Barisan and Najib have made concerted efforts to woo Indians back, through political appointments, development projects and education concessions, including more university placements and increased budgets for Tamil schools. Until Bersih 3.0, many thought MIC might be

---

<sup>126</sup> "On M'sia Day, Pakatan and BN jostle for East M'sia", *Malaysiakini.com*, 16 September 2012.

<sup>127</sup> Lin Hong Hai, "Making the System Work", op. cit., p. 271.

<sup>128</sup> The community also includes ethnic Telugu, Malayali, Gujaratis, Sindhis, Chettians and Tamil Muslims.

able to claw its way back to pre-2008 levels.<sup>129</sup> But the abuse hurled against Bersih leader Ambiga Sreenevasan alienated many Indians and may have undone much of Barisan's work.<sup>130</sup> Even at its height, MIC controlled only nine seats, but in a tight election, every seat counts, and both coalitions want those votes.

A public opinion survey by the independent Merdeka Center in June 2012 asked respondents whether they believed the country was going in the right direction. Over 67 per cent of Malay respondents said "yes", compared with 31 per cent of the Chinese. The drop among Indians from 64 per cent in March 2012 to 54 per cent in June almost certainly was connected to the vilification of Ambiga.<sup>131</sup>

### C. PAS AND DAP

PAS and DAP leaders understand the fragility of their partnership under the Pakatan banner and say they have agreed to put contentious issues like the *hudud* ordinances on hold, while focusing on economic equality, social justice and transparency. There are some close personal bonds at the top levels, forged during Operation Lalang in 1987, when leaders of both were thrown in prison, and at the Bersih 3.0 rally, when members of both were tear-gassed. Members of both acknowledged the critical role that Anwar plays in holding the alliance together, especially when Barisan is doing its best to break it apart.

PAS is focused on keeping the seats it won in 2008, while trying to add more seats in the UMNO strongholds of Perlis, Penang, Pahang, Negeri Sembilan, Malacca and Johore through "green rallies" (*himpunan hijau*) that mix campaigning with religious exhortation.<sup>132</sup> Its leaders say they have been assisted by developments in the Middle East. "We have models in Turkey and with the Muslim Brotherhood in Egypt", a member of parliament said. "We're pragmatic Islamists". He added that in PAS-controlled Kedah and Kelantan, the party has proven that governments can be run in accord with Islamic teaching and increase revenue, while at the same time showing a higher degree of religious tolerance than in UMNO-controlled states. He also said

Pakatan members believe in enhanced federalism, with more state autonomy. Selangor, a Pakatan-controlled state just outside Kuala Lumpur, and Kelantan, in the north, are very different and have to cater to different needs. "Our people do not appreciate having gambling outlets", he said, drawing a contrast with Selangor, where gambling is legal for non-Muslims.<sup>133</sup>

The MCA has been trying to draw Chinese voters away from DAP by suggesting the party has failed to stand up to PAS in rejecting Islamic law. In Selangor, which Barisan is desperate to take back, the MCA was telling Chinese in August that they would face creeping Islamisation under a Pakatan-led government, because Pakatan had already introduced separate sections for men and women in movie theatres in one neighbourhood.<sup>134</sup> DAP, however, is confident that the Chinese community is more worried about ultra-nationalists in UMNO than it is about PAS.<sup>135</sup>

### D. TIMING

Prime Minister Najib has to make the biggest calculation of all: when to call the elections, which must be held by April 2013. The country has been in campaign mode since Najib began hinting he would call elections in June 2011. Nothing happened in June or July and then Ramadan, the Muslim fasting month and the annual haj pilgrimage season ruled out later dates. The series of legislative reforms began in late 2011, perhaps leading Najib to decide he needed more time to see them through parliament. (That his National Day theme in August 2012 was "Promises Kept" reinforces this interpretation.) In April 2012, the opposition began predicting June again, but Ramadan in effect blocked out part of July and August. There was speculation about September, until Najib said he would table the 2013 budget on 28 September. The haj season rules out October, making November 2012 now the earliest likely date, and many suspect it may be delayed until early 2013.<sup>136</sup> Pakatan says it is ready to go now, and further delays will make no difference, although it acknowledged campaign fatigue was beginning to set in.

---

<sup>129</sup> "MIC not seeking more than its 9-seat quota", *malaysiakini.com*, 28 July 2012.

<sup>130</sup> See Karim Raslan, "A leader worth listening to", *The Star*, 3 July 2012.

<sup>131</sup> "National Public Opinion Survey", Merdeka Center, op. cit.

<sup>132</sup> "BN viewpoint: Kedah UMNO rises as PAS wanes", *Malaysian Chronicle*, 8 June 2012. The term *himpunan hijau* was first used to refer to civil society protests against the rare earth refinery in Pahang, Malaysia, of the Australian mining company, Lynas Corporation, but PAS took it on board, changing the association of *hijau* (green) from environmental to Islamic. Crisis Group email correspondence with Dr Meredith Weiss, 3 September 2012.

---

<sup>133</sup> Crisis Group interview, Khalid Samad, Shah Alam, 2 July 2012.

<sup>134</sup> "S'gor MCA: Choose us, we'll prevent Islamic state", 18 August 2012.

<sup>135</sup> Crisis Group interview, Liew Chin Tong, DAP member of parliament, 29 June 2012.

<sup>136</sup> While the prime minister has to call the election by April 2013, the latest it can be held is June 2013.

## VII. CONCLUSION

Everyone Crisis Group interviewed believed the election will be close. Since 2008, one of the most predictable countries in the region has become unpredictable, and no one is sure what the outcome or its consequences will be. Among the possibilities are:

- ❑ a victory for Pakatan, unlikely but not impossible, or a defeat but with more seats than it won in 2008 could produce a shake-up within UMNO. Abdullah Badawi was in effect ousted after the 2008 results; the same could happen to Najib. At the very least, it would probably strengthen the hardline Malay nationalists suspicious of reform and could lead to isolated incidents of thuggery by groups like PERKASA;
- ❑ an election in which the opposition wins the popular vote but loses in terms of parliamentary seats, or a very close election that the opposition believes was stolen could lead to mobilisation of major street protests by Pakatan and its supporters. The Bersih movement has demonstrated the power of those protests, but given the violence that broke out at Bersih 3.0, organisers would likely be wary of calling a mass rally while emotions were running high;
- ❑ a status quo outcome would keep up the pressure for political liberalisation within UMNO while keeping the opposition and its civil society supporters energised about the need for electoral reform; and
- ❑ a better performance by UMNO than in 2008, winning back some of the state governments lost, could strengthen the UMNO moderates by demonstrating that a limited increase in political openness is a political asset, but it could also lead to complacency and less interest in accommodating the non-Malay communities. Anwar Ibrahim says he will retire if Pakatan fails to capitalise on the 2008 gains.

Communalism is not going to disappear in any of these scenarios, because it is too deeply entrenched – to the point that appealing to multi-culturalism and moving beyond ethnic identities is seen by conservatives as pandering to non-Malays. But it does seem as though issues of common concern to all three communities are slowly gaining more traction, strengthened by social and demographic changes taking place. The urban middle class will continue to demand more of the liberties that others in the region enjoy.

The problem that Malaysia faces is not so much a recurrence of 1969's racial riots. It is that with a loosening of controls, the political space will widen not just for the champions of civil rights and racial equality, but also for hardline civil society, whether ultranationalist or Islamist in orientation. The question Malaysians need to answer on

election day is which of the two coalitions will be better able to handle those pressures while moving the country toward greater openness.

**Jakarta/Brussels, 1 October 2012**

## APPENDIX A

### MAP OF MALAYSIA

