



CHAPTER 15

CIVIL SOCIETY AND DEMOCRATIZATION IN MALAYSIA

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The question of what role a growing civil society is playing in Malaysia's democratization assumes the two trends are mutually reinforcing. In fact, Malaysia's government is a political paradox: it is simultaneously democratic and authoritarian, and current trends indicate that both of these characteristics are gaining strength.¹ As such, developments that may be presented in one light as illustrative of the growth of civil society may be seen in another light as suggesting its weaknesses.

Malaysia's is a parliamentary system of government following the Westminster model, combining strict party discipline with the fusing of executive, judicial, legislative and internal security authority under the office of the Prime Minister. Elections are held at regular intervals (on average, once every four years) and members of the national parliament represent single-member constituencies and are elected by a majority of the valid votes cast.

Malaysia's general elections of November 1999 suggest at first glance a vibrant democracy at work. The governing Barisan Nasional (National Front) coalition, standing on its record as the very guarantor of stability and prosperity in that country for over forty years, won a renewed mandate with 77 percent of the seats in the national parliament and 57 percent of the votes cast (turnout was 71 percent of registered voters).² A spirited Barisan Alternatif (Alternative Front) opposition coalition competed most effectively in Peninsular Malaysia (where most Malaysians and most urban-dwellers live). There it received 43 percent of the votes cast, compared to the governing coalition's 53 percent, and narrowed Barisan Nasional majorities to less than five percent of the votes cast in 26 of the 103 seats won by the governing coalition.³

If we define civil society as that realm of activities and institutions that lie outside the direct control of the government, then the 1999 election campaign clearly mobilized civil society, particularly around issues such as governance, corruption and

¹ Harold Crouch develops this argument in some detail. See Crouch, *Government and Society in Malaysia*, Cornell: Cornell University Press, 1996, ch 1.

² Meredith L. Weiss, "The 1999 Malaysian General Elections: Issues, Insults, and Irregularities," *Asian Survey* 40 (2000), pp. 414, 431.

³ Patricia Martinez, "Malaysia in 2000: A Year of Contradictions," *Asian Survey* 41 (2001), p. 189. A similar number enjoyed margins of less than 10%.

authoritarianism, to an extent not before seen in Malaysian electoral politics.⁴ The success of the Barisan Alternatif in particular would seem to represent clear evidence that civil society is viable and prospering in Malaysia. The opposition coalition's major constituent parties are: a primarily Malay/Muslim party (Parti Agama se-Malaysia, or PAS), a multi-ethnic but primarily Malay party (Parti Keadilan Malaysia, or Keadilan) and a multi-ethnic but Chinese-dominated party (the Democratic Action Party, or DAP). Despite their differing ethnic appeals, these parties managed to hold their coalition together during the 1999 general elections campaign and have solidified it since then during several by-election campaigns.

This is not to say that the 1999 general election results were a transparent indication of voter preferences on voting day. Numerous allegations were lodged with electoral officials concerning use by the Barisan Nasional of "phantom voters" (those voting under assumed or false identities) to increase its margins, and a relatively high proportion of voters (2.14 percent) cast spoiled ballots.⁵ And, as is usually the case, the governing coalition's proportion of seats won exceeded, by far, the actual proportion of votes it secured nationwide, thanks to gerrymandering. In short, there are many avenues by which the government, while maintaining the formal trappings of a democracy, was able to insure that its political challengers faced an uphill battle. Nevertheless, in comparative terms, the election results did represent both democracy at work and the rise of civil society.

However, the political regime in Malaysia is at the same time moving in the direction of greater authoritarianism. An important manifestation of the latter trend is that government in Malaysia often lacks transparency, particularly in its relationship with favored parts of the business elite. This is illustrated in the selective bailouts, in the wake of the Asian economic crisis, of unproductive and debt-ridden conglomerates with close ties to government leaders.⁶ The *2001 Index of Economic Freedom* (published jointly by the *Wall Street Journal* and the Heritage Foundation) ranked Malaysia as "mostly unfree," down from "mostly free," and dropped the country from 18th (in 1985) to 75th in its economic freedom ranking.⁷ Similarly, Malaysia's position in Transparency International's Corruption Perceptions Index slipped from 32nd in 2000 to 36th in 2001.⁸ An absence of checks and balances is evident in the erosion of the independence of the judiciary. The Hong Kong-based Political Economic Risk Consultancy ranked the Malaysian legal system as one of the five worst in Asia.⁹ And revelations of judicial misconduct, such as the vacationing of then Supreme Court Chief Justice Eusoff Chin with a prominent lawyer whose cases had been tried successfully before him, have undermined public confidence in the judiciary.¹⁰

The government's claimed success at steering Malaysia through the worst of the Asian economic crisis should be seen in the context of this greater authoritarianism.

⁴ Martinez, "Malaysia in 2000," p. 190.

⁵ *Ibid.*, p. 189.

⁶ *Ibid.*, p. 198.

⁷ Cited in Martinez, "Malaysia in 2000," p. 199.

⁸ *Ibid.*

⁹ Cited in Martinez, "Malaysia in 2000," p. 196.

¹⁰ Martinez, "Malaysia in 2000," p. 196.

After the economy contracted by 6.7 percent in 1997—the worst contraction since the mid-1980s—it rebounded in 1999 and, by the end of 2000, had experienced five consecutive quarters of growth exceeding seven percent.¹¹ The government heralded the success of its capital controls and fixed exchange-rate policies, introduced in 1998.¹² But foreign direct and particularly portfolio investors, who smarted at the imposition of arbitrary controls, have expressed concerns about governance, (lack of) structural reforms, and political risks, and their actions have sustained a longer-term trend towards declining foreign investment.¹³

The issue of “governance” was at the forefront of the appeals of the two competing party coalitions during (and since) the 1999 elections. The Barisan Nasional has drawn attention to its effectiveness in government, citing its 42-year record of development accomplishments and delivery of material well-being, especially to Malays, and calling upon voters to respond with gratitude.¹⁴ Meanwhile, the coalition’s dominant party, the United Malays National Organization (UMNO), simultaneously stimulated ethnic anxiety and pushed its development record by targeting Chinese businessmen with frightening advertisements questioning the opposition coalition’s competence to govern and warning of instability, outside influences, and economic disaster should the Barisan Alternatif win the reins of government.¹⁵

The Barisan Alternatif’s campaign on the other hand focused on governance in terms of general themes of greater transparency, justice, accountability, and less corruption. The coalition’s candidates highlighted issues such as: freedom of speech, assembly and the press; the need for an independent judiciary; and the importance of abolishing laws that allowed the state to detain people without trial.¹⁶

The 1999 election campaign brought governance—and particularly government transparency—to the fore, primarily because of splits within UMNO. In the wake of the Asian financial crisis, state rents that had been distributed to entrepreneurs closely linked to UMNO party leaders became less plentiful, and intra-party competition for them more intense. While government leaders appeared to signal greater transparency in relation to the failures of the state industrialization initiative, such as the Prime Minister’s acceptance of blame for the failure of Perwaja Steel, a centerpiece of his 1980s industrialization drive,¹⁷ selective bailouts granted to unreconstructed insider firms such as Renong (which sought protection under the government’s Corporate Debt Restructuring Agency and was allowed to unload all of its liabilities to a subsidiary while leaving the parent company with a clean balance sheet) suggested that the government was continuing to favor UMNO factions behind a veil of secrecy.¹⁸

¹¹ Ibid., p. 197.

¹² For details on the capital controls and exchange rate policies, see Greg Felker, “Malaysia in 1999: Mahathir’s Pyrrhic Deliverance,” *Asian Survey* 40 (2000), pp. 55-56.

¹³ Martinez, “Malaysia in 2000,” p. 197. Meanwhile, however, IMF and foreign economists’ criticism of the Malaysian policy response has been muted. See Felker, “Malaysia in 1999,” p. 56.

¹⁴ Martinez, “Malaysia in 2000,” p. 190.

¹⁵ Weiss, “1999 Malaysian General Elections,” p. 422.

¹⁶ Ibid., p. 423.

¹⁷ Martinez, “Malaysia in 2000,” p. 199.

¹⁸ Ibid.

The none-too-transparent struggles within UMNO for access to the declining trough of state rents highlight the difficulties entailed in assessing from the outside the health of civil society in Malaysia. While it is hard to talk of “the government,” “UMNO,” or “the UMNO leadership” without referring specifically to Prime Minister Mahathir Mohamad, it would be a mistake to equate Mahathir with UMNO, or indeed UMNO with the government. Mahathir’s control of a functioning UMNO party apparatus with a long history represents a major obstacle to a challenger such as Anwar Ibrahim, the former finance minister and deputy prime minister now incarcerated on corruption and sexual charges. As Anwar and earlier challengers for the party leadership in the 1980s, Tengku Razaleigh and Musa Hitam, found, control over the party apparatus gives Mahathir, as party president, formidable powers. He was able, for example, to install as his UMNO vice-president (succeeding Anwar) the loyal and mild-mannered Abdullah Ahmad Badawi, and to postpone until after the 1999 general elections the internal party elections for UMNO leadership positions.¹⁹

But the powers of the UMNO party president are not unlimited. In fact, it has been said that the real democracy in Malaysian politics is found not in general election campaigns but in the competition for party positions that precedes the party’s national assembly every three years.²⁰ In that competition, the party president does not always get his way. For example, following the declining political fortunes of the party with Malays, as revealed by the 1999 election results, Mahathir, seeking to forestall a post-election challenge to his leadership, at a special UMNO assembly in November 2000 pushed a constitutional amendment that would have further extended the term of the Supreme Council, the party’s governing body. An uproar quickly ensued among ordinary members, who perceived Mahathir’s move to be an attempt to further consolidate the power of the party leadership, and the amendment was withdrawn.²¹

The UMNO leadership, while controlling the federal government, thus does not necessarily control UMNO. If one defines “civil society” as those activities and institutions that lie outside the direct control of the government, then one may include intra-UMNO contestation as one manifestation of civil society. This includes the leadership struggle that led to the ouster of Anwar Ibrahim. Though it resulted in an authoritarian-style purge of Anwar and intimidation of his supporters, the very fact that a rift developed between Anwar and Mahathir can be viewed as a sign of growing civil society.

Anwar, for seven years Mahathir’s finance minister and/or deputy prime minister, sparred with Mahathir over appropriate policy responses to the Asian economic crisis. Anwar’s embrace of austerity and tight money found favor with the IMF (Anwar, however, did not advocate Malaysia’s seeking IMF assistance) but ran counter to Mahathir’s assertions that the economy was basically healthy, needing only to be insulated from the “contagion effect” of bad news from neighboring Thailand and Indonesia. Anwar won plaudits abroad when, in early January 1998, he gave a speech

¹⁹ Felker, “Malaysia in 1999,” pp. 51, 57.

²⁰ Alasdair Bowie, “Political Institutions and Divergent Responses to Crisis: Indonesia and Malaysia,” paper delivered at a conference on the Asian Fiscal Crisis, School of International Affairs, University of Washington, Seattle, WA (October 30-November 1, 1998), p. 19.

²¹ Martinez, “Malaysia in 2000,” p. 191.

described as “concise, direct and effective” that addressed investor concerns about Malaysia’s economic growth policies.²²

Mahathir’s and Anwar’s differences were of course not limited to economic policy matters. Like some of Mahathir’s deputy prime ministers who preceded him (Musa Hitam, for example), Anwar had been groomed by Mahathir as a potential successor. As Anwar’s international stature increased (his face appearing on the cover of the Asian edition of Time magazine), and he presented himself as Malaysia’s voice of reason, in stark contrast to Mahathir’s occasionally xenophobic outbursts (especially his widely reported “Jewish conspiracy” remarks), Mahathir noticed.²³ But Anwar’s challenge to Mahathir’s leadership of UMNO (and hence his premiership) became overt in June 1998 at the UMNO party elections, when Anwar’s allies sought the prime minister’s ouster.

Mahathir’s response was swift. He appointed a former finance minister and long-time confidant, Daim Zainuddin, as special economic czar in overall charge of economic policy, effectively demoting Anwar as finance minister. Daim subsequently reversed most of Anwar’s policies.²⁴ Then, on September 1, 1998, Mahathir imposed currency controls and other anti-free-market measures. He withdrew the ringgit from international circulation (foreign investors were required to apply for permission to change ringgit into hard currency) and announced “temporary” regulations requiring foreign portfolio investors to hold stocks for a minimum of twelve months. He then fired Anwar from the Cabinet and had him expelled from UMNO. The governor of the central bank, an Anwar ally who opposed currency controls, subsequently resigned.²⁵ The subsequent arrest, trial, conviction and imprisonment of Anwar on sexual and corruption charges were accompanied by street demonstrations of the *Reformasi* movement that rocked Kuala Lumpur periodically for the remainder of 1998 and into 2000.²⁶

The case of Anwar is problematic for any assessment of the relative strengths of government and civil society. While Anwar was a key government and UMNO leader before his defeat at the hands of Mahathir, his arrest, trial and imprisonment provided a critical catalyst for the growth of civil society. Most directly, it led to the formation, in April 1999, of the opposition Parti Keadilan Nasional (or simply Keadilan, meaning “justice”). Led by his wife, Wan Azizah, the party championed his cause in cooperation with, established opposition parties.²⁷

Another problematic aspect of any current assessment of government-civil society relations in Malaysia is the distinction between federal and state governments. Two of the latter are in the hands of the Muslim opposition party, PAS, whose spiritual advisor, Nik Abdul Aziz, is chief minister of Kelantan state. To the extent that civil society encompasses activities and institutions outside the control of the *federal*

²² “Indonesia Falls Prey to Hoarding, Loss of Public Confidence,” *Wall Street Journal*, 9 January 9 1998, p. A1.

²³ “Malaysian Premier Fires Deputy Who Pressed Free-Market Plan,” *The Washington Post*, 3 September 1998, p. A39.

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ Anwar was sentenced in August 2000 to nine years’ imprisonment on a charge of committing “unnatural sex acts,” to be served in addition to the six-year sentence handed down in April 1999 for corrupt practices (interfering with a police investigation). Martinez, “Malaysia in 2000,” p. 194.

²⁷ On the convictions and their aftermath, see Felker, “Malaysia in 1999,” pp. 49-52.

government, these PAS state governments represent another component of civil society. They have initiated policies to which the federal government is opposed, such as the 1993 Kelantan enactment of *budud* (canonical law) mandating the death penalty for apostasy.²⁸

There are numerous inherent obstacles to institutionalizing civil society in Malaysia. In particular, political parties that appeal to different ethnic constituencies found it difficult to work together to choose a single candidate for each of the single-member parliamentary constituencies for the Barisan Alternatif in the last election. Since the election, there has been public squabbling over the preferred ethnicity of candidates for by-elections, and which party's turn it is to field one. This, however, has not prevented the Barisan Alternatif from gaining ground politically and, in November 2000, from wresting a state assembly seat from the governing coalition with Chinese voters supporting a Malay candidate.²⁹

Government leaders have been anything but neutral in their responses to the rise of civil society. The success of PAS in seizing control of the state legislature in Terengganu in the 1999 elections, for example, brought a stinging rebuke from the federal government. It abrogated an agreement to share five percent of royalties from petroleum pumped in the oil and gas-rich state, and it cancelled a \$126 million remittance of these royalties scheduled for October 2000.³⁰ Anwar's success in mobilizing supporters behind Keadilan likewise brought government retribution that was visited on the heads of those supporting him. One of his lawyers, Karpal Singh, was charged in January 2000 with sedition for suggesting, in the course of arguing Anwar's case before the courts, that there was a political conspiracy afoot in Anwar's prosecution. A Keadilan vice-president was also charged with sedition, and the head of Keadilan's youth wing was charged under the Official Secrets Act for releasing government documents that exposed government corruption.³¹

The government has frequently resorted to using the ethnic card in its attacks on elements of civil society. Despite passing laws, adopting policies, and issuing threats and reminders that discourage discussion of matters having to do with ethnicity, ostensibly because they are too sensitive, the government repeatedly appeals to ethnicity to delegitimize its opponents.³² While seeking to secure the allegiance of Malays by claiming to champion their interests, the government aired campaign advertisements in 1999 that played on the fears of the economically powerful Chinese community by questioning the opposition's competence to govern and warning of instability, outside influences, and economic disaster should the Barisan Alternatif be elected government.³³ Subsequently, in August 2000, government leaders denounced an umbrella group representing over 2000 Chinese organizations, the Malaysian Chinese Organizations' Election Appeals committee (or Suqiu), and subjected it to a

²⁸ The federal government was able to prevent the putting to death of four apostates sentenced in December 1999 by pointing out that the Federal Constitution does not provide the death penalty for apostasy. Martinez, "Malaysia in 2000," p. 193.

²⁹ Martinez, "Malaysia in 2000," p. 190.

³⁰ Ibid., p. 192.

³¹ Ibid., p. 195.

³² Ibid., p. 193.

³³ Weiss, "1999 Malaysian General Elections," p. 422.

volley of racial epithets and racist slogans hurled by UMNO Youth for questioning the government's proposed "Vision Development Plan" that foresaw affirmative action policies for the Malay majority being sustained in perpetuity. Mahathir used his 2000 National Day speech to blacken Suqiu as an extremist group, likening it to a Muslim cult that earlier in the year had stolen arms from a military arsenal and engaged in a violent standoff with authorities. He reiterated his claims in parliament that the Siuqui, rather than making appeals related to the conduct of the 1999 elections, were making "demands" to end Malay rights and dominance, a very sensitive issue for most Malays.³⁴

These episodes of race-card exploitation by the government, some observers have noted, tend to manifest themselves not because of heightened tensions *between* the ethnic groups that make up Malaysian society, but because of internal divisions *within* UMNO.³⁵ For example, following the November 2000 by-election loss to the Barisan Alternatif, Mahathir attributed the outcome to ungrateful and racist Chinese voters who had turned their back on the governing coalition.³⁶ Opposition party leaders who were Malay, from PAS and Keadilan, condemned the government's attack on Suqiu as being against the teachings of Islam and suggested that there were ways of configuring the nation other than the proposed "Vision Development Plan."³⁷

Certainly there is every opportunity for government leaders to "divide and conquer" by attacking different elements of civil society for different reasons at different times. Indeed, Malaysia's civil society, as broadly defined here, is most diverse. It includes not only social and educational organizations, such as those represented by the Siuqui, but also NGOs concerned with the erosion of individual liberties, broader political movements, such as *Reformasi*, opposition political parties and coalitions, such as PAS and the Barisan Alternatif, state government institutions dominated by opposition parties (as in the states of Kelantan and Terengganu), and even those elements within the dominant party, UMNO, who reject the direction of government leaders such as Mahathir. These elements are also fluid. Twice during 2000, for example, a broad-based coalition of NGOs and individuals united to present petitions seeking the easing of curbs on peaceful assembly, an end to detention without trial, and the right to assemble and speak freely.³⁸ Likewise, in July 2000, a coalition of women's NGOs presented a memorandum to the government seeking legislation backing an existing code on sexual harassment.³⁹

However, the ethnic schism separating civil-society groups has often limited the effectiveness of such broad-based coalitions. The best example is the difficulty that opposition parties identified with particular ethnic communities or religions have had in formulating and disseminating a multiethnic platform that is convincing to voters. While the opposition Barisan Alternatif coalition managed to hold together during the 1999 general elections campaign behind a common manifesto promising to work for

³⁴ Martinez, "Malaysia in 2000," p. 194.

³⁵ Kua Kia Soong, "Who Is Blurring the Vision Schools Issue?" *Malaysiakini*, 10 November 2000 (www.malaysiakini.com/archives_news/2000), cited in Martinez, "Malaysia in 2000," p. 195 n3.

³⁶ Martinez, "Malaysia in 2000," p. 194.

³⁷ *Ibid.*, p. 195.

³⁸ *Ibid.*, p. 196.

³⁹ *Ibid.*, p. 192.

clean government and social justice,⁴⁰ the Malay PAS and the Chinese DAP have found it difficult to deepen and to sustain their cooperation subsequently. The Malay leaders of PAS want to advocate policies that will encourage more Muslims to abandon their traditional support for UMNO. Such policies include the *keharaj*, a land tax levied specifically on non-Muslims that was announced by PAS in January 2000 for the two states it ruled.⁴¹ These same policies aroused fears among the DAP's primarily Chinese supporters that they would be forced to live under a repressive Islamic state and would lose their cultural rights. Barisan Nasional campaign advertising played upon these Chinese fears, stating that "a vote for the DAP is a vote for PAS," while on the other hand telling Malays that a government that included the DAP would likely end constitutionally guaranteed Malay special rights.⁴² In the case of the state *keharaj*, the PAS leadership withdrew the proposal in the face of strong resistance from their Barisan Alternatif partner, the DAP.⁴³

Government actions to weaken civil-society organizations often generate a backlash that hurts support for the government. For example, the government's political vengeance against PAS for winning control of the Terengganu state government in the 1999 elections (the abrogation of its petroleum revenue-sharing agreement with the state government) created a public uproar against UMNO's appropriation of public and national resources for partisan political purposes, and generated widespread sympathy for PAS.⁴⁴ Similarly, the government's subsequent attempt to implicate PAS in the 1999 standoff with the Muslim cult led to public derision and scorn over the use of a serious national security crisis for narrow political gain.⁴⁵

Civil society groups have managed to capitalize upon these backlashes and have shown signs of resilience and consolidation, especially in the case of the Barisan Alternatif. The opposition coalition, according to a recent review of Malaysian politics, "has not only surviv[ed] beyond the general elections but also consolidate[d] its potential as a viable political entity."⁴⁶ Alternative sources of views and news, such as the online newspaper *Malaysiakini* and the PAS newspaper, *Harakah*, have proven very important to circumventing the governing coalition's control of the print and broadcast media and in rallying the public's outrage at government attempts to exploit events to divide civil societies along ethnic lines.⁴⁷ In fact, numerous anti-government websites have appeared as alternative points of information and the mainstream pro-government dailies have become objects of derision.⁴⁸ Seeking to stem the tide of criticism whose dissemination they could no longer prevent, UMNO leaders have used the courts (whose politicization was showcased during the Anwar trials) in an attempt to muzzle civil society critics. For example, in 1999, UMNO set up a panel to

⁴⁰ Felker, "Malaysia in 1999," pp. 52-53.

⁴¹ Martinez, "Malaysia in 2000," p. 191.

⁴² Weiss, "1999 Malaysian General Elections," p. 435.

⁴³ Martinez, "Malaysia in 2000," p. 191.

⁴⁴ *Ibid.*, p. 192.

⁴⁵ *Ibid.*, p. 196.

⁴⁶ *Ibid.*, p. 190.

⁴⁷ *Ibid.*, p. 196.

⁴⁸ Felker, "Malaysia in 1999," p. 50.

“monitor” opposition speeches and to file lawsuits against slanderous claims, resulting in a tide of multimillion-dollar defamation suits known as *kegilaan menyaman*, or the “suing craze.” As one observer noted: “Government figures sued oppositionists who alleged corruption, business leaders sued journalists and academics for references to cronyism, and opposition figures sued government leaders and pro-government newspapers for their insults.”⁴⁹

In conclusion, Malaysia today has many characteristics of a vibrant democracy, and yet at the same time is becoming more authoritarian than one would imagine could be consistent with democracy. In the wake of the Asian economic crisis, splits within the dominant party, UMNO, have fomented expansion in the institutions and activities associated with civil society. These activities include intra-UMNO contestation, federal-state government conflicts, challenges from a competing coalition of opposition parties, fluid but extensive coalitions of NGOs, and a burgeoning alternative media. As the extent of the rents the Malaysian state is able to distribute declines (reflecting in part the declining interest of foreign investors in Malaysia) one may expect internal competition within UMNO to become still fiercer and more public. One may also expect the Barisan Alternatif to be the beneficiary of increasing public disillusionment with the UMNO (and more generally Barisan Nasional) leadership, and a desire to seek an alternative, cleaner model of government to that of “political business” as practiced under Prime Minister Mahathir since the late 1980s.⁵⁰

⁴⁹ Ibid., p. 51.

⁵⁰ On political business, see Terence Gomez, “Political Business in Malaysia: Party Factionalism, Corporate Development and Economic Crisis,” in Gomez (ed.), *Political Business in East Asia*, London: Routledge, forthcoming (2002).

