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The shifting sands of the Malaysian political landscape and the impact on security sector governance (SSG)

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Abstract

The Malaysian security sector is undergoing a major transformation. The Najib administration has broken the mould, implementing a series of reforms that have resulted in the expansion of political space and discourse. Consequently, the polity may become increasingly unstable, unless these reforms are accompanied by the deepening and institutionalisation of the rule of law and the development of a mature political culture. This paper identifies five priority areas for security sector governance (SSG) in Malaysia, namely, independence of the judiciary, advancement of human rights, broadening of political space, rule of law and enforcement, and institutional oversight capacity. The net effect of the security sector reforms (SSRs) is the levelling of the political playing field, which effectively weakens the hands of the incumbents. Herein lies the paradox. The fate and progress of SSR is contingent on a strong government to stay the course of reforms and to prevent a relapse. At the same time, these reforms have the unintended effect of chipping away the Najib administration's political power.

(This paper was largely written in 2012. While the analysis does not specifically encompass the 2013 general elections, many of the same factors and drivers are still operating in the Malaysian political landscape.)

Biography

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Before joining ISIS, Dr Tang was Senior Lecturer at the School of History, Politics and Strategic Studies, Universiti Kebangsaan Malaysia. In 2007, he was awarded the Certificate of Good Teaching Practice by Monash University Malaysia.

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1. Introduction

If security is a fundamental right, then the question arises as to who provides it. Under the doctrine of social contract, citizens agree to delegate their inherent sovereignty to the state, and in return, the state pledges to provide them with, among other services, security. Thus, the responsibility of providing security is often shouldered by the state. This arrangement allows states to set the terms and agenda for security.

In developing countries, national security is often conflated with regime security. State apparatus and resources are expended to uphold and further the interests of the incumbent government, which may at times be antithetical to that of the people that they pledge to protect. However, the myopic preoccupation with regime security is increasingly cumbersome and untenable. Events in Tunisia, Egypt and Libya testify to the twin imperatives of political legitimacy and heeding the needs of the people. In the long run, human insecurity, if left unattended, will exert increasing pressure on regime security.

Malaysia is not immune to these winds of change. However, the genesis and motivations for the Political Transformation Programme (PTP) advocated by the administration of Prime Minister Najib Tun Razak (2009–present) lie with developments closer to home, and pre-dates the Arab Spring. This paper thus examines the changing dynamics of Malaysia's political landscape and the impact on the security sector. Section 2 discusses the three principal considerations of Malaysian national security. Section 3 identifies the agents of national security; and section 4, the main section of the paper, examines the changes and challenges in the Malaysian security sector.

This paper posits that the reforms undertaken by the Najib administration in the political sphere are transforming the security sector. It argues that the net effect of these changes – while contributing to the expansion of political space and discourse – is to loosen the government's grip on governance. Unless there is a corresponding development of political culture – namely, consolidation of the rule of the law and respect for political and legal processes – the polity may become increasingly unstable. Paradoxically, reforming the security sector may have the unintended effect of diluting security sector governance (SSG).

2. Fundamentals of national security in Malaysia

At the onset of independence in 1957, Malaya (later Malaysia) had to deal with numerous internal and external challenges. Three threats – two internal and one external – stand out as the most dangerous, and their legacies continue to inform contemporary Malaysian politics.

From 1948 to 1960, the Malayan Communist Party (MCP) took up arms against the British and the then Malayan government. Using guerrilla warfare tactics, the MCP wrought havoc on public order and security, often attacking targets such as railway lines and government institutions. Although the MCP threat waned after 1960, the Malaysian security forces – the police and the armed forces – continued to battle the MCP until the latter's surrender in 1989.

The second internal threat is one that has had a lasting impression on Malaysian politics. Sectarian strife in the wake of the 1969 elections culminated in the '13 May' tragedy, the eruption of ethnic riots in parts of Peninsular Malaysia. A state of emergency was declared and, when parliamentary politics resumed in 1971, the premiership changed hands. More than 40 years on, ethnic relations continue to be a major focus for successive administrations, and remain an important factor in Malaysian life and politics. The Internal Security Act 1960 (ISA) was in fact invoked numerous times to avoid a repeat of ethnic bloodshed (the ISA is discussed in more detail in section 2.1).

The external threat spanned a shorter period but was no less sinister. In the early 1960s, Indonesia conducted military operations against Malaysia to protest Sabah and Sarawak's ascension to the federation. Euphemistically called *konfrontasi* (confrontation), the diplomatic row regressed into low-intensity conflicts, with the Malaysian states of Johor and Sarawak bearing the brunt of the Indonesian transgressions. Until an armed attack by Sulu terrorists (on the Malaysian state of Sabah) in March 2013, konfrontasi was the one and only time in the nation's history that it has had to contend with an external attack.

Collectively, these three events colour the nation's perception of security. The MCP challenge was an early wake-up call to the vulnerabilities of internal security and the need to neutralise internal threats. Large-scale riots and the nationwide ethnic clashes in 1969 amplified the need to address issues of ethnic relations and nation-building. Externally, the upside of konfrontasi was that it indirectly led to the realisation of the imperative of regional peace and security and influenced the formation of ASEAN in 1967.

Given the current relatively benign external environment, it is the internal dynamics that remain the focal point of SSG in the country. Other than the perennial imperative of territorial defence, Malaysia's national security is animated by three principal considerations, namely, regime security, protecting the sanctity of Islam, and the position of the Malays in the national polity and society. These considerations are examined in turn, while highlighting the mechanisms of security governance that preserve and protect these core interests.

2.1 Regime security

Regime security involves the perpetuation of the incumbent government's political control, and thus the longevity of its tenure. Like all governments, the incumbent wants to remain in power and strives to mobilise resources towards this end. Since independence, Malaysia has been ruled by a single coalition government which has either continued the practices inherited from the British or introduced measures to consolidate its political leverage and position. These measures include the ISA, the Printing Presses and Publications Act 1984 (PPPA) and the Universities and University Colleges Act 1971 (UUCA).

The ISA empowered the government through the Minister of Home Affairs to incarcerate individuals for up to two years without trial (with the period of imprisonment being renewable). Originally intended to deal with threats against national security like the communist insurgency, it continued to be employed after the passing of the communist threat. Opposition politicians argue – and not without cause – that the ISA was used to silence criticism and control the national political discourse. It was also an extremely effective way to contain and remove political opposition. Operation Lalang in 1987, for example, used the provisions of the ISA to put leading members of the opposition, including

elected members of the legislature, behind bars.[1] The question of whether pre-emptive detention is permissible for the common good continues to be debated. Concomitantly, this raises the question of who defines the 'common good'. This has been a perennial debate in Malaysian politics: does the possibility, no matter how remote, of inflaming ethnic conflict preclude any and all discussion on matters deemed by the state as 'sensitive'?

A fundamental institution of a functioning and vibrant democracy is a free press as a platform for political discourse. The PPPA however required that the press apply for licences that would then be subject to annual review. On the face of it then, the PPPA appears anathema to good governance and democratic practices. However, it could also be seen as an effective, and perhaps a needed, 'defence' against jingoistic and irresponsible reporting. Given the delicate political balance among the various ethnic groups in the country, inflammatory media reports could potentially light the powder keg that is Malaysia. The trade-off for political stability was the narrowing of political space and the crowding out of diverging viewpoints.

Under the UUCA, university students were not allowed to join political parties, nor were they permitted to participate in politics. As a result, student politics was virtually non-existent. The rationale was that since higher education is a public good provided (or heavily subsidised) by the government, students should stay above politics and concentrate on their studies. The UUCA was also intended to neutralise unhealthy politicking within university campuses. Across Asia, notably in Indonesia and Thailand, university students were often the prime movers of political change and activism. The UUCA kept potential Young Turks from festering into subversive groups within the hallowed walls of universities; and thus effectively removed young intelligentsia groups as a potential challenger to regime security.

The passage and application of these laws gave the government considerable leverage to maintain their stranglehold on political power and shape the political discourse. The political space was closely monitored and policed. Through controlling what can (and cannot) be said, the political environment was carefully managed and controlled to the advantage of the ruling party. As an element of conflict management, legal structures such as the ISA, PPPA and UUCA prevented contentious issues from escalating. Euphemistically conceptualised as 'depoliticisation',[2] these tools of SSG ensured that the political environment was sanitised and the discourse carefully scripted and controlled.

2.2 Protecting the sanctity of Islam

Islam is enshrined as the religion of Malaysia under Article 3 of the constitution and is accorded special status. The practice and image of Islam is closely guarded by state institutions including the Jabatan Agama Islam (Department of Islamic Affairs) and supported by the Syariah Courts. Departments of Islamic Affairs are found in all states, and these institutions are empowered to enforce the teachings of Islam, including the observation of the fasting month (Ramadan), 'close proximity' of unmarried couples (*khalwat*) and matters pertaining to what is permissible or not under Islamic law (*halal-haram*). The National Fatwa Council provides guidelines and edicts whenever necessary, while the Syariah Courts

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[1] M. Veera Pandiyan, 'Ops Lalang haunts, 23 years on', *The Star*, 4 November 2010, accessed 25 May 2013, http://www.thestar.com.my/story.aspx?file=%2f2010%2f11%2f4%2ffocus%2f7356344&sec=focus

[2] R.S. Milne and Diane K. Mauzy, *Malaysia: Tradition, modernity and Islam* (Boulder, CO: Westview Press, 1986), 121–3.

dispense justice for Muslims in non-criminal matters. The Ministry of Home Affairs monitors and regulates the publication of Islamic literature and printed matters.

The governance of Islam goes beyond ensuring the observation of Islamic practices. Of crucial importance to national security is the safeguarding of the sanctity and purity of Islam. State religious authorities are always on guard against the practice of deviant teachings among Muslims. To insure against infiltration by deviant elements, the state vets and approves all religious preachers (*imam*). Only imams licensed by state religious authorities are allowed to preach and conduct religious classes. The authorities are especially sensitive towards the establishment of cults, seeing them as security threats. They see it as imperative that the nation's Islamic community (*ummah)* does not fall prey to deviant teachings and cults. Cults such as al-Arqam and Kerajaan Langit (Sky Kingdom) were disbanded, and the authorities continue to remain vigilant against their re-establishment.

Equally important is the practice of the 'right' brand of Islam. Malaysia practises the Sunni form of Islam. However, in recent times, there has been an influx of Muslims from the Middle East, and this has led to the fermentation of Shiite practices. Iranians attending universities or working in Malaysia not only set up their own places of worship but also began to attract a following among Malaysian Muslims. This phenomenon is seen as a threat to national security; if left unchecked, it has the potential to split and divide Muslims in the country, endangering the cohesiveness of the Malaysian ummah.

It would be remiss to perceive Islam as an issue that concerns solely its adherents. The rise of inter-ethnic marriages involving Muslims and non-Muslims has increased the possibility of conflict and discord. Cases of divorce and custody of children related to such marriages are often heard in the Syariah Courts. Non-Muslim parties are not allowed leave for their cases to be tried in the country's Civil Courts; and the Syariah Courts do not have jurisdiction over non-Muslims. Furthermore, cases heard in the Syariah Courts tend to favour the rights of Muslims over those of non-Muslims, adding to the dissatisfaction of the latter. Matters become more complicated when one party to the marriage converts to Islam and extends the conversion to his/her children over the objection of the other spouse. In such cases, the matter takes on a decidedly ethnic dimension and becomes politically sensitive.

Islam is accorded a place of prominence in Malaysia's social life, and at the same time, it is an important pillar in Malaysian politics. Great care is taken to protect Islam from 'contamination' on the one hand and to ensure that the sanctity and position of Islam is upheld and respected on the other. Given this context, it is noteworthy that the relatively more open and transparent political system in recent years has allowed for rational discourse to take root. The Administration of the Religion of Islam (Federal Territories) Bill 2013 – which allows for a child to be converted with the consent of only one parent – is a case in point. Reacting to the groundswell of dissatisfaction from Muslims as well as non-Muslims, the government withdrew the controversial bill after it was first tabled in Parliament on 26 June 2013.[3] This is a sign of Malaysia's growing political maturity, which has seen Malaysians – regardless of their faith – weighing in and providing constructive criticism on a proposed law that centres on Islam that may also have implications for non-adherents.

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[3] Florence A. Samy, 'Muhyiddin: Controversial bill withdrawn for now', *The Star*, 6 July 2013.

2.3 Special position of the Malays

The special status of the Malays is the elephant in the room in Malaysian politics. On the one hand, it is seen by the Malays as an inherent right that needs to be protected and safeguarded in perpetuity. On the other hand, this notion is most divisive and controversial, pitting Malays against non-Malays. The fact that the special rights of the Malays are enshrined in the constitution (Article 153) is not contested nor questioned. The controversy is the conflation of 'special rights' with supremacy. The former accords privileges and preferential treatment to the Malays, while the latter implies a hierarchical and super-subordinate relationship. The majority of Malaysians accept Malay special rights but are very uncomfortable with nationalistic elements promoting the supremacy cause.

The maintenance of Malay special rights is an important element of Malaysian politics. This is one of the taboo subjects that is not allowed much political discourse. Questioning these rights is akin to challenging the constitution, and the government has shown a willingness to employ all means including the application of the ISA to stop any political discussion on the matter. While it is a hard sell politically in a multi-ethnic society to institutionalise Malay supremacy, the special position of the Malays in national life is an accepted – or at the very least, tolerated – phenomenon. Challenges to these special rights would tear the delicate political fabric, which could in turn plunge the country into sectarian conflict.

3. Agents of security

3.1 Ministry of Home Affairs

Box 1: Agencies and institutions under the purview of the Ministry of Home Affairs of Malaysia.

- National Registration Department.
- Registrar of Societies.
- Royal Malaysian Police.
- Immigration Department.
- Prisons Department.
- National Anti-Drugs Agency.
- Civil Defence Department.
- Percetakan Nasional Malaysia Berhad (national printing company).
- Pasukan Sukarelawan Malaysia (RELA).

Source: Ministry of Home Affairs of Malaysia.

The Ministry of Home Affairs is what can be termed the 'super' agency in the maintenance of national security, in particular internal security (see box 1). The ministry is a powerful institution whose influence and reach permeates all facets of political and social life. It is empowered to process and approve applications for permits for the print media, and holds the important lever to implement the ISA. Although the Royal Malaysian Police is a stand-alone law enforcement agency, it is nevertheless structurally subordinate to and part of the

ministry. Through the police, the ministry oversees public safety and law enforcement. It also controls and supervises (albeit indirectly) the Pasukan Sukarelawan Malaysia (RELA), a para-police force which assists with minor policing duties; the National Registration Department, which deals with issues of citizenship; the Civil Defence Department; the Registrar of Societies; the National Registration Department; as well as the Customs, Immigration and Prisons departments.

The fact that all the major internal security agencies are integrated within the structure of this ministry gives it enormous clout and it is the most important agency in internal security bar none. The stable of important agencies under its wings provides the ministry with the wherewithal and capacity to undertake its charge in the provision of security, and it acts as *the* gatekeeper on all matters pertaining to internal security.

3.2 Ministry of Defence

The Ministry of Defence is tasked with external security, or put differently, national defence. Its raison d'être is to protect Malaysia's territorial sovereignty and its role is to defend the country against armed intrusion or attack by foreign elements. The Malaysian Armed Forces, comprising the army, navy and air force, is supervised and managed by the ministry. The professional ranks are responsible for the operational and tactical aspects of national defence, while policy and strategic direction rests with the ministry. Flag officers are appointed by the Armed Forces Council, with the concurrence of the Yang Dipertuan Agong (Supreme King). The King is also the commander-in-chief (the role is however largely ceremonial). Civilian rule and control over the military is respected and strictly enforced.

Throughout Malaysia's 56 years of independence, the military has had minimal to no role in national politics. The tradition of keeping soldiers in the barracks and away from active politics is keenly observed and adhered to by the armed forces. The possibility of a military coup is highly unlikely and remains a prospect that is unfathomable. It must be said, however, that in recent times, individual military personnel have shown increasing interest in politics, with some even contesting in elections. This phenomenon remains, fortunately, isolated developments. In the main, there is very little indication of mass politicisation or mobilisation of the rank and file for political purposes.

The nation's external defence is also supplemented by the Malaysian Maritime Enforcement Agency (MMEA). The agency has responsibility over the security of Malaysia's exclusive economic zone (EEZ), which includes handling matters such as piracy, sea robbery and illegal fishing. The parameters of operation of the MMEA is differentiated from the Royal Malaysian Navy in that the latter operates in the high seas and beyond while the former's activities are confined to Malaysia's territorial waters.

In sum then, governance of the security sector in Malaysia is highly institutionalised and structured to ensure tight monitoring and control of politics and public life – with the Ministry of Home Affairs and the Ministry of Defence as the primary and most important agents of national security.

4. Issues and priority areas for security sector governance (SSG)

Malaysia is blessed with the absence of a credible external threat. It is thus unsurprising that the security agenda is dominated by domestic considerations. It is also the domestic structures and processes that deserve closer scrutiny and examination.

The existing security structure is the result of exigencies and needs. Critics may be quick to take the government to task for applying the ISA to curtail political discourse and dissent. However, such measures did provide an element of stability and security that enabled development to take root. Of course, the motivations for and the collateral effect of enhancing the incumbent's political position are duly acknowledged. It would be remiss and irresponsible to end the analysis on the note that the ISA, PPPA and other legally sanctioned repressive measures are draconian and self-serving without taking into consideration or factoring in the alternative of inaction.

While such measures were tolerated for a long time, however grudgingly, it has become increasingly untenable to continue using them for political gain and to control the political agenda. The elections of 2008 and the rising fortunes of the opposition put paid to the formula perfected by the administration of former Prime Minister Mahathir Mohamad (for a more detailed account of the shift to the opposition, see section 5). After the 2008 elections, the opposition had more than 36 per cent representation in the lower house of Parliament, making it a force to be reckoned with. The shift also indicated an electorate not inclined to accept the 'old ways'. The government was thus compelled to pursue a more liberal approach in its engagement with the opposition and dissenting views; and it made efforts to pursue inclusive policies in order to enhance its legitimacy. Some of the efforts are elaborated below.

4.1 Independence of the judiciary

Malaysia's fusion-of-powers doctrine reserved substantial power in the hands of the executive to appoint judges; and the independence of the judiciary came into question with the controversial removal of the sitting Lord President of the Supreme Court, Tun Salleh Abbas, following a constitutional crisis in 1988. Momentum built, and calls for judicial reform grew stronger.

The government finally agreed to introduce some reforms, and the Judicial Appointments Commission was established on 2 February 2009. The task of the nine-member commission is to improve the credibility and objectivity surrounding the appointment of new judges. The commission is entrusted with soliciting, vetting and short-listing candidates for the Prime Minister's consideration. Working from the list provided by the commission, the Prime Minister submits the preferred candidate's name for the King's royal consent.

The new system effectively checks the power of the Prime Minister in relation to the judiciary. The executive surrenders its absolute prerogative in the appointment of judges. This system also limits the previously unbridled powers of the Prime Minister to pack the courts with judges deemed partial to the government's interests. The establishment of the Judicial Appointments Commission and the institutionalisation of a new modality to appoint judges are steps in the right direction in improving the credibility and independence of the judiciary.

4.2 Advancing the human rights agenda

The establishment of the Human Rights Commission (SUHAKAM) is an important development for the advancement of human rights. SUHAKAM, which began its work on 24 April 2000, is mandated to promote awareness and appreciation of human rights. In addition, it advises the government on the protection and strengthening of human rights. It is also empowered to conduct inquiries and investigations on complaints against infringements, including receiving complaints from the public and deciding if those cases deserve further examination. Presently, SUHAKAM is working on a national inquiry on the land rights of indigenous peoples. Notwithstanding the perceived drawback that SUHAKAM commissioners are appointed by the government, the institution provides an avenue for the people to seek recourse against injustice and discrimination. The third cohort of commissioners was appointed in July 2013, which in itself is an indication that SUHAKAM would likely remain a permanent feature in the Malaysian political landscape.

However, SUHAKAM has been treading cautiously, shying away from politically sensitive issues. It is packed with individuals trusted by the government and these 'loyalists' are unlikely to effect radical action. It is thus unlikely that SUHAKAM would be at the forefront of championing the expansion of human rights in Malaysia. To be sure, while SUHAKAM and its government-appointed commissioners accurately reflect the conservative disposition of Malaysians towards human rights, it would be beneficial to broaden its diversity and representation. In its present form, SUHAKAM is widely viewed as a state institution, which undermines its credibility and efficacy as the champion of human rights.

4.3 The opening of political space

The old tools of conflict management can no longer serve as the modality of choice. The advent of blogs and mobile communication has rendered broadsheets and tabloids to a certain extent irrelevant. In fact, for the younger generation, newspapers are anachronistic. It is futile to control political discourse through the PPPA when the 'anything goes' atmosphere of the blogosphere allows for free and uncensored speech and exchanges. Even if the government were to hold onto the old ways, they would not be effective within this new context.

Promisingly, the government repealed the ISA in 2012 (see also section 6). In yet another sign of change, a local higher education institution, Universiti Sains Malaysia (USM), established a student parliament and allowed student politics to formally take root on its campus grounds. These are signs that the government is taking baby steps towards liberalising the political environment, which if sustained would facilitate greater political participation and activism. However, skeptics warn against putting too much hope in these developments as the pendulum can just as easily shift back to a more controlling state.

4.4 Rule of law and enforcement

Public order and security tops the main concerns of the Malaysian public. Crimes of all kinds and degrees – from petty crimes to murders – appear to be on the rise and this feeds into the public frenzy that law enforcement is lax. In the suburbs of Kuala Lumpur, it is not uncommon for residents to hire security guards and turn their residential area into guarded communities.

In response, the government has increased the police force (and continues to do so). As an indication of the enormity of the task and the importance of internal security, the police now commands nearly 4 per cent of the government expenditure on security. Although the infusion of funds is welcome and much needed, it takes time to train police personnel. As a stop-gap measure and partly to relieve the pressure on the police force, the ranks of the para-police force – RELA – have been increased by 200,000. This is a source of concern as RELA has a reputation for excessive use of force and ill-treatment, especially of foreign workers. Is RELA a panacea, or would it add to the woes of the police force which had itself been in the past under the spotlight for brutality and extra-legal mistreatment of imprisoned suspects?

The police is also not immune from accusations of brutality and abuse. Incidents such as the sexual abuse and rape of female suspects in custody and the fatal shooting of a teenager who failed to respond to an order to halt the vehicle [4] cast a dark shadow over the professionalism of the force. While such transgressions are not representative of the whole force, there is a case for reviewing governance of the force. The police is entrusted with the responsibility of law enforcement and keeps a watchful eye over Malaysians, but who watches over the police to ensure the fair dispensation of law and order? It may be worth the effort to establish a permanent commission to monitor and provide systematic checks on the police force to ensure that the force maintains high standards.

4.5 Lack of oversight capacity

There is a noticeable lack of oversight capacity in Malaysia. The parliamentary system has not kept apace with political developments. Under the administration of Prime Minister Abdullah Ahmad Badawi (2003–2009), an attempt was made to establish parliamentary committees to provide structured and in-depth discussion across party lines on pressing issues. This practice, unfortunately, was not widely implemented in successive administrations.

It is difficult to conduct informed discussion within the current format of the reading of parliamentary bills before a vote is called. Committees would allow for the cultivation of focused discussion. Within such a format, specialists could also be engaged to examine and provide feedback on proposed bills before and during the tabling of the bill. The format should ideally also allow for the committee to summon expert witnesses and call for information on matters of national concern. Absent such a mechanism, the onus and responsibility lie in the hands of Members of Parliament whose time is also needed to tend to constituency needs.

This gap could be (and is to some degree) filled by civil society. In the main, though, civil society has been limited in its effectiveness. With scarce funding and underdeveloped organisational capacity, civil society is still in its infancy and is unable to perform the role of providing checks and balances. A permanent institution, ideally one located within the parliamentary structure, is a better solution. It would have the added benefit of increasing the quality of parliamentary debates and deepening the knowledge of parliamentarians. Transparency would also be improved.

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[4] See, for example: Phuah Ken Lin, '3 cops likely to face rape charge', *New Straits Times*, 14 November 2012; 'Only one cop opened fire', *The Star*, 29 April 2010.

5. The 2008 political tsunami: Catalyst for change

The 12th general elections in 2008 saw the incumbent coalition – the Barisan Nasional (National Front) – suffering a huge electoral setback. It received its lowest percentage of votes (52%) and lowest percentage of parliamentary seats (63.1%) since 1969 (see table 1). The opposition, Pakatan Rakyat, won an unprecedented 82 parliamentary seats and succeeded in wrestling control of five state governments. The political tsunami ended the career of several political stalwarts, including three senior cabinet ministers. One of the ruling coalition's major partners, the Parti Gerakan Rakyat Malaysia, was left fighting for its political survival. To be sure, the Najib administration faced the daunting challenge of matching the phenomenal success of the 2004 elections when the Barisan Nasional secured 198 out of a possible 219 parliamentary seats. Nevertheless, the degree of the shift to the opposition shocked even the most seasoned political pundits.

To posit that the 2008 elections is the *cause* of the reforms in the security sector requires some explanation considering that the incumbent – despite suffering its heaviest electoral losses in nearly four decades – managed to hold on to 140 of the 222 parliamentary seats available. Securing 63 per cent of parliamentary seats would in many countries be considered a good margin of victory and would not normally be a precursor to radical political reform. However, it was the first time since 1974 that the Barisan Nasional had failed to secure a two-thirds majority in Parliament. The loss of the states of Kedah, Kelantan, Perak, Penang and Selangor was particularly unnerving and unprecedented. The electorate had registered their resounding disapproval of the 'old ways'. To arrest the slide in its political support, the government had to win back its erstwhile constituents.

Table 1: Electoral results, Malaysia, 1969–2008.

Election No.	Year	Government			Opposition			Total seats
		Seats	% of seats	% of votes	Seats	% of seats	% of votes	
3	1969	95	65.97	49.3	49	34.03	50.7	144
4	1974	135	87.66	60.7	19	12.34	39.3	154
5	1978	130	84.42	57.2	24	15.58	42.8	154
6	1982	132	85.71	60.5	22	14.29	39.5	154
7	1986	148	83.62	55.8	29	16.38	41.5	177
8	1990	127	70.55	53.4	53	29.45	46.6	180
9	1995	162	84.38	65.2	30	15.62	34.8	192
10	1999	148	76.68	56.5	45	23.32	43.5	193
11	2004	198	90.41	63.9	21	9.59	36.1	219
12	2008	140	63.10	52.2	82	36.93	47.8	222

Source: Compiled from 'Elections in Malaysia: A handbook of facts and figures on the elections, 1955–2008', *RIS Backgrounder* 7, no. 2 (2012):125–30.

High on the agenda was to regain the trust and confidence of non-Malay voters. The 1Malaysia strategy provided the philosophical and conceptual focus to address the main concerns of non-Malay voters, who felt marginalised and ignored by the government.

The other 'wave' in the political tsunami was the Bersih 2.0 rally. Civil society groups – with the support of opposition groups – staged a rally in Kuala Lumpur on 9 July 2011 to demand, among others, a clean-up of the electoral rolls, the reform of postal voting, and free and fair access to mainstream media for all political parties. The police's response of tear gas and water cannons was roundly criticised, and the rally galvanised the imagination of the usually placid Malaysian society.

There were two options available to the government. It could utilise the tried and tested strategy of conflict management, neutralising the 'problem' with a host of legal measures. This would have been the default response. However, the Najib administration was a 'new' government in a new environment. With the memories of the Arab Spring still fresh, it would be untenable to deploy the resources and strategies used in the past to temper the rising political temperature.

Rather than giving the opposition yet another rallying point, the government took the demands of Bersih 2.0 more seriously. Acceding to calls to reform the electoral system, the government agreed on 22 August 2011 to set up a Parliamentary Select Committee on Electoral Reform. Officially convened in October that year, the bipartisan committee was mandated to complete its review and submit its recommendations six months from the date of its constitution. It is clear from the government's response to Bersih 2.0 that it recognised that the old governance modality is outmoded. Rather than fighting the forces of change and be caught on the wrong side of history, the Najib administration adapted to calls for reform. By embracing change and reform, the government retained the upper hand in leading the pace and direction of reform.

6. From security sector governance (SSG) to security sector reform (SSR)

As late as 2011, Malaysia conformed to a mature case of SSG. The state's power had consolidated over decades of electoral success and its dominance in the political sphere had provided Malaysia with a high level of stability and predictability. However, developments in the third quarter of 2011 transformed Malaysia into an interesting case study of security sector reform (SSR). This then raises the question: why would the Najib administration want to stir the hornet's nest and risk venturing into uncharted territory by instituting reform? In short, why fix something that was not broken? In fact, the argument for the status quo was that the existing structures had afforded the government a strong hold on the political process, and reforming the security sector would only serve to weaken the government and ultimately undermine the nation's security. The Najib administration appeared to be going against the grain by imperilling regime security as opposed to fortifying it.

Prime Minister Najib announced the government's wide-ranging political reforms during Malaysia Day on 16 September 2011.[5] Najib surprised the nation when he pledged to repeal the ISA. His reform agenda also included steps such as abolishing the Banishment Act 1959; lifting the Emergency 1966 (Sarawak), Emergency 1969 and Emergency 1977 (Kelantan) proclamations; and reviewing the Restricted Residence Act 1933, the PPPA 1984 and the Police Act 1967.

The Najib administration made good on its promise to repeal the ISA in 2012. The ISA was replaced by the Security Offences (Special Measures) Act which explicitly detailed that 'no person shall be arrested or detained … for his political belief or political activity'. The Act guarantees persons charged under this law the right of legal advice and consultation. It also effectively removes the option of pre-emptive measures to manage and neutralise security threats. Further, it places a higher burden of proof on the authorities to demonstrate the wrongdoings of the accused, thus reducing the probability of arbitrary arrest and political abuse.

The amendments to the PPPA in 2012, which removed the requirement that newspapers and publication houses apply for annual renewal of their licence, were roundly praised. Subsection 3(3) of the Act was amended to 'remove the reference to the Minister's "absolute discretion" in granting or refusing a printing press license'.[6] Amendments to Section 13B provide for the opportunity of a hearing before a licence is revoked. Significantly, Section 12 was also amended to allow for licences and permits to remain valid unless revoked. Heretofore, the requirement of annual renewal had operated as a form of control and censorship of the nation's presses. These measures collectively allow for a freer press.

In another step towards a more participatory polity, the Peaceful Assembly Act (PAA) was passed by the lower house on 29 November 2011 and replaced Section 27 of the Police Act. The PAA was enacted in response to the Bersih 2.0 rally. The Act recognises the right of Malaysians to 'organize assemblies or to participate in assemblies, peaceable and without arms'.[7]

Essentially, the Act provides for mass assembly provided the organisers inform the police 10 days in advance and stay 50m away from 'prohibited places' such as schools, places of worship, hospitals, airports, railway stations and petrol stations. Street protests are also prohibited under the Act. Critics argue that PPA is 'undemocratic': it gives absolute powers to the police in deciding the venue and terms of the assembly, effectively curtailing freedom of protest and speech.[8] Against such criticisms, it must be pointed out that street protests are alien to Malaysia's political culture. The first Bersih protest in 2007 and a rally organised by a non-governmental coalition, the Hindu Rights Action Force (HINDRAF), also in 2007, are rare exceptions. The PPA thus represents a compromise between the imperatives of public safety and order on the one hand, and the recognition of the inherent right of association and public assembly for political purposes on the other. The *Himpunan*

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[5] 'Najib announces major changes in controversial laws as Malaysia Day gifts', *The Star*, 16 September 2011, accessed 25 May 2013,
http://thestar.com.my/news/story.asp?sec=nation&file=/2011/9/16/nation/20110916070850
[6] Article 2 of the Printing Presses and Publications (Amendment) Act 2012.
[7] Article 2 of the Peaceful Assembly Act 2012.
[8] See Article 15(1) and (2) of the Peaceful Assembly Act for details on the prerogative and powers given to the police.

Kebangkitan Rakyat (People's Uprising Rally) on 13 January 2013 that passed without any untoward incident was an affirmation that the reforms are not just political rhetoric.

The reform momentum received an unexpected boost when the Court of Appeal ruled on 31 October 2011 that the UUCA was unconstitutional as it violated Article 10 of the constitution which guarantees freedom of expression. The ruling came as a result of an appeal by four university students who were expelled after being caught participating in a by-election. The government has ruled out repealing the UUCA and instead introduced amendments to the Act which allows that 'a student of the University may become a member of any society, organization, body or group of persons, whether in or outside Malaysia, including any political party'.[9]

In aggregate, these reforms opened up the space for enhanced participatory politics. The rigid legal barriers that controlled and dictated the political process are either being revamped or repealed altogether. The conflict management approach that had largely revolved around suppressing issues and discussion is giving way to a degree of unpredictability. The pressure is on the government to stay the course of SSR. This will pay dividends in increasing its legitimacy but reforms will also weigh heavily on the government's capacity to manage expectations on the one hand, and to maintain political stability and order on the other.

7. Conclusion

Malaysia is at an important juncture in its political development. In response to the 2008 elections, the government appears to be more amenable to engaging the people and to widening the political space. These developments present an important opportunity for SSR to take root. The prime objective of reforms should be on strengthening the mechanisms for the further institutionalisation of the rule of law and oversight capacity. The rule of law would serve as an important foundation for future reforms and to ensure all Malaysians receive fair and just treatment. The other imperative of establishing oversight capacity mitigates the propensity for abuses. It is important for SSR to proceed at a pace that is comfortable to the stakeholders. An over-enthusiastic agenda would be counterproductive and draw countervailing measures from less progressive parties. It bears reminding that although the ruling coalition has been weakened following the 2008 elections, it is still commands a comfortable majority.

The Najib administration deserves high praise for taking bold steps towards SSR even though the reforms reduce the avenues available to the government to deal with dissent and countervailing voices. Repealing the ISA, for example, meant that the government could no longer employ pre-emptive detention as a mechanism for conflict management and instead has to engage partisan demands in an open and transparent political environment. This is a high-risk gamble that may yet backfire on the government. This makes the Najib initiatives all the more remarkable and commendable. Having crossed the Rubicon, it would be nigh impossible for the government to reverse its course. In the short term – and after the euphoria recedes – reform will bring about some degree of instability, during which all parties will learn by trial and error to adjust to the new political realities.

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[9] Article 5 of the Universities and University Colleges (Amendment) Act 2012.

To be sure, politics will be participatory, open and competitive. The fate of reform is intertwined with the political fortunes of Prime Minister Najib. If he leads the Barisan Nasional to victory in the forthcoming general elections – which is due by the first half of 2013 – he would be vindicated, and this could perhaps set the stage for further reforms. Otherwise, the reforms will be singled out as one of the premier's miscalculations. Therein lies the paradox. Reforms effectively level the playing field for the opposition and gains for the opposition will come at the expense of the ruling coalition, which in turn weakens Najib's position. Whichever direction the political winds blow, there is but one clear winner. These reforms have given Malaysia a more expansive political space. The winner is without doubt, democracy.

Acknowledgment