

MALAYSIA: COMMUNALISM AND THE POLITICAL SYSTEM

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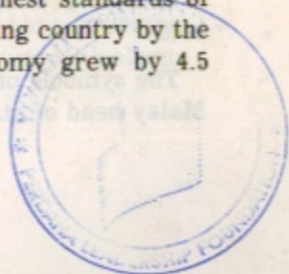
The evolution of the Malaysian political system, since independence in 1957, has been the product of the interplay of communal politics. This article attempts to trace key changes which were the result of communal conflicts. The approach is to examine the changing 'rules of the game' over the years. It is my view that there is a major 'ground rule', a product of the plural society, which cannot be changed and attempts to do so have resulted in changes in the system.

The paper is divided into four parts. The first provides a brief description of the country; the second states the major ground rule; the third addresses the major changes in the system since *Merdeka* (independence), and the paper concludes with an attempt to evaluate the system.

MALAYSIA: A BRIEF DESCRIPTION

Malaysia is physically divided between Peninsular Malaysia, formerly the Federation of Malaya, which consists of 11 states, and the two Borneo states of Sabah and Sarawak. It is a plural society where no community forms a majority. According to the 1980 Census, the Malays, known as *bumiputras* (princes of the soil), represent 47.8 percent; Chinese 32.1 percent; Indians 8.6 percent; *pribumis* (the *bumiputras* communities of Sabah) 6.1 percent; 'Other natives' 4.7 percent, and 'Others' 0.7 percent. In Peninsular Malaysia, where 82 percent of the 17.9 million (estimated 1990 figures) live, Malays form 58.2 percent; Chinese 31.3 percent; Indians 9.8 percent, and Others 0.6 percent. There are several cleavages that separate the communities. Traditionally, Malays and other *bumiputras* lived in the rural areas whereas the non-Malays lived in the urban areas (though as a result of government policy, 45.6 percent of Malays and other *bumiputras* now live in the urban areas). Malays are Muslim by law whereas non-Malays adhere to other major religions. The communities are also separated by language though *Bahasa Malaysia*, the national language, is now the medium of instruction in the national education system.

Economically, the country enjoys one of the highest standards of living in Asia and is no longer considered a developing country by the United Nations. Between 1965 and 1984 the economy grew by 4.5



percent annually. It declined in the mid-1980s but has since recovered. For 1990, the Ministry of Finance has forecast growth at 6.5 percent compared to the estimated 7.7 percent in 1989. According to the *Fifth Malaysia Plan 1986-90*, the incidence of poverty (in Peninsular Malaysia), which primarily affects the Malay rural dwellers, was 18.4 percent of the population in 1984, reduced from 49.3 percent in 1970. Comparing ethnic communities, the mean monthly household income in 1984 was, for the Malays \$M852, for the Chinese \$M1502 and for the Indians \$M1094. The private sector provides the main thrust for growth but there is a large public sector. Government participation is in line with the New Economic Policy (NEP), the overall objective of which is national unity.

The NEP was established after the racial riots of 1969 and seeks to restructure Malaysian society so as to reduce, and eventually eliminate, the identification of race with economic function. To achieve this, the government, under the *Second Malaysian Plan 1971-75*, anticipates that within a period of 20 years, 1970-90, 'Malays and other indigenous people will manage and own at least 30 percent of the total commercial and industrial activities in all categories and scales of operation'. Between 1970 and 1985 ownership and control of the corporate sector by the Malays and other indigenous groups has increased from 4.3 percent to an estimated 17.8 percent and by 1990 is forecast to reach 22.2 percent; corresponding figures for the non-Malays are 34.0 percent, 56.7 percent, and 52.9 percent, and for foreign ownership 61.7 percent, 42.9 percent and 24.9 percent. The NEP also seeks to eradicate poverty irrespective of race.

The Malaysian political system is a constitutional monarchy based on the Westminster model. It is a highly centralised federation of 13 states headed by the *Yang diPertuan Agong* (the king) who is elected once every five years by and from among the sultans (the hereditary rulers of the nine traditional Malay states). These sultans, together with the governors of the other states which were former British colonies, constitute the Conference of Rulers. The governors do not participate in the election of the *Agong*. Parliament consists of two chambers, the *Dewan Rakyat* (House of Representatives) and *Dewan Negara* (Senate). The lower house has 177 members while the Senate has 59, two from each state and the rest appointed by the *Agong* to represent minorities and from those who have rendered distinguished public service. Many of these are former politicians from the government side. The term of office for senators was originally six years but is now three. The Senate is not affected by the dissolution of the lower house.

The symbols of the nation are distinctively Malay. They include a Malay head of state, *Bahasa Malaysia* as the national language, and

Islam as the official religion (though the other communities are permitted to practise their religions).

The party system is dominated by the *Barisan Nasional* (BN), (National Front), a coalition of 11 parties the majority of whom represent the various communities. Despite a recent split, the new United Malay National Organisation (UMNO Baru), dominates the coalition. The original coalition, known as the Alliance, comprised UMNO, the Malayan Chinese Association (MCA), and the Malayan Indian Congress (MIC). This was expanded in 1971 to include other (opposition) parties, to ensure that the coalition controlled a two-thirds majority in parliament, and was renamed the BN. The coalition has ruled the country since independence in 1957. The major opposition parties are the Democratic Action Party (DAP), a non-communal, though largely Chinese-supported, democratic socialist party formed by the remnants of the Peoples' Action Party of Singapore, and Parti Islam seMalaysia (PAS), a Malay-based Islamic party, representing the less developed states of north and northeast Peninsular Malaysia. On the left is Partai Rakyat Malaysia (PRM) (which recently dropped 'Socialist' from its name), which is predominantly Malay. In the past it formed the Socialist Front with the largely-Chinese Labour Party; the latter has since disbanded. This coalition ended as a result of communal differences. It was also accused of being a Communist front. Until its voluntary disbanding in 1989, the Communist Party of Malaya (CPM), responsible for the 'Emergency' of 1948-60, was banned. Though overwhelmingly Chinese, the CPM attempted to win support from the other races.

THE 'GROUND RULE' OF THE POLITICAL SYSTEM

The two major problems facing the political system are those of maintaining harmony between the communities and achieving political stability. These problems are linked to the plural nature of the society and continue to bedevil Malaysian politics. It is our contention that we need to understand the 'ground rule' of the political system. As far as the Malays are concerned, this was established in 1948 when the British signed an agreement to establish a federation, officially called *Persekutuan Tanah Melayu*, Federation of Malay Land, otherwise known as the Federation of Malaya. It may be recalled that after the Second World War the British attempted to establish a single government, the Malayan Union, in place of the Federated Malay States, the Unfederated Malay States and the Straits Settlements of Penang and Malacca. The Union was strongly opposed by the Malays on the grounds that it took away their sovereignty and would have given the non-Malays equal citizenship rights.¹ The latter was viewed with alarm

¹ Allen (1967)

since this could have resulted in the Malays becoming a minority, a fact not overlooked by the British.² In the face of opposition, led by Dato Onn Jaafar (who formed UMNO), Malay sovereignty was accepted by the British and conditions for non-Malays to become citizens were made more restrictive. The negotiations that produced the Federation of Malaya Agreement were conducted in a way which 'clearly denied representation to the non-Malays at the most important stage of the constitution-making process'.³ The compromise reached in the 1948 Agreement between the British and the Malays can be seen in the constitutional phrase, 'the special position of the Malays and the legitimate interests of the other communities'.⁴ This means that apart from the symbols of Malayness mentioned above, Malays are given special privileges in the public service, Malay land reservations, scholarships and educational grants, and licences and permits. The non-Malays were able to acquire citizenship, though on more restricted terms than they desired; nevertheless, these terms were seen as a major concession on the part of the Malays.

This *quid pro quo* was not completely accepted in all communities, but it became the cornerstone of subsequent constitutions. With the approach of *Merdeka*, the Reid Constitutional Commission, in attempting to reconcile the contradiction between the special privileges of the Malays and a common nationality, recommended that the former be reviewed after fifteen years. This was deleted from the final report, on an understanding between members of the Alliance that the situation would be reviewed by the *Agong* from time to time.⁵ Such a review has never been undertaken. In a nutshell, Malays claimed that the land was theirs and that it was through their generosity that non-Malays were given the privilege of citizenship. It was therefore assumed that their right to rule was incontestable. The non-Malays, accepting the very real apprehensions of the Malays at that time, were prepared to accept the special provisions on the assumption that when these were no longer needed a united nation, based on equality, would be forged.

When Malaysia was formed, its constitution was essentially the *Merdeka* constitution enlarged, with certain provisions made for the new states of Singapore, Sabah and Sarawak. Communal considerations were a major factor in its formation, and it was partly these which led to Singapore's exit.⁶

From the above it is clear that the 'ground rule' for the Malays is that the country is theirs, and, *ipso facto*, Malay hegemony of the

² Simandjuntak (1969)

³ Means (1970: 41)

⁴ *Federation of Malaya Agreement 1948* Clause 19(1)(d)

⁵ Means (1970: chapter 16)

⁶ Parmer (1966)

political system should not be challenged by the non-Malay communities. In 1959 the MCA tried to prevent the possibility of the Malay parties gaining the two-thirds majority which would have enabled them to amend the Constitution, by demanding 40 of the 104 seats to be contested. This resulted in Tunku Abdul Rahman, the prime minister and president of UMNO, choosing the 31 MCA candidates without consulting the MCA president, Dr Lim Chong Eu, who was excluded from the list and subsequently resigned for medical reasons.⁷ The move by the Peoples' Action Party of Singapore to unite the non-Malay parties in 1965 was seen as a threat to the Malay political position. Singapore's exit in 1965 was to avoid repressive action, which according to the Tunku, 'is repulsive to our concept of parliamentary democracy'.⁸

The cause of the May 13 riots, following the 1969 elections, was seen in part as 'the growing political encroachment of the immigrant races against certain important provisions of the constitution which relate to the Malay language and the position of the Malays'.⁹ After the events of 1969, Dr Mahathir Mohamed, the present prime minister wrote:

For suddenly, it has dawned upon the Malay that he cannot even call Malaya his land. There is no more *Tanah Melayu* — the Land of the Malays. He is now a different person, a Malaysian, but a Malay Malaysian whose authority in Malaya — his land — is now not only shared with others, but shared unequally. And as if this is not enough, he is being asked to give up more and more of his share of influence. This is a basic contention of the Malays which is challenged by the other races. The Malays maintain that Malaya has always been, and still is, their land. If citizenship must be conferred on the other races who have settled down and made their home in Malaya, it is the Malays who must decide the form of citizenship, the privileges and the obligations. *On becoming citizens, the non-Malays share with the Malays not only the ownership of Malaysia, but the specifications of what is a citizen, what is a condition of citizenship itself, and what is therefore not to be changed by the new citizens.*¹⁰

The significant of the 1969 elections is that the Alliance lost in three states — Kelantan, Penang and Perak — while in Selangor the result was a deadlock. Except for Kelantan, these states were predominantly non-Malay. At the national level, the party was able to form a

⁷ Means (1970: 212-14). Dr Lim is the present chief minister of Penang and a member of the BN

⁸ Means (1970: 353)

⁹ National Operations Council (1969: ix)

¹⁰ Mahathir (1970: 121 (italics added))

government, though without the crucial two-thirds majority required to amend the constitution. This was a disaster for UMNO, which won 51 of the 66 Alliance seats. It was for this reason that the Alliance was expanded to become the BN. The racial riots resulted in the suspension of parliamentary government for 21 months. Its reinstatement, under a BN government, was with the confidence that the constitution would be amended to ensure that such a disaster would never happen again. The amendments, according to the prime minister, Tun Abdul Razak, had two broad objectives:

Firstly, these amendments are intended to remove certain sensitive issues from the realm of public discussion so as to ensure a smooth and continuing function of parliamentary democracy in this country. Secondly, they are intended to redress the racial balance in certain sectors of the nation's life in so far as this imbalance can be rectified by legislation.¹¹

The 'sensitive issues' were citizenship, national language, Malay privileges, and the sovereignty of the Malay rulers. The amendments were further entrenched so that they could not be changed without the consent of the Conference of Rulers. Members of parliament were also deprived of their parliamentary immunity on these issues, though they were able to question the implementation of the provisions as specified by law. The *Sedition Act 1948* was similarly amended. Thus the 'ground rule' could no longer be questioned. Politically, the cooperative nature of the coalition and the government was also changed: according to Tun Abdul Razak on the day he became prime minister,

This government is based on UMNO and I surrender its responsibilities to UMNO in order that UMNO shall determine its form, and it must implement policies which are determined by UMNO.¹²

The fact that there were other parties in the coalition and the government seemed irrelevant.

CHANGES IN THE POLITICAL SYSTEM

The changes in the political system have preserved and strengthened UMNO's position. While it is generally accepted that major changes were made after 1969, the view presented here is that important changes had been made as early as 1957. These were the results of communal challenges and can be identified in three key areas: the electoral and parliamentary systems and political participation.

¹¹ Malaysia (1972: 3)

¹² Quoted in Funston (1980: 225)

The Electoral System

Since independence Malaya/Malaysia has conducted seven national elections. In all except 1969, the ruling coalition was returned with a more than two-thirds majority (Table 1). This impressive record, however, does not reveal the changes in the rules of the game since the 1959 elections.

The electoral system is based on the 'first-past-the-post' British model. The select committee which made the recommendation rejected the idea of communal rolls because it would not help 'the agreed object of promoting national unity and might arrest the process of assimilation and co-operation which is so essential if the country is to have a single united people'.¹³ The aim was for a strong, stable government and a simple electoral system. However, the representation by seats, under this system, does not correspond with the percentage of votes won by parties (Table 2). There is also a varying number of voters in the constituencies, as a result of constitutional amendments and the changing role of the Election Commission.¹⁴

I Government and Opposition in the Dewan Rakyat 1959-86
by Seats and Percentage of Votes Won

Year of election		Government ^(a)	% of votes	Opposition ^(a)	% of votes	Total seats
1959	(Fed. of Malaya)	74	51.8	30	48.2	104
1964	(Peninsular Malaysia only)	89	55.5	15	41.5	104 ^(c)
1969	(Peninsular Malaysia only)	66	44.9	37	55.1	103 ^(d)
	(Malaysia wide)	91	47.6	53	52.1	144
1974	"	135	60.7	19	29.3	154
1978	"	130	57.2	24	42.8	154
1982	"	132	60.5	22	39.5	154
1986	"	148	55.8	29	41.5	177

- Notes: (a) including uncontested seats
 (b) including independents
 (c) Singapore, Sabah and Sarawak had indirect elections
 (d) one seat was not contested due to the death of a contestant but was subsequently won by UMNO

Source: Malaysia, *Election Commission Reports*

¹³ Federation of Malaya (1954: 3)

¹⁴ See Sothi Rachagan (1987: 56-70)

II Percentage of seats won by the government compared to percentage of votes won

Year of election	Percentage of votes won	Percentage of seats won
1959	51.8	71.0
1964	58.5	85.6
1969	47.6	63.2
1974	60.7	87.7
1978	57.2	84.4
1982	60.5	85.7
1986	55.8	83.6

Source: Malaysia, *Election Commission Reports*.

In its early years, the Commission was held in high regard by the public. Its first task was to prepare for the 1959 elections. The new 104 constituencies were formed by dividing the 52 which were established for the 1955 pre-independence elections. However, the rural-urban weightage was reduced from 50:100 to 85:100 as provided under the *Merdeka* constitution. The delineation was achieved with 'a scrupulous concern for fairness of division'.¹⁵ In the 1959 elections, the Alliance won 74 of the 104 seats (compared to 51 of the 52 seats in 1955). This was achieved despite the doubling of non-Malay voters in 1959.

After the election, the Commission undertook to redraw the electoral boundaries, as provided by the constitution. Its report, though seen by one scholar as 'almost perfectly equitable to electors in urban and rural locales'¹⁶ was seen by the Alliance, particularly UMNO, as affecting its electoral fortunes adversely. In 1960 an unsuccessful attempt was made to remove the Malay chairman by amending the constitution.¹⁷ In 1962 the government amended the constitution and rejected the 1960 Delineation Report.

The *Constitution (Amendment) Act 1962* reduced both the powers and the independence of the commission and the rural-urban weightage was restored to the pre-independence 50:100. These amendments were strongly criticised by Professor Groves, a noted authority on the constitution:

It is apparent that the [1962] amendments as to the elections have converted a formerly independent Election Commission, whose decisions became law and whose members enjoyed permanent tenure, into an advisory body of men of no certain tenure whose terms of office, except for remuneration, are subject to the

¹⁵ Moore (1960: 375)

¹⁶ MacDougall (1968: 192)

¹⁷ For details see Smith (1967: 57-62)

whims of Parliament. The vital power of determining the size of constituencies as well as their boundaries is now taken from a Commission, which the Constitution-makers had apparently wished, by tenure and status, to make independent and disinterested, and has been made completely political by giving this power to a transient majority in Parliament, whose temptation to gerrymander districts and manipulate the varying numerical possibilities between 'rural' and 'urban' constituencies for political advantage is manifest. It is perhaps not unworthy of comment that the Constitution does not offer any criteria for the determination of what is 'rural' and what 'urban'.¹⁸

The appointment of new members of the Commission has been seen increasingly as 'more responsive to Alliance interest'.¹⁹ Before the 1964 elections, the Commission decided that Singapore citizens could not campaign in Peninsular Malaysia. This decision (which was aimed largely at the Chinese-based PAP) was made a few days after a similar statement was made by the Malaysian minister of health. The decision was overruled by the Malaysian attorney-general when the PAP was preparing to challenge the decision in the courts.²⁰ In 1974, the Commission announced that candidates' election deposits would be increased from \$M250 to \$M750 and \$M500 to \$M1500 for state and national parliamentary seats respectively. This was successfully challenged by Lim Kit Siang of the DAP.²¹ The Commission's 'original suggestion' was apparently to double the amount of deposit, but the government 'initially agreed to increase the deposit even higher'.²²

The role of the Commission was further restricted by the *Constitution (Amendment) No. 2 Act 1973*. The act increased the number of parliamentary seats by ten and fixed the number of both parliamentary and state seats in each state. The Commission could no longer increase the number of seats unless there was a constitutional amendment. Previously, the number of seats was not fixed and any increase required only a simple parliamentary majority. The rural-urban weightage was also deleted. Tun Abdul Razak, the then prime minister, said this would give the electorate 'equitable representation'.²³ This was rejected by the non-Malay opposition. According to Lim Kit Siang, there was already 'enormous disparity in the weightage given to the rural areas, completely without constitutional sanction'.²⁴

¹⁸ Groves (1962: 329)

¹⁹ For details see MacDougall (1968: 195-201)

²⁰ Osborne (1964: 32)

²¹ *The Star* 4 August 1974

²² Election Commission (1975: 28)

²³ *Siaran Akhbar*, Jabatan Penerangan Malaysia, PEN 7/73/78 (PARL): 2

²⁴ Lim Kit Siang (1978: 244)

The 1973 amendment resulted in an increase in the disparity between rural and urban seats. The size of parliamentary seats currently varies from 81,105 in Puchong, Selangor to 12,171 in Labuan. Constituencies with the largest number of voters are in the urban areas where the non-Malay opposition parties are strongest. In areas where non-Malay opposition parties have seriously challenged the ruling party, the government has not hesitated to dissipate their strength through its ability to amend the constitution. By establishing the Federal Territory, after 1969, voters in the territory could no longer vote in Selangor State of which they had been a part. As a result, the combined opposition which had won 14 of the 28 state seats in 1969 could win only one in 1974. The DAP claimed that one million voters, mostly non-Malays, were disenfranchised.²⁵

Other factors have affected the free operation of the electoral system. They include the role of the mass media and the ban on public rallies. Radio broadcasting is owned and controlled by the government. In the case of television, two of the three channels are government-owned and -controlled while the third is owned by an UMNO company. Until now, political parties have had only limited access to radio broadcasting during elections. Over the years the ruling coalition has been allocated an increase in radio time. In 1959 it was allocated 40 percent and in 1978 70 percent of total time given to political party broadcasts.²⁶ Opposition parties have protested against their share of time and have at times boycotted the use of radio broadcasts.

The major newspapers are either owned or controlled by individuals who are members of parties in the ruling coalition, or by interests sympathetic to it. Under the *Printing Presses Act 1948*, amended in 1971 and 1974, all publishers must secure an annual licence to use a printing press and a permit to publish newspapers. Consequently, the press has been given 'the idea that all aspects of information and entertainment must be guided by the Government.'²⁷ The press tends to favour the government, particularly during elections, so much so that opposition parties have claimed that they have been 'blacked out' and their views distorted.

Political rallies have been banned since October 1974 on security grounds. The then minister of Home Affairs, Tan Sri Ghazali Shafie gave the assurance that the ban would be lifted to allow rallies during elections. However, the ban was extended to cover the 1976 Kelantan State elections, in which UMNO made a dramatic sweep of the seats, and in 1978 the prime minister announced that the ban would continue,

²⁵ Lim Kit Siang (1978: 237)

²⁶ Ratnam and Milne (1967: 215); *The Star* 1 July 1978

²⁷ Lent (1982: 246). See also Lent (1974); Muzaffa (1986)

claiming that 'past experience has shown that opposition parties often raised sensitive issues at rallies'.²⁸ This has seriously affected the ability of parties to reach the public. In place of rallies, the traditional Malay *ceramah* (dialogue), was permitted. These have to be held indoors, which means renting premises, penalising the smaller and poorer opposition parties. Moreover there appear to be different interpretations of what constitutes a *ceramah*, and on occasions opposition *ceramahs* have been disrupted by the authorities.²⁹ The ban was criticised by Tunku Abdul Rahman, the first prime minister, who pointed out that, despite confrontation by Indonesia, there were public rallies during the 1964 general elections. During the 1986 elections, despite the ban, opposition parties (Malay and non-Malay) held open rallies. The authorities appear to have been lax in enforcing the ban.

The changes in the electoral system have reduced competition between and among the parties in elections and it is difficult not to conclude that the changes have worked to the advantage of UMNO within the ruling party.

Parliament

Parliament consists of the *Yang diPertuan Agong*, the *Dewan Rakyat* (House of Representatives) and the *Dewan Negara* (Senate). Our primary concern here is the *Dewan Rakyat*. The Senate has never played an effective role in the affairs of the nation. The *Agong's* role is largely symbolic though he retains certain discretionary powers, which in recent years have been seen as a potential curb on the powers of the prime minister.³⁰

In his speech to the first parliament in 1959, the *Agong* said that the establishment of parliament was

... the crown and climax to our Constitution, in fact it is the very essence ... whatever is good for the people should have the support of all parties, irrespective of where the idea originated. All parties alike have a duty to the people as a whole but on the majority party in my parliament lies the special responsibility of listening with receptive minds to constructive criticisms of their policies, ever ready to accept sincere contributions to the common weal.³¹

²⁸ *Malay Mail* 12 July 1978

²⁹ Ong (1980: 157-58)

³⁰ For details see Ong (1984: 201-208)

³¹ *Dewan Rakyat Debates* 12 September 1959

These sentiments were not realised. It has been observed by none other than Dr Mahathir Mohamed that

... in the main Parliamentary sittings were regarded as a pleasant formality which afforded members opportunities to be heard and quoted, but which would have absolutely no effect on the course of the Government. The general feeling was that whether or not the Parliament sat, the Government would carry on. The sittings were a concession to a superfluous democratic practice. Its main value lay in the opportunity to flaunt Government strength. Off and on, this strength was used to change the Constitution. The manner, the frequency and the trivial reasons for altering the Constitution reduced this supreme law of the nation to a useless scrap of paper.³²

The main reason for this state of affairs has been changes in the Standing Orders. From the very beginning it was stated that though the institution was patterned after the Westminster model, 'it is inevitable and indeed desirable, that our own practice will develop along purely Malayan lines ... peculiarly adapted to the needs of our own nation',³³ though it was decided that the practices of other Commonwealth parliaments could also be adopted. The rules are made by the Standing Orders Committee (SOC). The composition of the SOC is based on the strength of parties in the *Dewan*, and thus, though chaired by the speaker, it is dominated by the ruling party. During the first parliament (1959-64) the SOC was prepared to accommodate the views and suggestions of opposition members. During the second (1964-69) and particularly the third parliament (1971-74), when most of the crucial changes were made, however, the SOC was reluctant to consider any suggestions from the opposition. In all cases the rules were determined by the ruling party and though aimed primarily at the non-Malay opposition parties ultimately affected the *Dewan* as a whole. Rarely were reports of the SOC not opposed when they were presented to the *Dewan*. Opposition attempts to amend standing orders were either not considered or rejected *in toto*.³⁴

In the Malaysian parliament almost all bills have been passed without amendment. Amendments, if any, are moved by the government. It is extremely rare that opposition amendments are adopted. Opposing views in the *Dewan* are not considered. In part, this is because the *Dewan* is seen as a perpetual election campaign and any concession to the opposition is probably seen as weakness on the part

³² Mahathir (1970: 11)

³³ *Dewan Rakyat Debates* 12 September 1959 (Tun Abdul Razak)

³⁴ For details see *First Report of the Standing Orders Committee, DR 2 of 1965 and Second Report of the Standing Orders Committee, DR 4 of 1973: appendix B*

of the government. There is a general assumption that the government knows everything and is responsible for everything; opposition, particularly vocal non-Malay parties, are at best tolerated in parliament.

Members of parliament have complained that they have not been given adequate time to consider important bills or lengthy reports and are at times ignorant of what public business is to be conducted. On one such occasion, Lim Kit Siang (DAP) complained that when the *Dewan* met,

MPs did not know what is the parliamentary business. They came to the House and saw the papers, a pile of them, on the table and they are expected to take part in debates.³⁵

This has resulted in appeals to the speaker (who since 1964 need not be a member of the *Dewan*). For example, in 1967 five opposition parties pointed out that during a six-day meeting the *Dewan* dealt with 26 motions and 34 bills. Copies of the bills were received by members 'either on the first day or subsequent days'. The opposition parties appealed to the speaker to act 'in the interest of ensuring fair play and avoiding sharp practice in Parliament in the future' and warned that

... if nothing is done to rectify this stormy state of affairs, we must in all good conscience, consider whether we should allow ourselves to be the maintenance of a parliamentary facade to shelter a government which has shown no respect whatsoever for either the dignity of the House, or for the normal and accepted courtesies and decencies of parliamentary practice.³⁶

Apart from shortage of time, opposition MPs have complained about changes in the order of business in the *Dewan* without advance notice. These practices have frustrated full debate on important bills and enabled the passing of an incredible number of bills in a single sitting.

The role of the *Dewan* as the watchdog of the public has also been undermined in the use of question time, adjournment speeches, urgent motions and the Public Accounts Committee (PAC). In every parliament questions are the most important instrument of control over the executive, and serve many other functions. However, opposition MPs claim that controversial questions have often been listed towards the end of question time, and as a result not answered orally, given that question time is only one hour per sitting.

Before 1972, there was no limit on the number of questions, oral and written, that a MP could ask. In that year, the limit was changed to allow no more than twenty questions for oral reply and no more than

³⁵ *Dewan Rakyat Debates* 17 December 1971 (Lim Kit Siang)

³⁶ *Sunday Times* 27 August 1967

five questions for written reply in any one meeting of the *Dewan*. The government's reason for this was that it would 'ensure that as few Questions as possible were left unanswered in the House'.³⁷ The opposition, since they had always dominated question time, saw this restriction as undemocratic and called for an extension to one and a half hours. This was rejected. The immediate effect of the restriction was that during the longer meetings of parliament there were days when there were no questions on the order paper. Government MPs have always preferred private means of seeking information and expressing criticisms and hence the net effect is that it is the largely non-Malay opposition members who have been limited in their use of questions.

The adjournment speech is another means of control over the executive. In 1972 adjournment speeches were banned during the longer meetings of the *Dewan* (the first meeting and the budget meeting), on the grounds that MPs could raise any issue during the debates on the *Agong's* speech (first meeting) and the budget. While this is true, it was pointed out by Dr Tan Chee Khoo that ministers, in their replies, could choose to ignore issues raised, while in the case of adjournment speeches the government must reply. Again despite strong opposition, the amendment was passed. An unnamed government MP was quoted as saying: 'apparently at the last Budget Meeting, DAP leaders made Adjournment Speeches every day'. This ban mostly affected the DAP members since government MPs rarely made adjournment speeches. When speeches were permitted, they were often stopped on the grounds that the *Dewan* lacked a quorum. DAP MPs claimed that the lack of quorum was often the result of deliberate action on the part of the ruling party (government MPs leaving the chamber). The ban also meant that adjournment speeches could be made for only about one third of the total number of days that the *Dewan* sits in a year.

In the case of the urgent motion, the speaker must be satisfied that it is 'a definite matter of urgent public importance'. The *Dewan* must then give leave for it to be debated. In practice, the speaker has rarely found that all the conditions are met. As a result of the DAP MPs' persistent but unsuccessful attempts, standing orders were amended to prevent MPs from reintroducing the same matter during a single meeting. The reason for this, according to Datuk Amar Taib, was 'not to gag the DAP but only to guarantee that the DAP conducts itself in Parliament in an orderly and intelligent manner'. The issues, he claimed, were mostly 'mere political comment' and that this wasted the time of the *Dewan*.³⁸ This view was disputed by the DAP.

³⁷ *Dewan Rakyat Debates* 14 December 1972

³⁸ *The Star* 29 November 1980

The Public Accounts Committee (PAC) is, in theory, the most powerful instrument of financial control over the government. However, according to a former minister, Khir Johari, 'in no field is Parliament's or the State Assemblies' control over the executive more ineffective and unsatisfactory than in the field of finance'.³⁹ Since the PAC was established in 1959, its chair has always been a member of the ruling party. This practice was justified on the grounds that the government 'did not intend to pass its responsibilities over to the Opposition'. In so doing, the government is thus accountable to itself. It is not surprising that the PAC has not been outspoken in its examination of government expenditure.

Opposition views the PAC as ineffective because 'its proceedings have the air of an exercise in past history'.⁴⁰ The fact that since 1962 an individual member of the PAC can no longer subpoena witnesses except with the consent of the whole committee has also further weakened the PAC. This rule was made originally for the Committee of Selection but it has been applied to the PAC.⁴¹

Changes in the standing orders, though aimed at the largely non-Malay DAP, have stripped the *Dewan* of its powerful instruments of control. Calls for parliamentary reforms by the non-Malay opposition parties have been ignored by the UMNO-dominated government.

Political participation and rights

The government has passed a whole range of laws which has limited the participation of citizens in the political process. Trade unionists (until recently largely non-Malay) cannot hold party office though they can be nominated as party candidates for elections. University lecturers and students can only take part in political activities with the permission of vice-chancellors. Professional bodies such as the Bar Council likewise have found themselves under greater government control. The most serious of this type of law was the *Societies (Amendment) Act 1981* which required all societies to choose whether they were 'political' or 'friendly' societies. This was aimed at the more vocal non-Malay societies. Opposition and public outcry were largely ignored and lawyers who demonstrated against the amendments were arrested and charged in court. The act gave the registrar of societies wide powers over their affairs, including foreign contacts. Those affected formed the Conference of Societies which successfully negotiated with the government to remove the more obnoxious aspects of the

³⁹ *Watan* 16 July 1977

⁴⁰ *Dewan Rakyat Debates* 17 June 1980 (Lim Kit Siang)

⁴¹ *Report of the Standing Committee*, DR 3 of 1962

act. The curtailment of citizen's rights to participate in legitimate activities through organisations belies the understanding that 'politics without racialism' would be encouraged after the 1971 constitutional amendments were passed. To quote Musa Hitam, speaking during that important debate,

When implemented, all of us from the Alliance have to discipline ourselves according to the new political set-up, that is, politics without racialism. Talk as much as desired, on development, graft. We ourselves encourage our members to talk on administration, development. Anything wrong should be pointed out. This is a constructive way which may be used. Please let us know. Think fully.⁴²

Despite declarations by the Mahathir government that it would be more liberal and open, further laws have been enacted, and existing ones amended, to limit the flow of information within the society. These include the amending of the *Official Secrets Act 1972* and the *Publication and Printing Act 1984*. The former, which included what Lim Kit Siang, the present leader of the opposition, described as a 'super catch-all' clause, would make the government the 'most secretive Government in the whole Commonwealth' and would add 'another weapon in the Government's arsenal to cow and curb press freedom'.⁴³ His proposal to replace the act with two new ones, the *Espionage Act* and the *Official Information Act* were rejected. The other act gave the relevant minister absolute discretion to grant permits to print newspapers and the right to revoke or suspend them without giving reasons. In doing this, he cannot be challenged in the courts.

As a reaction to Islamic revivalism, the government has said that it would instil Islamic values but not Islamic laws in the country. 'Islamic laws' according to Dr Mahathir, 'can only be imposed if all the people agree to it'.⁴⁴ Under the constitution, while Islam is the official religion its laws and practice are the prerogatives of the states, except in the Federal Territories, Sabah, Sarawak, Malacca and Penang, where the head of Islam is the *Agong*. In dealing with deviationist Islamic groups, the government has amended the Penal Code which makes it an offence

... to teach religion without authorisation by or under any written law, through writing, words or any action that may cause an atmosphere of disharmony, enmity, hatred or disunity for religious reasons whether among those of the same religion or among those of other religions (Section 298A).

⁴² Malaysia (1972: 101)

⁴³ *The Star* 21 October 1983

⁴⁴ *New Straits Times* 16 July 1983

This has caused concern to the other religions who fear future restrictions on their activities. As it is, there are examples of the religious rights of non-Muslims being eroded.⁴⁵ On these issues groups affected have sought private assurances from the government which need to be made public so that they are on record.

Other laws affecting the rights of citizens have attracted international attention. The *Emergency (Security Cases) Regulations 1975* were introduced under the *Internal Security Act 1960*. Its procedures contravened the *International Covenant on Civil and Political Rights 1966* which was adopted by Malaysia in the United Nations General Assembly, though the government has yet to ratify it. The Act was extended to apply to criminals, members of secret societies and those involved in the drug trade. Charges under this act carry, in certain cases, the mandatory death penalty, in spite of the fact that there are other laws such as the *Firearms (Increased Penalty) Act 1971* and the *Criminal Procedure Code* to deal with this. The Movement for Justice and Freedom, which represents fourteen parties and societies, has called for their total repeal.

The original purpose of the *Internal Security Act* was to check those who used unconstitutional means to overthrow the government. A British heritage, it was aimed at the Communists during the 'Emergency' of 1948-60, but the act has been used to detain legitimate opponents of the government. Politicians who have been detained, and these include members of parliament from both sides of the *Dewan*, have never been charged in open court. Their subsequent release has more often than not been unconditional.

The country is still operating under four emergency declarations. These were declared in 1964 during the Indonesian Confrontation; during the 1966 Sarawak Constitutional crisis; at the time of the 1969 riots, and in response to the 1977 Kelantan crisis. Opposition parties claim that the 1966 and 1977 declarations were made to 'achieve the political motives of the ruling Government'. Calls to repeal the declarations have been ignored.

Given the above laws, most citizens are loath to participate in the political process unless they support the ruling coalition. Over the years the coalition has tried to woo those who opposed it. The argument is that little can be achieved by criticising the government from the outside. However, there have been cases where public pressure can modify the more extreme laws and policies. This has been the result of committed individuals and societies who believed that the public would be prepared to support them on important issues. Their

⁴⁵ Tan (1986)

activities have been criticised by the prime minister for 'challenging the authorities and arrogating to themselves powers which did not belong to them'. According to Dr Mahathir,

The reaction of the legitimate authorities to the disruptive challenges to their authority is either to become progressively more repressive or to retreat from their responsibility. The latter will result in anarchy, which in turn will attract forces keen on a seizure of power. Once this happens the usurper will discard democracy and resort to repression in order to stay in power. Either way, disruptive challenges to authority in a democracy will lead to repression and the death of democracy.⁴⁶

The problem is that the government is the one who decides what activities are 'disruptive'. This view is challenged by Dr Chandra Muzaffar, the president of Aliran, a reform movement dedicated to justice, freedom and solidarity. To him pressure groups and societies, rather than threatening democracy, act as 'watch-dogs for the nation in crucial public issues' and prevent democracy from being oppressed.⁴⁷

What is alarming in the prime minister's speech is the implicit alternatives available to the authorities: repression or abnegation of responsibility. The possibility of dialogues and negotiations on public issues, which are crucial in a democracy, appear to have been dismissed. Such statements do not augur well for the future of pressure groups and public interest groups which in recent years have become more multi-racial. The fact that they continue to exist speaks well for the groups, and the public has given its support to the issues raised, showing that there is widespread concern and determination to make the government accountable for its actions. The growing success of these groups in the 1980s in raising public awareness of corruption, cronyism and abuse of power led to a crackdown in late 1987 when 106, mostly non-Malay, leaders, as well as key opposition politicians including several from the coalition, were detained. This has probably discouraged and deterred others from taking an active role in non-partisan organisations. Furthermore, the courts have been weakened and the lord president and several other judges either dismissed or suspended on allegations that they were not performing their duties and were involving themselves in political issues.⁴⁸ As noted above, some new legislation has precluded judicial review of ministerial decisions.

⁴⁶ *New Straits Times* 15 November 1985

⁴⁷ *The Star* 17 November 1985

⁴⁸ *Aliran Monthly* 8(4) 1988; *Australian Law News* 3(7) 1988; Fitzpatrick (1988)

MALAYSIAN DEMOCRACY

Malaysia claims to be a parliamentary democracy. According to Professor Max Beloff,

This is a difficult form of government to operate because it runs counter to many profound human instincts. It demands of those who wield power that they should be prepared to surrender it, that they should not use their position, as would be more natural, to consolidate it, that the majority of the day should be ready to protect the rights of the minority in and out of Parliament to the point where they are able to use those rights in order to become a majority in their turn.⁴⁹

In Malaysia, the reverse has happened. To some extent, this was foreseen by Tregonning when he observed in 1967 that the

... parliamentary system survives so far in Malaysia not because it has any basic roots but because it does not yet inhibit the exercise of power by the ruling class. As soon as real opposition to this dominance emerges through the medium of democratic procedures, and a possible new government begins to be seen, the desire to abandon democracy and parliamentary institutions as well will certainly increase. The desire could well become irresistible. As a goal, democracy is expendable, whereas economic growth is not. No Asian country has a fundamental belief that democracy has any superior moral virtue, and I cannot imagine anywhere in Southeast Asia that an alternative government, replacing the interests now in power, would be permitted by the democratic processes. Even now, the concept of a loyal opposition, where it exists at all, has a tenuous life, and political criticism is often bitterly resented as treason.⁵⁰

When Malaya became independent in 1957, it has since been said, the Westminster-type democracy was welcomed uncritically and though it was 'irrelevant' to the country, was 'mindlessly accepted by us'.⁵¹ Dr Mahathir claims that the acceptance of democracy 'was mainly at the insistence of the British' and was 'more a matter of form than of substance'.⁵² This form of Westminster democracy, we have shown, was accepted on the understanding of a major 'ground rule', that Malay hegemony be accepted by the non-Malay communities. To enforce this ground rule, the electoral system was altered through constitutional amendments and the removal of the powers of the Elections Commis-

⁴⁹ Beloff (1966: 10)

⁵⁰ Tregonning (1967: 330)

⁵¹ Shafie (1971: 8-10)

⁵² Mahathir (1971: 7)

sion to the government and particularly to UMNO. This process was accelerated after the 1969 elections. The loss of authority in that election was seen as a challenge by the non-Malay communities, though UMNO too lost seats to PAS in the Malay rural areas. The suspension of parliamentary government in favour of the National Operations Council was controlled by the Malays, as represented by UMNO and the Armed Forces which were also in Malay hands. The National Consultative Council, which was established as a forum to discuss national issues during this period, did not include the DAP, whose nominated representative was under detention, but nevertheless represented a sizeable number of non-Malays, though largely Chinese voters. A form of democracy was restored because, to quote the prime minister, Tun Abdul Razak, 'the nation has accepted certain restrictions on the democratic process in a sincere and practical attempt to make it workable and acceptable to the new set of political and social facts'. According to him,

... the view we take is that democratic government is the best and most acceptable government. *So long as the form is preserved the substance can be changed to suit conditions of a particular country.*⁵³

Malaysian democracy thus follows the form of Westminster with the ground rule not only entrenched but further strengthened through changes in the electoral system by a government whose majority is not disputed. The problem that plagues the political system still remains insofar as sections of the non-Malay communities continue to operate on the assumption that as citizens, and notwithstanding the provisions for the Malays, they have the right to participate in the key decisions that affect their lives. However, apart from being under-represented, changes in the electoral system have made it more difficult to elect their representatives in parliament. When elected, they have not only faced the overwhelming strength of the government but have been further weakened through changes in the rules of parliament which have stripped parliament of its essential roles. The participation of citizens in the political process has also been restricted. Through the passing of a wide range of laws, many citizens are discouraged from taking any public stand on issues facing the country. They are afraid of being 'involved'; as a consequence, the level of tolerance to these restrictive laws, which have affected different groups at different times, has increased. Those who have dared to speak out have been warned that their 'disruptive challenges' may lead to repression and the death of democracy.

⁵³ *Report of Proceedings of the 17th Commonwealth Parliamentary Conference Held in Kuala Lumpur, September 1971, General Council of the Commonwealth Parliamentary Association, London, p.xxi (italics added)*

These constraints are unlikely to be removed unless the government can be changed or its attitudes to what constitute basic elements of democratic society are revised. Under the present circumstances, the first is highly unlikely (some may say impossible) in the near future. The best the opposition parties can hope for, if they can be united, is to deny the ruling party a two-thirds majority in order to ensure that the situation is not eroded further. The split within UMNO has changed the situation somewhat and this may now be an achievable goal if, as in the 1969 elections, the opposition parties can make a pact not to contest against each other.⁵⁴ Such success may well trigger further adverse changes in the political system. Nevertheless, the UMNO split may result in less emphasis on competition between Malays and non-Malays and a shift instead towards competing coalitions, a situation advocated by Professor Arthur Lewis for plural societies.⁵⁵

The possibility of the government changing its attitude towards a more open system is bleak. The present prime minister's term of office began with promise of a more liberal government.⁵⁶ His government's record since then has been disturbing. Its sensitivity to criticism has even resulted in Tunku Abdul Rahman, a strong critic of the present government, urging them 'not to be unduly sensitive and too conscious of their powers'.⁵⁷ The government has yet to accept the fact that so long as it claims to be democratic it must accept the responsibility for its own actions, taken on behalf of the people. In a number of recent cases the government appears reluctant to do this.

The irony of the situation is that these criticisms and 'disruptive challenges' are made in an environment where the government cannot be challenged successfully in elections or in parliament. All this implies that the prime minister's observation that democratic practices are 'superfluous' has more than an element of truth, even to his government. It should be noted that within UMNO itself — whose general assembly (until recently) was perhaps more 'democratic' than parliament — criticisms have emerged about money politics and cronyism amongst its leaders. The increasing lack of democracy within the party has resulted in calls by Datuk Musa Hitam, deputy prime minister at the time, to reeducate the Malays in the values of democracy because 'the democratic system has never been fully understood by the Malays'.⁵⁸ The development of the split within

⁵⁴ As a result of amendments to the electoral laws, politicians who oppose the prime minister can no longer contest their own seats if they resign.

⁵⁵ Lewis (1965)

⁵⁶ Ong (1984)

⁵⁷ *The Sunday Star* 15 December 1985

⁵⁸ Rozita (1985: 17). Datuk Musa broke with Dr Mahathir but has since rejoined UMNO Baru, Dr Mahathir's party, after the courts declared the original party illegal.

UMNO since then has deprived the country of this tiny oasis of democracy. There have also been elements within UMNO calling for Malay dominance to be permanently accepted and extended as the NEP comes to an end in 1990.⁵⁹ Despite deliberations by a National Economic Consultative Council, representing all sections of the country, Dr Mahathir has indicated that he does not expect an agreement on the future of the NEP: 'I think they will eventually probably ask us to do it for them'.⁶⁰ In this process, there is an urgent need to discard the past tendency to regard the part (UMNO and/or the Malays) as the whole, and to take the views of *all* Malaysians, to whom the government is accountable. Not to do so will only maintain the underlying communal politics of the past.

Over the years a limited Malaysian democracy has not been without benefits, insofar as the country has developed rapidly since independence. Its political stability has also been acknowledged though nation-building, in terms of an integrated community, has yet to be achieved. The major casualty, however, has been the limited ability of the people to influence the government in the decisions that affect their lives.

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⁵⁹ For a review of the issue see Das (1987)

⁶⁰ Quoted on ABC, Background Briefing, *The Malaysian Dilemma*, 26 March 1989

