

Positive Court Ruling for Malaysian Reform NGO

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Bersih 2.0 can challenge decision saying it's illegal, judge says

A High Court Judge in Malaysia ruled Wednesday that Bersih 2.0, a coalition of 80-odd NGOs demanding changes in the country's electoral laws, can appeal a July 1 decision of Home Affairs Minister Hishammuddin Tun Hussein, outlawing it.

There continue to be deep suspicions in Malaysia that the government is stalling on putting in place the electoral reforms that Bersih's component members are advocating.

Nonetheless, "We welcome the decision," said Wong Chin Huat, one of the leaders of the organization, in a telephone interview. "There is no guarantee that we will win and we don't want to be overly optimistic but it is a good sign."

In a prepared statement, Bersih's leaders said they welcomed the judge's decision and added that: "It is absolutely vital in a democracy that the courts are prepared to allow scrutiny of executive powers by allowing citizens who are affected by the exercise of these powers to have the opportunity to challenge them fairly in court."

Hishammuddin declared Bersih 2.0 illegal prior to a July 9 march demanding electoral reform in Kuala Lumpur in what blossomed into a harsh attempt to stop the organization from fulfilling its goals. At one point, police were arresting anybody wearing a yellow Bersih tee-shirt.

Given that Malaysian courts do not operate in a vacuum but tend to take their marching orders on political affairs from the ruling government coalition, some observers believe the government, embarrassed by naming Bersih an illegal organization in the first place, could have signaled to the court to allow the group's complaint to go ahead.

Bersih, the Malay language word for "clean," is formally known as the Coalition for Clean and Fair Elections.

Wong said he was heartened by the fact that six leaders of the Socialist Party of Malaysia (PSM) leaders who had been arrested in the run-up to the march were released unconditionally in late July, a possible indication that the government was softening its stance.

The country was badly embarrassed after police sought to stop the July 9 march, chasing down nonviolent marchers with tear gas and water cannons and arresting 1,667 people including most of Bersih's leaders. Despite police refusal to grant a permit for the march and establishing roadblocks to shut down Kuala Lumpur to keep people out of the city, an estimated 25,000 people got through anyhow. The government was doubly embarrassed when censors blacked out parts of a story in

The Economists describing the crackdown, an act of censorship that hasn't taken place in years.

As domestic and international criticism continued, Prime Minister Najib Tun Razak apparently yielded to Bersih's demands and announced in August that a select parliamentary committee would be formed to seek to reform the country's electoral system.

However, since that time little or nothing has been done besides cleaning the electoral rolls of some 70,000 disqualified voters, leading to criticism that Najib could be stalling. Bersih leaders are continuing to be harassed and investigated by police, leaders said. So far, there is no indication that the parliamentary committee has been formed. No Bersih leaders have been asked to join the committee. However, the Dewan Rakyat, or parliament, is in recess and is not due to reconvene until Oct. 2.

Under Malaysia's parliamentary system, elections must be held in 2013 at the latest. The current betting is that Najib will call for dissolution of parliament sometime in March 2012, when the country's schoolchildren are on holiday and the schools can be used as polling stations. Bersih has asked that the select parliamentary committee be allowed to meet and conclude its business prior to the election. Given the complicated machinery of changing the country's constitution and other legal issues, it is questionable if the committee can meet and transact its business prior to the election.

Bersih has repeatedly asked that the elections be delayed until after the committee finishes its work. The NGO recently issued a statement saying it is "disappointed at the on-going display of arrogance by the ministers of our country in negotiating the terms of reference and composition of the Parliamentary Select Committee on Electoral Reform. We remind the leaders of the nation that as representatives elected by citizens of Malaysia, they should humbly listen to the voices of the people and act as the people wills them."

Bersih has published a list of eight demands they say are necessary to clean up the country's voting procedure, saying that as many as 3.5 million voters have been disenfranchised by the current electoral process, that rolls must be cleaned to eliminate ghost voters and that the electoral period must be lengthened because the ruling national coalition has the ability to put its campaign machinery in place, then call a snap election before the opposition has the opportunity to mount a campaign.

They have also demanded that the country's press be allowed to report more fairly on the opposition, who are consistently featured negatively if they are featured at all. Given that all of the major media are owned by component political parties of the Barisan Nasional, that seems problematical. Just last week, a public service video by a local musician promoting the right to vote was taken off the air on orders of the Malaysian Communications and Multimedia Commission because it featured opposition figures and a speech by Tengku Razaleigh Hamzah that featured some negative comments

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