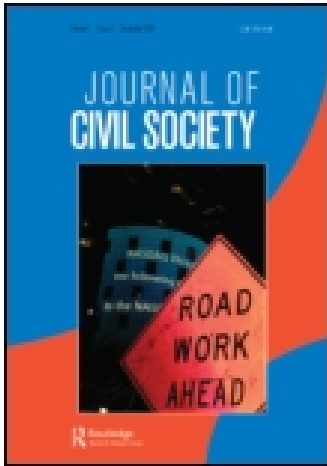


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Civil Society and Competitive Authoritarianism in Malaysia

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ABSTRACT *This article looks at the development of civil society in Malaysia under competitive authoritarian rule. It focuses on three main questions: What role does civil society play under competitive authoritarian rule? Can it successfully challenge authoritarianism? Or does the existence of a civil society actually strengthen the stability of the authoritarian order? In order to provide answers to these questions, the concept of historical institutionalism will be applied. Thereby, institutional legacies which have been and still are of great influence on the structures and functions of Malaysian civil society will be identified. This study shows that the structures and functions of Malaysian civil society changed significantly over the last five decades. Furthermore, this article argues that civil society groups are increasingly emerging as challengers to the autocratic elites. Nevertheless, the analysis indicates that the institutional framework of competitive authoritarianism heavily restricts civic engagement and the establishment of civic associations. However, the use of coercion and co-optation is restricted due to the regime's competitive character, thus producing a structurally, functionally and operatively limited civil society.*

KEY WORDS: Democracy, civil society, historical institutionalism, competitive authoritarianism, Malaysia

In the wake of the so-called 'third wave' of democratization, the concept of civil society has again emerged as a major research topic in comparative politics, political theory and comparative sociology (cf. Anheier *et al.*, 2007). While the concept and theory of civil society are much older, with its origins reaching far back into ancient political philosophy, its rise to one of the leading normative concepts of contemporary political theory is a consequence of the democratic revolutions in Eastern Europe since 1989. In light of these events, a new generation of empirical research on the role of civic actors as agents of democratic change emerged (Heinrich, 2008, p. 2). While civil society is valuable at all stages of the democratization process (Linz & Stepan, 1996), it possesses particular relevance during two phases. First, the 'resurrection of civil society' (O'Donnell & Schmitter, 1986) proved to be crucial in the transition phase. Second, by advocating

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political debate civil society groups contribute to the consolidation of the democratic order in the consolidation phase (Diamond, 1999, pp. 218–261).

While the relationship between civil society and political society in processes of (re)democratization and in consolidation of democracy is increasingly well researched and theorized, there has been little research on civil societies under authoritarian rule. For at least two reasons, this lacuna is problematic. First, the findings of comparative research on democratic transitions indicate that the ‘third wave’ of democratization came to an end at the beginning of the twenty-first century (Diamond, 2008). Second, the persistence of autocratic regimes (at least 40% of the states worldwide) correlates with the proliferation of authoritarianism with adjectives such as ‘electoral’ (Schedler, 2006) or ‘competitive authoritarianism’ (Levitsky & Way, 2002). To different extents, political leaders in these ‘authoritarianisms with adjectives’ combine democratic forms with autocratic substance and play the game of multiparty elections in order to legitimate their grips on power (Brooker, 2009).

This article aims at improving our understanding of the genesis, structures and functions of civil society in such ‘authoritarian regimes with adjectives’. Following Brownlee (2007), Case (2009) Ufen (2009) and Levitsky and Way (2010), we classify the political regime in Malaysia as competitive authoritarianism, thereby implying that a meaningful level of political competition and contestation exists, which can also be used by civic associations to articulate social interests and opinions (Brownlee, 2009, p. 524). This study will not only examine the emergence and profile of civil society organizations in this Southeast Asian nation, but also focus on the question of whether civil society is an agent of democratic change or serves as a status quo agent whose activities under authoritarian rule contribute to the stability of the existing political order.

We start our case with the proposition that the composition and functioning of Malaysian civil society are the outcome of the institutional configurations of the Malaysian state over the last five decades. Institutions significantly influence and structure the choices of actors who adopt their strategies according to institutional incentives and act within the institutional framework (Thelen, 1999). Institutional reproduction and persistence can be explained by mechanisms of path dependence such as increasing returns (Pierson, 2000; Thelen, 1999). Notwithstanding the mechanisms of path dependence, institutions can change. These moments of institutional change are defined as ‘critical junctures’ (Mahoney, 2001), which are characterized by the existence of several policy options for political actors, on the one hand, and the difficulty to return to the starting point after the selection of a particular policy option, on the other (Thelen, 1999, p. 113). Consequently, institutional changes influence the behaviour of actors in the future and therefore prove to be persistent (Pierson, 2000). Applying the method of historical institutionalism to the case of Malaysia will help us to identify moments of institutional development that proved and continue to be important for the composition and functions of civil society. At the same time, we will be able to understand the mutual interaction between institutional settings and actors; hence, it is possible to comprehend the influence of civil society on the political system and the impact of the autocratic norms, rules and procedures on the Malaysian civil society.

The remainder of this article proceeds as follows. The first section outlines the conceptual framework for our analysis. The second section provides an analysis of the historical process and the current trends in the development of civil society in Malaysia by focusing on the three critical junctures in the institutional setting surrounding civil society and their

impact on civil society. The third section discusses whether civil society groups can be regarded as challengers to the autocratic order or whether they contribute to the persistence of authoritarianism in this Southeast Asian nation. The final section summarizes the main arguments and provides some tentative conclusions with regard to the relationship of civil society and political society in competitive authoritarian regimes.

Competitive Authoritarianism and Civil Society

Until recently, social scientists regarded the trajectory of democracy with a general sense of optimism (Merkel, 2010). However, in recent years, a new pessimism has started to gain momentum. The pessimistic assessment of the global development of democratization in the early twenty-first century rests on two main observations. First, regime changes from dictatorships to democracy have become increasingly rare. Hence, most scholars agree that the so-called ‘third wave’ of democratization is over (Diamond, 2008). Second, many transitions of the ‘third wave’ did not lead from authoritarianism to democracy, but from one type of authoritarian regime to another type of autocratic rule, ‘where a democratic facade covers authoritarian rule’ (Linz, 2000, p. 34). Although *de jure* political rights, civil liberties and the rule of law are found in such political regimes, a whole battery of formal and informal restrictions curb the effective operation of democratic rules and distort their value (Brooker, 2009, pp. 233–269).

Competitive Authoritarianism

In order to conceptualize these regimes, Levitsky and Way (2002) Way introduced the framework of ‘competitive authoritarianism’ (2002, 2010) into the comparative study of authoritarianism. Competitive authoritarian regimes feature some democratic institutions and regular competitive elections between government and opposition which distinguish these regimes from other electoral or closed authoritarian regimes (Diamond, 2002; Brownlee, 2009, p. 524). Yet, by violating principles of democratic procedures, e.g. free and fair elections, competitive authoritarianism falls short of democracy. In other words, competitive authoritarian systems are authoritarian regimes with some democratic elements. Consequently, oppositional forces such as civil society groups have an opportunity to organize public protest and to criticize the government. Accordingly, even though democratic institutions may be heavily flawed, autocratic incumbents must take them seriously, in contrast to hegemonic authoritarian regimes where no meaningful contestation of power exists (Howard & Roessler, 2006).

The existence of nominally democratic institutions in competitive authoritarian regimes secures the persistence of four arenas of political contestation, in which, oppositional forces (e.g. opposition parties or civil society organizations) possibly challenge the autocratic incumbents: (1) the electoral; (2) the legislative; (3) the judiciary and (4) the media (Levitsky & Way, 2002, p. 54). Among these four arenas, the electoral arena is the most important. Though elections in competitive authoritarian regimes are not entirely free and fair, they are more than just a ‘facade’, and the opposition does have a chance to achieve an electoral upset (Levitsky & Way, 2002, p. 55). In particular, civil society organizations can be extremely helpful to opposition parties if they cooperate with them in order to mobilize votes. Due to the competitive character of elections and with civil society groups playing the role of ‘watchdogs’, electoral fraud, e.g. the manipulation of election results, may be

very costly and can even bring down the government. In contrast to the first arena, oppositional challenges in the legislative and judiciary arenas are less frequent for ruling elites in authoritarian regimes. Therefore, in most cases, they are of minor relevance as places of contestation. The media, however, can turn into an important site of contestation. In competitive authoritarian regimes, independent media coverage does exist with civil society organizations or opposition parties often having their own publications; hence, opposition groups and social movements might have the chance to articulate protest and dissent. Furthermore, journalists and bloggers can play the role of a ‘watchdog’. Nevertheless, authoritarian rulers try to minimize the exposure of citizens to alternative information and views by placing ‘restrictions on means of communication, media content and media consumption’ (Schedler, 2009). Yet, the logic of co-opting and legitimating in competitive authoritarianism constrains the ‘menu of manipulation’ (Schedler, 2006) from which governments can choose specific strategies of containment vis-à-vis dissenting voices in this arena.

Thus, opposition parties and civil society organizations do have the possibility of challenging the autocratic incumbents in the four arenas, which may even lead to a regime collapse. However, and contrary to what one might expect, recent findings of quantitative research demonstrate that competitive authoritarian systems are not inherently more fragile than other types of non-democratic regimes (Brownlee, 2009; Hadenius & Teorell, 2006). One of the causes of the relatively strong persistence of competitive authoritarian regimes is their ability to co-opt oppositional forces through democratic institutions and channel public protest. Consequently, opposition forces such as civil society groups not only may play the role of challengers for the autocratic incumbents but may even contribute to the persistence of competitive authoritarian regimes. Therefore, one might challenge the assumption that the existence of a civil society necessarily puts autocratic regimes at risk.

Civil Society

The conviction that a well-developed civil society is a positive force for political change in non-democratic regimes has a long tradition (see the various contributions in Alagappa, 2004; Merkel, 2000). Following the conceptual work of Croissant, Lauth and Merkel (2000) and Merkel (2004), this study uses a functional concept of civil society¹ that is based on arguments developed by philosophers such as John Locke, Charles de Montesquieu and Alexis de Tocqueville, as well as by contemporary theorists, such as Jürgen Habermas. This concept assumes that civil society is defined by central normative principles as well as through its functions. Based on Croissant *et al.* (2000, p. 16), we define civil society as an intermediate realm between the private sphere, the market and the state. In this ‘public sphere’, actors formulate and organize interests, values and demands of public concern. The normative core of the concept is defined by four minimal criteria: (1) voluntary action; (2) autonomy from the state and the political society; (3) civility (i.e. actors do not resort to violence) and (4) public orientation of actions, interests and demands articulated and enacted.

Furthermore, as Croissant *et al.* (2000, p. 11–14) argued, civil society is defined not only by its central normative principles, its relationship to state, economy and the political society, and its cultural self-understanding, but also by its functions. They delineated four categories of functions.

- (1) Civic associations protect individual autonomy and freedom from arbitrary state power.
- (2) Civic associations as ‘amphibian’ bodies (de Montesquieu) link the societal and state spheres together (linkage function).
- (3) As emphasized by de Tocqueville (1988 [1835/1840]) in his path-breaking study ‘De la démocratie en Amérique’, voluntary associations function as ‘little schools of democracy’ where citizens learn and practise democratic thinking and civic virtues. Thereby, these ‘*corps intermédiaire*’ contribute to the protection of individual freedom, help to prevent the emergence of a tyranny of the majority and strengthen the institutions of political democracy (see also Diamond, 1994). In a more communitarian understanding of Tocqueville’s theory of associations, civic associations also contribute to the preservation of republican virtues, and even to the (re)production of social trust and social capital—that is, the glue that keeps societies together (Putnam, 2001).
- (4) Civic associations expand articulation and aggregation of (marginalized and disenfranchised) interests by establishing ‘pre-institutional’, pluralistic interest mediation, as Habermas (1992) argued. Here especially, civil society gives voice to disadvantaged and marginalized groups, which, thereby, have the possibility of becoming acted upon in an open public arena.

Civil society organizations that attempt to fulfil these four functions in a competitive authoritarian regime possibly challenge the ruling powers in different arenas of political contestation. For example, by giving voice to disadvantaged and marginalized groups in the media arena, or by supporting opposition parties in the electoral arena, civic actors challenge the vested powers’ monopoly of opinion and representation. Furthermore, with civil society actors organizing autonomously from the state, they may carve out pockets of civic associationism outside of formal state control.

However, civil society organizations can also serve as useful instruments for authoritarian governments due to their functions as ‘amphibian bodies’ that link society and the state. With regard to their functions, they may provide relevant information and act as a feedback mechanism for the autocratic incumbents. In addition, civil society groups may be important for the autocratic incumbents if they are able to organize their members as ‘vote-banks’ for them. Thereby, associations may actually strengthen authoritarianism. In addition, anecdotal evidence from Southeast Asia demonstrates that the logic of co-optation and legitimation in varied authoritarian and hybrid regimes perhaps turns associational leaders from challengers into defenders of the existing autocratic polity (see, e.g. Case, 2009; Rodan, 1996; Sidel, 2008). Here, societal associations do not perform as schools of democracy. While they undoubtedly provide alternative means of political participation and, through their actions, function as catalysts for the realization of public demands and interests, they contribute very little to the evolution of civic norms, beliefs and attitudes (Park, 2011). Moreover, recent events in electoral authoritarian regimes such as Thailand and the Philippines testify to the potential dangers of deep divisions within a society, which are reflected in and shaped by polarized civil society organizations. In this regard, Thompson’s (2007) analysis demonstrates that the ‘dark side’ of civil society may not be easily set apart from the ‘bright side’ (Armony, 2004, p. 80). Increasingly violent street politics and extra-parliamentary protests in these countries remind us of Berman’s (2001, p. 40) warning that spasmodic associationism can

also have negative consequences for democracy by deepening cleavages, furthering dissatisfaction and creating disorder, violence and political instability (Foley & Edwards, 1996; Keane, 2009). Moreover, whether social associationism promotes democratic change or nurtures the deepening of (competitive) authoritarianism also depends on the type of association and its aims (Barnes, 2005, p. 9).

The Historical Evolution of Civil Society in Malaysia: Critical Junctures, Associational Trajectories and Convulsions of Contestation

In order to understand the trajectories of civil society in Malaysia and to answer the question whether it serves as a challenger or defender of competitive authoritarianism, it is necessary to look deeper into the historical evolution of civil society under the institutional framework of competitive authoritarianism. With our study theoretically building on arguments from historical institutionalism, we focus on the initial conditions and critical junctures of institutional change, thereby identifying those institutional factors which have influenced the organizational and agential dimensions of civil society over the last five decades. In this regard, we identify three critical junctures since Malaysia (then Federation of Malaya) gained independence from British rule in 1957: (1) the moment of institution founding in 1957; (2) the period of the so-called ‘13 May 1969 incident’ and subsequent state of emergency until 1971 and (3) Operation Lalang in 1987.

The Historical Origins: Civil Society Between Colonial Institutions and Nation-State Building

Although the origins of civil society in contemporary Malaysia can be traced to the nineteenth century with the emergence of cultural, religious and welfare organizations (Tham, 1977), our first critical juncture for the development of civil society can be identified during the phase of institutional founding in 1957. The initial conditions at that time were defined by the emergence of a plural society and the struggle against the communist insurgency (Loh Kok Wah, 2002, p. 22).² Both challenges were reflected in the institutional and elite arrangements (‘The Bargain’) of the 1950s. In order to fight the communist insurgency, the British ruler enacted several repressive laws such as the Internal Security Act (ISA) which was adopted into the constitution of 1957, thereby limiting the possibility of founding civic associations and displaying civic engagement. Even more critical for the development of civil society, the elites of the three largest ethnic groups formed an inter-ethnic coalition and forged a power-sharing arrangement, thereby compelling the British government to organize a smooth transition to independence (Verma, 2002, 32ff.). According to the constitution, Islam became the official state religion with Malay as the national language and the role of the sultans being officially acknowledged. In sum, the central elements of the Malay identity—language, religion and royalty—now had constitutional protection. Furthermore, the elites agreed that UMNO (United Malays National Organization) would lead an inter-ethnic alliance with the Malaysian Indian Congress (MIC) and the Malaysian Chinese Association (MCA) as junior partners and a Malay Prime Minister as head of the government (Mauzy, 2006b). As a concession for the acceptance by non-Malays of the dominant position of the Malays in politics, administration and the military, citizenship rights

were extended to ethnic Chinese and Indians, preserving their economic interests at the same time (Crouch, 1996).

With the Malaysian constitution after independence featuring consociational elements such as cultural autonomy, power-sharing arrangements (with the Malays as *primus inter pares*), cooperation among elites and protection of minorities, the political system was characterized by some observers as a consociational democracy (Case, 1996; Vorys, 1975; Zakaria, 1989). Consequently, the period from 1957 to 1969 can be described as a 'period of laissez-faire' (Kaneko, 2002, p. 179). At the same time, however, political rights and civil liberties could be restricted by legal means such as the ISA, the Trade Unions Act (1959) and the Industrial Relations Act from 1967 (Jesudason, 1996, p. 143). At that time, especially trade unions and newspapers were the target of state coercion, leading to the nationalization of the print media (Rodan, 2004). Consequently, the labour movement and, especially, the Malaysian Trade Union Congress remained weak in numbers and influence (Jesudason, 1996, p. 143). Since the government acted as a guardian of Malay interests and identity (Mauzy, 2006a, p. 62) and nurtured the economic interests of Malay peasants, the pre-1969 political formula was highly popular among many Malays (Jomo, 1986, p. 247). Consequently, organizations, religious associations and cultural groups of the Malay community neither played much of a role in the development of civic associationism in this period nor challenged the existing political formula. Although the number of these associations increased from 72 (1957) to 200 (1969) officially registered groups (Tham, 1977, p. 34), it remains unclear how many of them actually could be classified as part of an autonomous civil society, as many groups were closely tied to the state or had been founded on government's initiative.

In contrast, ethnic Chinese and Indians displayed a higher level of civic activism in the first period. Both ethnic communities formed a large number of associations in order to pursue their cultural interests. While the affluent Chinese community viewed the ruling coalition as a stabilizer for its economic interests (Case, 2001, pp. 44–45), it feared that Chinese cultural heritage and identity would be marginalized because only central elements of the Malay identity were protected by the new constitution. Consequently, the Chinese education movement led by *Dongjiaozong*³ has been especially active in fostering the maintenance of Chinese schools and Chinese language in the education system (Weiss, 2004, p. 265; Tan, 1992; Soong, 2005). With 252 organizations being registered in 1975, ethnic Indian associations also played a considerable role (Tham, 1977, p. 108).

The 1969 Communal Riots and the Emergency Government

However, modernization, socio-economic change, social cleavages and rising tensions between the ethnic communities (Jomo, 1986) destabilized the Malaysian model of ethnic accommodation and power-sharing. The rising tensions culminated in the 13 May incidents ('the riots'). With the ruling coalition being highly weakened after losing its two-thirds majority in the elections of 1969, supporters of the ruling Alliance clashed with opposition forces, leaving 196 people dead, most of them being ethnic Chinese (Crouch, 1996, p. 24; Means, 1991).

The outcome of the 1969 national election and the following riots led to a restructuring of the political order. First, a state of emergency was declared with the National Operations Council as the highest authority to govern the country. Then, the existing repressive legal

measures such as the ISA were applied and new pieces of legislation were enacted such as the Official Secrets Act, and the Universities and University Colleges Act, or modified (e.g. the Sedition Act), in order to silence political opposition (Pepinsky, 2007, p. 117). In sum, these measures heightened the authoritarian character of the political regime. Moreover, the Alliance system was dissolved and almost all opposition parties were co-opted into the newly established BN-coalition (Barisan Nasional) and uncontested hegemony of UMNO (Means, 1991). In addition to the strategies of co-optation and repression, the UMNO intensified redistributive policies which re-energized its Malay following, as manifested in the NEP (New Economic Policy). Through affirmative action programmes, *Bumiputeras* gained access to higher education (Jomo, 1986, p. 263). In addition, the NEP also sought to erase poverty among *Bumiputeras*, strengthening Malay business capital (Malaysia, 1971).

Despite these strategies of containment, civil society began to mature in both quantitative and qualitative terms in the 1970s. As a consequence of the redistributive policies of the NEP, a new middle class emerged (Embong, 1998, p. 93). Segments of this 'new' middle class began to organize themselves in NGOs and social movements, thereby fostering critical debate related to the environment, consumer protection, women's issues, human rights, labour rights and education (Kaneko, 2002, p. 182). Human rights activists formed associations such as Aliran and later Suara Rakyat Malaysia (SUARAM) and the National Human Rights Society (HAKAM) demanding the protection of human rights (Hassan, 2002). Activism around the issue of violence against women rose in the 1980s and was fostered through the Women's Aid Organisation (WAO) and the All Women's Action Society of Malaysia (AWAM) (Lai, 2003).

The increasing number of NGOs accompanied the appearance of the *dakwah* movement, referring to a broad Islamic revival in the 1970s, which recruited its followers, especially, from the growing numbers of Malay university students (Funston, 1985, p. 171). This movement turned into a significant component of civil society with the Malaysian Islamic Youth Movement (*Angkatan Belia Islam Malaysia*) developing into the largest NGO in Malaysia (Jomo & Cheek, 1992, p. 79). Moreover, Islamic NGOs mobilized parts of the Malay middle class and students and advocated on behalf of beleaguered peasants (Funston, 1985, p. 171). These organizations became a vocal voice of discontent at that time. With nearly every opposition party being co-opted into the ruling coalition, civil society activism remained the only possible way of articulating dissent, thus strengthening civic networks and cooperation.

However, the NEP also produced mixed consequences for the future development of civil society. The NEP fostered the emergence of a new Malay middle class which was entirely state-dependent (Embong, 1998, p. 107; Jesudason, 1996, p. 146) and, hence, was supportive of the political status quo. The same is true for the emerging segment of Malay industrial workers (Jomo & Gomez, 1996). Furthermore, the quota system implemented through the NEP emphasized communal identity and Malay dominance within the Malaysian society and fostered discontent within the ethnic Chinese and Indian communities (Esman, 1994, p. 69). In addition, the NEP had the non-intended effect of strengthening the Malay belief that Malaysia is the land of the Malays (*Tanah Melayu*), while the non-Malays were considered to be sojourners (*kaum pendatang*) (Zakaria & Kadir, 2005, p. 48). As a consequence, cooperation among different ethnic groups within social associations remained rare.

'Operation Lalang' and beyond

The introduction of the NEP and the abandonment of consociational features in favour of authoritarian elements after 1969 helped to stabilize the political system in the 1970s. However, with regard to the education sector, discontent within the Chinese community and the ruling coalition apparently increased (Tan, 1992). The growing tensions were related to the question about whether the government should be allowed to appoint unqualified senior assistants and principals at vernacular Chinese schools. The protests, led by Dongjiaozong, were supported by the BN component parties MCA and Gerakan, indicating the growing tensions within the ruling coalition and the fragility of this political alliance (Crouch, 1996; Tan, 1992, p. 196). The political turmoil culminated in 'Operation Lalang' in 1987. On October 27, the government launched a nationwide political crackdown and detained more than 100 people, most of them being members of the opposition and ruling parties and the civil society (Tan & Bishan, 1994, p. 25). Furthermore, several newspapers were temporarily banned (Weiss, 2006, p. 124) with the Printing Presses and Publication Act being enacted and the right to assembly restricted (Verma, 2002, p. 153). The following year, the government strengthened its grip on the judiciary when it sacked three Supreme Court justices from their seats and divested the courts of the power to exercise judicial review (Means, 1991, p. 201–238).

Despite the government's crackdown on civil society activists and opposition forces in 1987, civil society groups' ability to organize and coordinate their actions substantially increased in the 1990s. Furthermore, the number of civil society groups grew significantly at that time, indicating a third phase of civil society development. The *Reformasi* movement that began in late 1998 exemplified the density of civil society activism and the mutual cooperation between opposition forces. For the first time ever, Islamic and secular groups, political parties and social associations formed a grand opposition movement which crossed ethnic and economic cleavages (Weiss, 2006). The movement was sparked by the removal of Anwar Ibrahim as Deputy Prime Minister in late 1998, indicating deepening conflicts within the ruling elites about an adequate response to the Asian financial crisis.

The *Reformasi* movement influenced the development of Malaysia's civil society in more than one way. First of all, the movement represented every ethnic community in the country and crossed social cleavages. Second, it connected civil society groups with opposition parties and helped to overcome the atomized efforts for political change of both groups in the past. Third, cooperation between political parties outside of the BN and civil society greatly enhanced the opposition's chances to successfully challenge the ruling coalition in the 1999 general election, in which, opposition parties did remarkably well (Weiss, 2009, p. 747). Though the movement fizzled out after the 1999 elections, the close ties between civil society groups and opposition parties resurfaced in the run-up to the elections nine years later (Welsh, 2008). The 'Coalition of Free and Fair Elections' (BERSIH)—initiated by numerous civil society activists and members of opposition political parties in 2006—stood in the tradition of the *Reformasi* movement and organized large street protests in November 2007. In addition, orienting itself around communal progress, the Hindu Rights Action Force (HINDRAF), a coalition of 30 Hindu NGOs, called for improvement in the social and political situation of the ethnic Indians in Malaysia at the end of 2007. Again, civil society activists and opposition party leaders closely cooperated together, which enabled the opposition to capture large parts of the popular vote in the 2008 elections (Weiss, 2009, 751ff.). Several civil society activists such as Elizabeth

Wong or Dr Lee Boon Chye were successfully running for the opposition parties and brought their expertise and experience to the oppositional parliamentary groups (Election Commission of Malaysia, 2008). However, it is yet to be seen whether this inter-ethnic alliance and mutual cooperation between civil society groups and opposition parties can be institutionalized and foster fundamental democratic reforms in the long term.

Civil Society as a Challenger and Stabilizer of Competitive Authoritarianism: The Ambivalent Roles of Civil Society Actors in Malaysia

In terms of organizational forms, membership and constituencies, capacity levels and means to pursue its aims, Malaysian civil society has changed significantly over the past five decades. The evolution of social associations reflects institutional changes in the political sphere, and also demographic, socio-economic and cultural transformations in Malaysian society at large. Starting as an ensemble of groups characterized by the prevalence of religious and cultural associations, peasant cooperatives and voluntary charities, contemporary civil society encompasses a variety of community-based organizations, including consumer protection bodies, development cooperation groups, environmental campaigns, ethnic lobbies, foundations, farmers' groups, human rights advocates, women's networks, youth campaigns, professional bodies, relief organizations, religious institutions, protest movements and more.

At the same time, however, the relationship between civil society and state is regulated by an extensive set of formal and informal constraints on the activities of social associations, a complex repertoire of agent incentives through calibrated repression and co-optation, and the induction of coordination problems among oppositional political parties and civic associations. While the concrete shape of the institutional configurations related to the development of civil society changed over time, the overwhelming strategic purpose of authoritarian governance and survival remained constant. Therefore, the growth and diversification of civil society cannot be taken as a guarantee for the ability of its components to become agents of democratic change. Rather, elite strategies of 'institutional containment', 'associational manipulation' and 'the selective dispensation of punishments and favors' (Schedler, 2009) may successfully subordinate organizations of social interests and work towards the disempowerment of social actors, or the competitive division of civil society (Schedler, 2009). In fact, the existence of a limited but divided civil society may actually strengthen the stability of the authoritarian polity by contributing to its legitimization—a situation which is characteristic, for example, of Singapore's demobilizing single party regime (Tanaka, 2002) and President Suharto's 'de-ideologization' and 'de-politicization' strategies towards NGOs during the late 'New Order' era in Indonesia (Hadiwinata, 2003).

To shed some light on this question, we focus our attention on the performance of civil society actors regarding the previously mentioned four functions suggested by Croissant *et al.* (2000) in each of the four arenas of contestation available in competitive authoritarian regimes.

Civil Society and Opposition Parties as Partners in the Electoral Arena

For obvious reasons, civil society's options to challenge autocratic incumbents in the electoral arena are restricted, because our definition of civil society differentiates between civil

society and the political society. Accordingly, when civic associations participate in the electoral process, they stop being part of civil society. Instead, they become part of the political society. However, the experience with the *Reformasi* movement in Malaysia demonstrates the potential for limited democratic change when civil society and opposition parties cooperate in the electoral arena. The (modest) electoral success of the opposition parties in the 1999 and 2008 elections would have been impossible without close ties with civil society actors. In both ballots, civil society and opposition leaders fostered close relationships. This, in turn, made it possible for civic associations to successfully link state and society by supporting those parties which have been advocating reform policies that have been highly popular among the electorate (Weiss, 2009, p. 747). In this regard, the protests of the HINDRAF movement in 2007 were a particularly strong challenge for the authoritarian rulers. Surveys carried out shortly before the elections indicate that the relations and the economic inequality between different ethnic communities were perceived as the most pressing issues for ethnic Indians (Merdeka Centre, 2008), that is, for the ethnic community which provided the strongest support for the HINDRAF protests. The government's inability or lack of will to adequately respond to the protests as well as the imprisonment of several HINDRAF leaders (Pepinsky, 2009) may partly explain the electoral outcome and the loss of votes for the MIC in the 2008 election. In addition, it is notable that Chinese voters—a group which is heavily involved in civil society actions—also supported and voted for the opposition. Therefore, with the MIC and the MCA losing support among their ethnic followings, the ruling coalition's electoral prospects appear to have been shattered.

However, the outlook for civil society groups to foster close ties with the opposition parties and organize vote-banks for them is mixed due to civil society's limited ability to mobilize large parts of the population for an extended period of time. In theory, civil associations foster the development of generalized reciprocity and promote civic engagement as 'schools of democracy'. By building up civic networks, voluntary associations produce social capital and social trust and possibly raise awareness for the reformist policies of the opposition parties among the constituency. In the case of Malaysia, however, challenges can be identified which diminish the role of civil society as a strong partner of the opposition parties.

Data from the Asia Barometer Survey (2007) indicate that almost one-third of all respondents (31.6%) are members of at least one (20.5%) or even two (11.1%) associations. However, many NGOs are small face-to-face voluntary groups with few exceeding 100 members (Weiss, 2006, p. 110). Consequently, most of the memberships of the participants in the ABS are related to neighbourhood and religious groups or sport clubs, thus activism in civil society groups remains rather limited in Malaysia (Park, 2011). While members of the urban middle class—many of them educated abroad—have taken on a leading role in the NGOs, other segments of the population rarely participate in these groups (Kaneko, 2002, p. 183; Tan & Bishan, 1994, p. 6). Therefore, it is reasonable to assume that most of the civil society associations do not foster civic engagement throughout the Malaysian population and cannot be seen as 'schools of democracy' because the small circle of activists consists of socially privileged people who already show civic-minded attitudes. Furthermore, the NGO sector reflects the ethnically segmented party system with most of the secular NGOs consisting of ethnic Indians and Chinese, while Malays associate in Muslim organizations (Weiss, 2006, p. 110). This development is related to the spatial imbalance in the distribution of NGOs with only a few of

them—mostly Muslim associations—being active in rural areas where the Malays are the majority (Kaneko, 2002, p. 183). As a result of the ethnic segmentation within the civil society, networks across ethnic markers fostering generalized reciprocity and social capital are weak. Without these crucial resources for collective action, social trust remains fragile, as indicated by data from the Asia Barometer Survey (2007), where only 12.9% of the participants declared that they trust their fellow citizens. With civic engagement remaining subject to potential erosion, the absence of a high stock of social capital jeopardizes the function of civil society to teach civic values and the role of civil society as a strong partner of the opposition parties in the electoral arena at the same time.

Civil Society and the Internet: New Communication Channels in the Media Arena

With regard to civil society activities in the media arena, blogs and the independent online newspaper *Malaysiakini* enable civic actors to provide alternative sources of information for the public, thereby exposing citizens to competing constructions of political reality and challenging the authoritarian regime in this arena. Furthermore, new means of communication such as the Internet offer the possibility of building up new civic networks and enhancing cooperation among civil society groups. In particular, the Internet with its blogs must be seen as a relevant source of information, as it gives voice to marginalized opinions and connects the political centre with the periphery (Sim Kwang Yang, 2009). Indeed, web forums play an increasing role as a provider of information and communication channels for the civil society due to the government's control of most of the print media (especially newspapers) (Anuar, 2002, p. 139). Specifically, political bloggers such as Raja Petra Kamaruddin and Jeff Ooi have a widespread readership and have sent concerned citizens into political action (Ong, 2008).

Yet, the ability of civil society groups to provide alternative means of communication and political information remains constrained. All four major newspapers are pro-state, and any oppositional and independent media outlets face the possibility of harassment by police, extended legal wrangling, detention and imprisonment for publishing speech critical of the state. Previously mentioned restrictions on private ownership in the means of production and restrictions on media content (which may take the form of official censorship or more indirect and informal sanctions against informational transgressions; Reporters without Borders, 2004) often lead to self-censorship by journalists (Anuar, 2002). While Internet products are to some extent produced outside of the bounds of authoritarian control—the Malaysian government has pledged not to censor the Internet—pervasive state controls on traditional media spill over to the Internet at times. For example, *Malaysiakini.com* claims to have been the subject of several police investigations and an eviction notice as a result of publishing content deemed defamatory or offensive (Gan, 2006; South East Asian Press Alliance, 2006). In addition to state manipulation, the Internet's value as a tool for political contestation is also limited by the relatively low usage of Internet as a source of political information: according to recent data provided by the Asia Barometer Survey (2007), only one-third of the respondents frequently view Internet web pages. In addition, statistical data do not reflect whether Internet users connect with civil society through this medium (for a sceptical assessment of 'web-phoria', see also Ufen, 2009, p. 616).

Furthermore, civil society activists not only challenge government authorities and authoritarian legislation, but also provide support for it in the media arena. Especially, Muslim NGOs and organizations which joined forces in the organization called 'Majlis Perundingan NGO Melayu' in February 2010 are outspoken supporters in the public media and through their own publications (The Star, 2010). In fact, with regard to topics such as the enforcement of Sharia law, conservative Islamic groups have positioned themselves as dominant forces in the public debate and violate the basic principle of freedom of expression (The Star, 2009; Ufen, 2011). Thereby, they weaken the role of civil society as a challenger in the media arena and limit the function to communicate alternative opinions or interests.

A Powerless Civil Society in the Judicial Arena

Since the 1988 judicial crisis, the independence of the Malaysian judiciary has been compromised by numerous government actions aimed at undermining its powers and circumscribing its responsibility to protect, preserve and defend the Constitution from legislative and other pressures (Weiss, 2006, p. 124). Seeking to stem the tide of criticism, in the late 1990s, the UMNO leaders used the courts in an attempt to muzzle civil society critics.

To restore the independence and integrity of the judiciary, civic associations have called on the public to support judicial reforms such as the establishment of an Independent Judicial Commission. Consequently, the government launched a reform bill (Judicial Appointments Council) in December 2008. However, the reform is widely considered a public relations exercise because the Prime Minister did not yield its power to appoint superior court judges (Beh Lih Yi, 2008). Although High Court judges released dissidents who had been jailed under the ISA in the past and publicly criticized the government (Levitsky & Way, 2002, p. 57), the executive's prolonged influence on the judiciary hinders the judiciary's power to effectively challenge the government in the judicial arena.

With the role of the judiciary as a challenger being heavily restricted, civil society contestation of authoritarian manipulations in the judicial arena has remained quite ineffective. First of all, with Hakam and the Malaysian Bar Council, there are only two professional associations which could provide expertise for civic associations to develop reform proposals. Furthermore, the executive's influence on the judiciary, manifested in the appointment of government-loyal judges, minimized (though not eliminated, as we saw when the Federal Court overthrew the conviction of opposition leader Anwar Ibrahim in 2004) the potential threat that 'maverick' judges may cooperate with the civil society in order to challenge the government. Therefore, the judiciary does not offer civil society groups the possibility of successfully challenging the autocratic incumbents. Consequently, civil society efforts to fulfil the function to protect human rights and civil liberties remain subject to state's restriction due to the country's weakened judicial system.

Civil Society in the Legislative Arena: An Ambivalent Track Record

The outcome of civil society's efforts to challenge the elites in the legislative arena has been ambivalent. On several occasions, groups tried to influence Parliament in order to achieve better legislative protection of human rights and civil liberties. For example, pressure from civil society groups significantly contributed to the introduction of the

National Human Rights Commission (Suruhanjaya Hak Asasi Manusia Malaysia—Suhakam) in 1999. However, this has had little effect on the improvement of the human rights situation in Malaysia. For example, board members of Suhakam are appointed by the Yang di-Pertuan Agong, the elected monarch and head of the state, on the recommendation of the Prime Minister with the commission only being an advisor to the government (Weiss, 2003, p. 154). Consequently, the commission's propositions are often not implemented by the government, leading to criticism that the commission lacks independence and the demand for further reform (Yoong Pui Shen, 2010).

With the judicial arena as a place of contestation being eliminated, civil society focused its efforts on implementing judicial reforms in the legislative arena. Consequently, Aliran, which is the oldest and most outspoken human rights NGO in Malaysia, openly criticized the imprisonment of regime opponents under the ISA, and lobbied in the legislative arena for its abolishment. Although these efforts have been unsuccessful, Prime Minister Najib Abdul Razak announced in 2009 a plan to conduct a 'comprehensive review' of the ISA in his first address as the new Prime Minister (Malaysiakini, 2009a). Furthermore, 26 detainees under the ISA were released in April and May 2009, including the leading members of HINDRAF, the so-called 'HINDRAF five' (Kabir & Ghazali, 2009). Still, opportunities for civil society groups to advocate human rights in Malaysia remain restricted. Consequently, an anti-ISA demonstration—organized by civil society actors and opposition party members – was dispersed by police forces in Kuala Lumpur in August 2009 (Ghazali, 2009). In sum, civil society actors challenged the autocratic incumbents in the legislative arena in order to protect human rights and civil liberties and to implement judicial reforms. However, the government has thus far refused to yield ground.

Civil society's initiatives to mediate between the state and the non-state public realms in the legislative arena have been more successful over the last two decades. First, organizations such as AWAM, WAO and Sisters in Islam (SIS) influenced governmental policies and successfully lobbied for a Domestic Violence Act (DVA) in the 1990s (Mohamad, 2002, p. 233; Tan & Bishan, 1994). However, the DVA did not fully satisfy their demands, which is why many women's NGOs reacted with disappointment and demanded that further reforms be implemented.

Second, the non-governmental sector played an active role in environmental politics. NGOs such as the Environment Protection Society of Malaysia or Sahabat Alam Malaysia coordinated a public protest against the Tembeling Dam project in the 1980s, forcing the government to abandon the project (Kathirithamby-Wells, 2005, p. 326). In addition, the activists have worked closely with indigenous groups, giving voice to these often marginalized citizens, e.g. during their protest against the Bakun Dam project on Sarawak. In order to strengthen their activism on environmental issues, a coalition of Malaysian Environmental NGOs (MENGOs) was formed in 2001, counting 20 members as of today. Yet, MENGOs have to operate in a restricted legal framework with the government frequently ignoring their demands (Ramakrishna, 2003, 120ff.). Furthermore, if MENGOs' demands are not in compliance with government's policies, state institutions even suppress environmental activists and threaten to deregister government-critical MENGOs (Malaysiakini, 2009b).

These efforts to challenge the elites in the legislative arena pressurized the government to implement reforms, but they helped to stabilize the regime at the same time. On the one hand, civil society activists pursued political change related to environmental issues and women's rights and pressured the Malaysian parliament and the ruling elites to implement

modest reforms since the 1980s. On the other hand, the final path by which civil society activists pursued political change helped to stabilize the autocratic order because the demands were articulated within the institutional framework. This enabled the autocratic incumbents to react to these challenges; thus, the ruling elites could channel public protest. Furthermore, the political costs for the ruling elites to yield ground to civil society on these topics were rather moderate, because matching civil society's demands did not necessarily advance a normative shift in the government's policies.

In addition, more conservative Muslim associations supported the government in this arena of contestation, but unintentionally weakened the ruling coalition's cohesiveness at the same time. With regard to the implementation of religious policies, e.g. the Sharia law, Islamic associations cooperated with the ruling UMNO in order to accomplish their religious agenda (Freedman, 2009). Through the co-optation of parts of the Malay associations, the ruling coalition gained the support of the Muslim majority population which helped to stabilize the autocratic order. In general, Muslim associations have more influence on government's policies because of the government's perception of Malay-Muslim associations as 'vote-banks' (Hassan, 2003, p. 98). In addition, the conservative agenda of parts of the Muslim associations hindered the emergence of civic networks between secular and Islamic groups (Jomo & Cheek, 1992, pp. 85–86; Muzaffar, 1987, p. 33).

However, the alliance between these parts of the Malaysian civil society and the autocratic incumbents not only influenced the effectiveness of civil society activism, but subsequently weakened the ruling coalition. Due to the government's turn towards the Islamization of society and politics, the ethnic Chinese and Indian electorate refused to support the BN and decided to vote for the opposition parties instead, thereby shattering the coalition's electoral prospects and weakening the autocratic order.

Conclusions

Our analysis of the role of civil society groups in the four arenas of contestation demonstrates that policy advocacy in the legislative arena does not necessarily destabilize the autocratic order. As long as civil society activists articulate their demands within the institutional framework, this may unintentionally function as a feedback mechanism, thereby strengthening the autocratic regime. However, by fostering public debate, civil society activism may also challenge the Malaysian autocratic order, especially since the emergence of new communication channels which threaten the government's dominance of the media. The increasing contestation in the media arena must be viewed as one of the biggest concerns for the autocratic incumbents. Alternative sources of views and news have proven very important in circumventing the governing coalition's control of the print and broadcast media and in rallying the public's outrage at government's attempts to exploit events to divide civil societies along ethnic lines. In addition, the cooperation between civil society groups and the opposition parties, enhanced by new communication channels, directly challenges the autocratic regime and must currently be characterized as the biggest threat to the BN and the system of competitive authoritarianism in Malaysia.

Nevertheless, our analysis illustrated several limitations with regard to the role of civil society as a challenger to the autocratic incumbents. While the potential for cooperation with opposition parties in the electoral arena was evident in the last general elections, the small number of activists and the fact that some of the leading civil society activists

have become politicians may weaken the civic organizations and their functions. As such, the future prospects for successful cooperation between opposition parties and civic groups are uncertain. In addition, with some civil society organizations being weakened in their leadership, their leverage on the opposition parties may be decreasing. In addition, the heterogeneity of actors' interests within civil society apparently weakened the role of civil society as a challenger, with some civic organizations such as several Muslim groups even supporting the autocratic rulers.

Furthermore, our analysis demonstrates the dynamic development of civil society since independence and, especially, of NGOs and religious mass organizations since the 1970s. However, government leaders have been anything but neutral in their response to the rise of civil society indicated by the adoption of new repressive laws (e.g. the Universities & University Colleges Act in 1971) or the implementation of already existing laws such as the ISA.

Applying the concept of historical institutionalism, we started our case with the proposition that the composition and the functioning of Malaysian civil society are the outcome of the institutional configurations of the Malaysian state over the last five decades. In fact, our findings indicate that the institutional settings adopted during independence proved to be persistent and significantly influenced and structured actors' choices. Moreover, the analysis suggests that the inability to effectively challenge autocratic incumbents is largely related to the institutional settings in which civil society groups must act. The importance of ethnic identities, a result of the colonial plural society, was reflected in the constitutional settlements at independence and led to the structuring of civil society along ethnic lines. The institutional reproduction and persistence of ethnic identities, which weaken the functioning of civil society, can be observed until today and limit the role of civil society as a challenger in the four arenas of contestation. In addition, the ethnic schism separating civil society groups has often limited the effectiveness of broad-based coalitions such as *Reformasi*.

Furthermore, institutional configurations not only restricted the growth of broad-based civil society groups, but even offered incentives to actors not to join or to found civic associations. For example, large parts of the Chinese and Indian population saw the ruling Alliance as a stabilizer for their economic interests after independence (Case, 2001, pp. 44–45) and were supportive of the ruling elites—with the exception of their cultural policies—and thereby helped to reproduce the institutional order after independence. The same is true for the Malay parts of the middle class whose social advancement is due to the institutional settlements of the NEP. In addition, the institutional arrangements of the NEP not only satisfied the material demands of large parts of the Malay population, but also developed powerful pro-government actors who defended the institutional configurations of the NEP against any reform efforts. Consequently, the government had no incentives to leave the path taken after independence and reinforced with the implementation of the NEP. This institutional persistence goes hand in hand with the reproduction of cultural identities, which hampered the evolution of broad-based civil society groups. At the same time, these structural constraints became a power resource for the government leaders, which attempt to 'divide and conquer' civil society by attacking the government-critical parts of the civil society and by nurturing those actors who favoured the institutional order. As a reaction, civil society groups fostered close ties with opposition parties since the 1990s in order to challenge the autocratic incumbents. While not arguing that this cooperation does not pose a threat for the ruling elites, we want to emphasize that

opposition parties and civil society groups are exposed to the autocratic institutions which limit their role as challengers. This indicates that civil society does not flow freely and that emancipation from the social realities, e.g. the importance of ethnic identities, is more difficult than one might expect.

However, in 'authoritarian regimes with adjectives' such as Malaysia, the range of coercion that can be used in order to silence civil society is limited by the logic of co-optation and legitimation. Government actions to weaken civil society organizations often generate a backlash that impairs support for the government. For example, the government's political vengeance against the 'Parti Islam Se-Malaysia' (PAS) for winning control of the Terengganu state government in the 1999 elections created a public uproar against the government's attempt to use national security issues for narrow political gains and generated widespread sympathy for PAS (Martinez, 2001, p. 191). Civil society groups have managed to capitalize upon these backlashes and have shown signs of resilience and consolidation, especially in the case of the Barisan Alternatif. Yet, such moments of possible political change are not necessarily generated through civil society activism, but largely depend on political, social and economic factors that are external to civic associationism.

Notes

1. A concise overview of different conceptualizations of civil society is offered by Gosewinkel and Rucht (2004) and Heinrich (2005). They differentiated between conceptualizations of civil society as an intermediate realm between the private sphere, the market and the state. Other scholars define civil society more through its actions, that is, the orientation along a societal consensus. The understanding of civil society applied in this article fits into the first tradition.
2. Immigration of workers from India and China in the nineteenth and early twentieth centuries significantly changed the demographic composition in British Malaya. The number of ethnic Chinese rose to 1.7 million until 1931, with only 1.6 million Malays living in the territory during that period. At the time of independence, nearly half of the population belonged to either the ethnic Indian or Chinese minority (Means, 1970). In addition to cultural differences such as language and religious barriers, the population was divided along socio-economic cleavages. In 1970, with more than 70% of the ethnic Chinese and almost 50% of the ethnic Indian members of the middle or working class, only 30% of the *Bumiputera* belonged to one of the classes (Crouch, 1996, p. 185). Furthermore, ethnic Chinese entrepreneurs controlled a large part of the business sector.
3. Dongjiaozong consists of the United Chinese School Committees' Association and the United Chinese School Teachers' Association.

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