Politics in Malaysia

The Malay dimension

Edited by Edmund Terence Gomez

Politics in Malaysia

This book explores the contours of the contemporary landscape of Malaysian politics, focusing especially on politics among the majority ethnic Malay community. In particular, it explains why changes in patterns of political mobilisation and the rhetoric of the dominant parties – particularly the PAS and UMNO – have been so limited, despite the overt and growing dissatisfaction shown by Malaysians with the state of their political system and the ability of these parties to represent their interests. It considers the recent history of events and discourses within Malaysian society, and UMNO and PAS, in relation to important issues including human rights, law and democracy, gender and Islam. It then goes on to analyse why important transitions have occurred in society yet political parties have not adapted themselves to these changes and remained reticent about instituting meaningful reforms involving these matters. Overall, this book analyses some of the most pressing issues in contemporary Malaysian politics.

Edmund Terence Gomez is Research Coordinator at the United Nations Research Institute for Social Development (UNRISD). He also holds the post of Associate Professor at the Department of Administrative Studies and Politics, Faculty of Economics and Administration, University of Malaya, Kuala Lumpur.

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Preface and acknowledgements

This volume is based primarily on papers submitted at the Fourth International Malaysian Studies Conference, convened in August 2004 and organised by the Malaysian Social Science Association (MSSA). The primary objective of this biennial Malaysian Studies Conference is to bring together scholars, both local and international, working on Malaysia, for the purpose of academic exchange and interaction. This conference series also aims to analyse issues and problems relating to Malaysia – contemporary and historical.

More than a hundred academic papers were presented at this conference, covering topics in the disciplines of history, sociology, politics, economics, business and literature. From this wide range of papers, the executive committee of the MSSA decided to publish one volume based on Malaysian politics. Although a large volume of important new research on Malaysian politics was presented at the conference, the focus of this volume is on the issue of Malay politics, a topic that has not been analysed in depth for some time now. More importantly, the chapters in this volume provide important new insights into the state of Malay politics, specifically of the limited changes in the pattern of political mobilisation and rhetoric of parties claiming to represent the interests of this ethnic community.

Most of the chapters in this volume are based on ongoing research, while a special emphasis was made to include for publication research presently being undertaken by postgraduate students. In that sense, then, some of the contributors to this volume are 'new voices' in Malaysian politics, offering fresh insights based on original research. One primary reason for including these young academics in this volume is due to MSSA's endeavour to encourage them to publish their research as well as secure feedback on their work.

I am indebted to all the contributors for revising their original papers to conform with the major theme of this volume. Since it was our aim to produce an edited volume focusing specifically on the theme of Malay politics, I had to decline the offer by some participants at this conference to have their papers published in this volume. We thank these academics for their offer to publish their studies in this volume.

I would like to thank the executive committee of MSSA. The idea for this volume emerged from our discussions on how best to publish the papers presented at the Malaysian Studies conference. The members of this executive

committee played a major role in helping me identify the papers to be published in this book.

My colleagues at the Department of Administrative Studies and Politics at the Faculty of Economics in the University of Malaya also showed a keen interest in this volume. The department helped secure funding for some of the research that is published in this volume.

I am, of course, with the contributors to this volume, responsible for the views expressed in this volume.

Edmund Terence Gomez

Introduction

Resistance to change – Malay politics in Malaysia

Edmund Terence Gomez

From reformasi to BA

In September 1998, a major political upheaval known as the *reformasi*, or reformation, occurred in Malaysia. This upheaval arose out of the controversial dismissal of Anwar Ibrahim as deputy to the then prime minister Mahathir Mohamad. Anwar was also removed from his post as deputy president in the United Malays' National Organisation (UMNO), the hegemonic party in the multiparty ruling coalition, the *Barisan Nasional* (BN, or National Front). Not too long afterwards, Anwar was arrested and charged with sexual impropriety and corruption, allegations that many believe were levelled at him solely to remove him from public office. The reformasi initially involved random mass street demonstrations, but these protests were soon institutionalised with the formation of a multiparty opposition coalition, the *Barisan Alternatif* (BA, or Alternative Front). This coalition comprised the leading opposition parties, *Parti SeIslam Malaysia* (PAS, or Malaysian Islamic Party), the newly formed *Parti Keadilan Nasional* (National Justice Party), led by Anwar's wife Wan Azizah Wan Ismail, as well as the socialist-oriented, multi-ethnic Democratic Action Party (DAP).[1]

The reformasi movement has travelled down a long road since it erupted suddenly on the Malaysian political scene. This movement shocked politicians, in both government and opposition, and shook the foundations of Malaysia's long entrenched authoritarian system. As the crowds gathered and grew, and as unprecedented mass demonstrations persisted in spite of the use of force by the government to disperse them, even Anwar, the man whose abrupt fall from power precipitated the movement, was probably baffled, if not astonished, at the movement he had started.

The movement, correctly, went 'beyond Anwar', to use a now well-worn cliché, to focus on the need to promote justice and democracy in Malaysia. But while a similar reformasi in neighbouring Indonesia had managed to remove the long-standing authoritarian president Suharto from power, this movement in Malaysia failed to overthrow the resident ruler, Mahathir.[2] The reformasi did, however, manage to become a major site of resistance to Mahathir and his form of governance, badly tarnishing his reputation, locally and abroad. During the subsequent 1999 general elections, the BA severely undermined the UMNO's influence among the electorate, specifically rural-based economically impoverished Malays.[3]

The BA's capacity to draw support was attributed to the more inclusive form of politics it had propagated.[4] Among those who stood behind the BA were people from groups that hitherto had felt marginalised, including the young and women, as well as the Malay rural electorate and new middle class that was increasingly frustrated with wealth concentration and cronyism in government. Resistance to Mahathir also came from within the ranks of the UMNO, though for vested interests. As Anwar's supporters were now consigned to the margin, their prospects for moving up the party hierarchy were severely curtailed. Other members of this UMNO faction were also upset that Anwar's departure hindered their hopes of developing their own economic interests. However, although the UMNO was deeply divided following Anwar's ouster, there was no mass exodus from the party to the newly formed Keadilan. Many UMNO members were well aware that other ousted party leaders who had formed new opposition parties had not fared well. Some of them, including the very influential former finance minister, Tengku Razaleigh Hamzah, spent an unfruitful time – of nearly a decade – in the opposition, in alliance with PAS, only to return to the UMNO with his supporters in 1996.

In the case of PAS, the party was probably well aware that the reformasi slogans called for democracy and accountability, but not for the establishment of an Islamic state. As the party had been subject to a severe thrashing in the 1995 general elections,[5] and its former ally, Razaleigh, had abandoned the opposition for the UMNO, its president, the late Fadzil Noor, was astute enough to recognise that his party had a lot to gain from emerging as a part of a new opposition coalition. PAS had normally fared well in general elections that it contested in coalition with other opposition parties.[6] In view of PAS' influence in the Malay heartland and its well-oiled machinery, Fadzil was also aware that his party would be the dominant force in the new coalition even though the president of Keadilan, Wan Azizah, was installed as leader of the BA. The BA did not fare as well as it had hoped in the 1999 election, and the DAP withdrew from this coalition in 2001. But, the BA remained a formidable threat to the UMNO as PAS now appeared to be on the ascendancy in the Malay heartland, capturing control of two state governments and nearly unseating the UMNO in another.

On 1 November 2003, Mahathir retired from public office, handing the premiership to his chosen successor, Abdullah Ahmad Badawi. One credible reason for Mahathir's decision to retire was his fear that if he remained in office, the UMNO's stranglehold on power would have been seriously jeopardised given his declining support among rural Malays, long the party's traditional bastion of support. During the 2004 general elections, Abdullah led the BN to an extraordinary electoral victory where the ruling coalition secured more than 90 per cent of the seats in parliament, severely undermining the opposition and closing a long chapter in Malaysian political discourse on reformasi.

What was indisputable about the reformasi was that this movement was the most overt and unambiguous statement by a huge segment of Malaysian society that it wanted major and meaningful changes in the country's political system. The unanticipated rise of the reformasi would suggest that society was most

concerned about the authoritarian and unaccountable nature of the political system under a hegemonic UMNO. However, the considerable shift in support from the BA to the BN in the 2004 elections would suggest that even opposition parties, specifically PAS, the dominant member of the BA, were equally resistant to calls for a more open and inclusive political system. Both Malay-based parties continue to practice the kind of racial and religious-based politics that they had introduced and have now grown accustomed to, resisting calls for reforms. While the UMNO has clearly consolidated its position in power without instituting any major structural reforms after its 1999 electoral debacle, PAS was evicted from power in one state, Terengganu, and nearly lost control of another state government, in Kelantan, in 2004.

The objective of this study is to draw attention to this resistance by the leading Malay-based political parties to change, in spite of a clear call from society in Malaysia to be more receptive to key issues, such as gender reform and the promotion of a national identity, and to institute a form of governance that is more open and inclusive. Political parties in government appear to be caught in a time warp as far as these matters are concerned. The primary argument here is that the pattern of political mobilisation and the rhetoric of major opposition parties, that is PAS and DAP on the one hand, and the leading BN component parties – the UMNO, and its main ethnically based partners, the Malaysian Chinese Association (MCA) and the Malaysian Indian Congress (MIC) – on the other hand, have not changed in any appreciable form since the time they were established. All these parties continue to mobilise support along racial and religious lines, forms of mobilisation that are increasingly alien to large segments of society, given the class and generational transitions that Malaysians have undergone.

The focus of this volume, however, is on Malay politics. One important new issue in recent studies on Malaysian politics is the intra-ethnic divide that has emerged among Malays. This intra-ethnic divide has manifested itself primarily in voting patterns in rural, predominantly Malay-majority constituencies. There now appears to be a constant swing in votes between the UMNO and PAS among the rural Malay electorate, suggesting that neither party is seen by them as a viable option to represent their interests. One reason for this is that there have been no fundamental changes in outlook in both the UMNO and PAS on core matters, such as gender, religion, democracy and human rights since these parties were established. Non-Malays, especially those from the younger electorate, have concerns about issues such as 'identity politics', specifically the rise of a Malaysian identity, though this appears to be a predominantly urban middle-class phenomenon. The rise of new identities, an issue that remains to be seriously researched, has been recognised by government leaders including Mahathir and Abdullah who have talked about the need to create a more inclusive environment, or a *Bangsa Malaysia* (Malaysian nation). These two men are probably aware that the concept of *Bangsa Malaysia* is no longer mere rhetoric, though it was probably conceived as such by Mahathir,[7] but reflects a transition in society that they need to deal with vigilantly to retain support. For all their support for

a *Bangsa Malaysia*, however, the past and present UMNO presidents have had to contend with repeated arguments from UMNO members about the importance of *ketuanan Melayu* (Malay supremacy) and the continued need for policies that respect the indigeneity of the Bumiputeras.

Another aspect of this study is to draw out the complexity of the structure of the 'state' under the UMNO and PAS, which has now long held on to power in Kelantan. The studies in this volume will show that there are major differences of opinion between UMNO leaders, particularly those holding power at national level, and party members, including leaders at the state level, a serious problem given Malaysia's system of federalism. For example, recent statements by Mahathir and Abdullah indicate that they are aware that affirmative action is no longer of much benefit to the Malays. Before Mahathir stepped down as prime minister, he acknowledged that continued implementation of affirmative action, which was supposed to have ceased in 1990, had contributed to a 'crutch mentality', specifically among business people.[8] Mahathir even acknowledged that his concerted attempt to develop a new breed of privately owned Malay conglomerates through selective patronage and much protection had failed miserably, and that the only way to promote entrepreneurship was to expose businessmen to competition.[9] While Abdullah has concurred with Mahathir on this point, he has qualified his stand by arguing that affirmative action remains relevant because the income disparity between Malays and non-Malays has persisted. Abdullah went on to argue that the reason Malaysians were unhappy with this policy was not because they opposed affirmative action, but that they were dissatisfied with its pattern of implementation.[10]

These comments by Mahathir and Abdullah about affirmative action are significant because UMNO members have overtly opposed the idea that this policy should be discarded. UMNO members, having long benefited from the abuse of affirmative action for vested interests, were not interested in any reforms that would jeopardise their access to government concessions deployed along ethnic lines to rectify social ills.[11] This was particularly obvious when UMNO members made repeated calls for the retention of racial quotas for entry into universities and for preferential treatment during the award of government contracts.

To draw attention to this resistance by political parties to change, in spite of demands from society for major reforms, the contributors to this volume have adopted different research methods. This study includes an assessment of the history of events and discourses within the UMNO and PAS related to the themes of human rights, law and democracy, gender and Islam. Through these methodologies, involving an analysis of these themes from a historical perspective, attention will be drawn to the point that important transitions have occurred in society, but political parties have not adapted themselves to these changes. The nature and discourse of 'gender politics', for example, has not changed after more than five decades, in spite of the rhetoric of the UMNO to include more women in positions of authority within the party. The abuse of the law to deal with dissidents, inside and outside of the UMNO, has not changed, even though Mahathir has repeatedly insisted that he values and adheres to democracy, albeit an Asian form of democracy.[12] These chapters will indicate that while societal

attitude to key issues such as rule of law, accountability and respect for human rights and gender equality have evolved, the UMNO and PAS remain reticent about instituting meaningful reforms involving these matters.

Malay politics, coalition politics: contrasting the UMNO and PAS

Much of the character and constitution of Malaysian political parties is influenced by the multi-ethnic nature of its population. Of Malaysia's almost 25 million people in 2004, the *Bumiputera*[13] community accounted for 66.1 per cent of the population, while the Chinese constituted about 25.3 per cent and the Indians 7.4 per cent; the remaining 1.2 per cent was made up of other minor ethnic groups. One outcome of the multi-ethnic constitution of Malaysian society has been the establishment of political parties that are primarily ethnically based.

In May 1946, an assortment of Malay clubs, associations and political organisations merged to form the UMNO to oppose the Malayan Union. The Malayan Union was a proposal by the British colonial government to place under one government all the nine Malay states and the Straits Settlements of Penang and Malacca. Singapore, the other remaining Straits Settlement, was to be left out of the Union. The Malays renounced the Union as a British ploy to abolish the Malay Sultanate.[14]

Spearheaded by Malay aristocrats, the UMNO managed to marshal widespread opposition to the Union. The UMNO's key role in preventing the implementation of the Malayan Union made the party the leading political force in Malaya, particularly in rural areas. Even now, in the early 2000s, despite a membership totalling more than two million, making the mass-based UMNO the largest local political party, its bastion of support still remains the rural Malays.

In the immediate post-colonial period, Malaysia managed to avoid political instability with the institutionalisation of a Malay-dominated, yet ethnically inclusive, ruling coalition, the Alliance, comprising three race-based parties – the UMNO, the MCA and the MIC. When the Alliance was formed two years before Independence in 1957, the leaders were primarily concerned with capturing power – the aristocratic Malays were keen to secure political power, while the Chinese bourgeoisie leading the MCA wanted to preserve and enhance their economic base. The Alliance members did not share a common political ideology, while Brown has described the objectives of the UMNO, MCA and MIC as being based on 'ethnic ideologies'.[15] In view of the bourgeois orientation of these party leaders, ethno-populism has camouflaged class dominance. This has also enabled these parties to represent their leaders as ethnic patrons.[16]

After the race riots of 1969, the Alliance was enlarged and renamed the *Barisan Nasional* in 1974, but remained under the hegemony of the UMNO.[17] The UMNO secured hegemony over the enlarged coalition by diminishing the MCA's influence with the incorporation of parties that had Chinese support. Since Malaysian history has shown that a single multiracial party would be unable to secure broad-based support, the system of consociationalism offered by multiparty, multi-ethnic

coalitions – such as that on which the BN is structured – emerged as an effective means to consolidate the electoral support of the main ethnic communities.

This formula has, in the case of the BN, enabled it to draw support on the basis of both ethnicity and class. For example, by the early 1990s, the main bastion of support for the UMNO was still the peninsula's rural Malays and Sabah's rural Muslim Bumiputeras – the UMNO does not yet have a base in Sarawak. The MCA helped the BN to marshal urban, upper middle – and business – class Chinese support, while the MIC has consistently been successful in mobilising Indian working-class support. The multiracial *Gerakan Rakyat Malaysia* (Malaysian People's Movement) has been able to elicit the vote of large segments of the non-Malay middle class, which found itself uncomfortable with the pronounced ethnic politics of the MCA and the MIC, or the pronounced Chinese orientation of the opposition-based DAP. Yet, in view of the decision by these parties to join the BN and their support, both professed and implicit, for the policies of a government that endorses Malay hegemony, the Gerakan, MCA and MIC are not commonly perceived as representing the views or interests of the ethnic or class communities they claim to protect. Most of the electoral victories of the MCA, MIC and the Gerakan are usually credited to the UMNO's capacity to mobilise support, even during the 1995 general elections when all three parties performed well in urban constituencies that were traditionally the stronghold of the opposition.[18]

Under UMNO hegemony, policies such as the New Economic Policy (NEP), which introduced affirmative action, were implemented ostensibly to achieve the goal of equitable wealth distribution among ethnic communities.[19] The NEP, implemented from 1971, was a twenty-year plan to achieve national unity by 'eradicating poverty', regardless of race, and by 'restructuring society' so as to achieve inter-ethnic economic parity between the Bumiputera and the predominantly Chinese non-Bumiputeras.[20]

While implementation of affirmative action has appreciably improved the economic position of the Bumiputeras, the policy should also have ideally moved towards ending the 'racist' or ethnicised dimension of resource allocation by the government. This has not been the case for two reasons. First, affirmative action has proven to be an indispensable avenue through which the UMNO has managed to secure Malay support. Second, UMNO politicians have exploited resource allocation through the NEP to develop and consolidate their position in the party. UMNO members, inevitably, continue to argue for the need for affirmative action-like policies, on the grounds that economic differences still exist between communities, in spite of the emergence of an influential new Malay middle class.[21]

PAS, a breakaway UMNO faction, was formed in 1951 and is the main opposition party with the capacity to undermine the BN's influence among rural Malays.[22] As an Islamic-based party, PAS' membership is open to all Muslims. PAS was originally led by leaders of the left-leaning Malay Nationalist Party (MNP) and comprised primarily rural teachers. Its original objective was to secure mass rural-based Malay support through the propagation of a Malay

nationalist agenda.[23] In 1982, following a radical change of leadership, PAS began adopting a predominantly Islamic posture.

Currently, PAS' key leaders are Islamic-educated *ulama* (religious teachers) and the party's primary area of influence is limited to the Malay heartland states of Kelantan, Terengganu and (rural) Kedah. PAS first secured a majority in the Kelantan state legislature in the 1959 general elections and governed the state until 1978. PAS also clinched control of the Terengganu state government in 1959, but had to secede control of the state in 1961 following defections from the party to the UMNO. During the 1990 general elections, PAS swept back to power in Kelantan with the aid of the then newly established Malay party, *Parti Semangat '46* (Spirit of '46 Party) led by Razaleigh, the ex-UMNO prince from Kelantan. Razaleigh, a long-standing UMNO vice-president (and treasurer), had formed the opposition party in 1988 after being forced out of the ruling party by Mahathir. PAS' 1990 electoral performance in Terengganu also improved appreciably following its collaboration with Semangat through a coalition called *Angkatan Perpaduan Ummah* (APU, or Muslim Unity Movement).

Although PAS retained control of Kelantan in the 1995 general elections, and obtained a marginal increase in its support in Terengganu and Kedah, its continued emphasis on implementing an Islamic state had meant that the party's influence in the west coast of the peninsula and in Sabah and Sarawak was scant, even among Muslim Bumiputeras. Its aim of achieving power at the federal level was further undermined when Semangat, which had fared miserably in this federal election, ceased operations and its members returned to the UMNO.

Among opposition parties, PAS has the most strongly defined objective. As a party motivated by Islam, PAS is principally devoted to the formation of an Islamic state in Malaysia. Accordingly, it espouses policies and ideas that are rooted in Islam. Adopting this preponderant Islamic posture, PAS has been offering Malaysians, Muslim *Bumiputeras* in particular, a vision of a society reformed through legislation based on religious tenets. The establishment of an Islamic state, according to the party, will bring about spiritual regeneration and lead to the development of a more just, democratic, moral, principled and socially conscious society, devoid of repressive legislation and unhealthy economic activities such as gambling. For PAS, its ideas and motivations stem from Islam, as the party perceives it. Democratic ideals, the party believes, are acceptable only within a secular context because they would automatically feature in an Islamic theocratic state, as this system is inherently just. Yet, it has been observed that PAS will, in all likelihood, reject the concepts of majority rule and individual choice because the former can permit the implementation of morally wrong tenets while the latter embodies the assumption that individuals are all-knowing.[24]

Most urban-based Malaysians, including many Muslims, find PAS' policies, particularly its social policies, profoundly rigid and inflexible. For example, in view of PAS' strict interpretation of Islam, the party has denounced as evil not just the numerous forms of Western culture adopted by Malaysians, such as music, dance and fashion, but has also seen it fit to ban in Kelantan any performance of the *joget*, a traditional Malay dance. Nevertheless, the party believes it

has been able to muster the support of rural Malays through active propagation of its conviction that religion and politics are inseparable in Islam and that religion should be thought of as a world view, a value system, a code of ethics, even as ideology. The reason for PAS' strong influence is partly due to its leaders rigorous Islamic training, some graduates of the esteemed Al-Azhar University in Cairo. The party's current leadership comprises many *ulama*, including Nik Aziz Nik Mat, the leader of the Kelantan state government and one of the state's most respected religious teachers.

In the Malay heartland, especially in Kelantan and Terengganu, PAS has consistently enjoyed staunch support, estimated at 35–40 per cent of the electorate.[25] PAS' collaboration with Semangat, and later Keadilan, enabled it to mobilise sufficient support to secure control of the Kelantan state legislature in 1990 and retain control of it in the general elections in 1995, 1999 and 2004. A review of electoral trends in the Malay heartland between 1990 and 2004 would help indicate this consistent support that PAS has been able to maintain, while also indicating the swing in support by people in this region between the Islamic party and the UMNO.

Electoral trends in Malay heartland[26]

During the 2004 elections, the BN secured a massive victory, winning 199 of the 219 parliamentary seats and 453 of the 504 state assembly seats under contest. In the previous election in 1999, the BN had lost more than double the number of these constituencies, that is 42 parliamentary seats and 113 seats in the state legislatures. The BN had recorded its best ever performance in terms of victory in contests in parliamentary constituencies in 2004 by capturing about 91 per cent of these seats, up from 75 per cent in 1999. In terms of popular support, however, the BN secured 64.4 per cent of the vote, still moderately less than the 65 per cent of the vote it secured during the 1995 general elections.

In 2004, the opposition collectively obtained a respectable 35.36 per cent of the popular vote – PAS secured 15.14 per cent, Keadilan 8.27 per cent, the DAP 9.78 per cent and independent candidates 2.17 per cent. The BN recaptured control of the state government of Terengganu, very narrowly lost the opportunity to regain power in Kelantan and improved its electoral performance in Kedah, Pahang and Perlis, states into which PAS had made significant inroads in the previous general election.

Table I.1 indicates the share of votes secured by the BN during the 1990, 1995, 1999 and 2004 general elections in Bumiputera-majority areas in the Malay heartland states of Kelantan, Terengganu and Kedah. In the 31 parliamentary seats listed in Table I.1, Malays constitute 80 per cent or more of the electorate. During the 1995 general elections, when the BN secured its best ever electoral victory, Table I.1 indicates that between 1990 and 1995, Malay support in Kedah and Terengganu for the UMNO had begun to slump. This loss of Malay support in Kedah and Terengganu had occurred even though, between 1990 and 1995, the Malaysian economy had experienced a massive boom and during this period

Table I.1 Difference in support for the BN in Bumiputera-majority parliamentary constituencies in the 1990, 1995, 1999 and 2004 general elections (in percentages)

State	*1990*	*1995*	*Difference*	*1999*	*Difference*	*2004*	*Difference*
Kedah							
Baling	61.4	55.7	−5.7	48.0	−7.7	53.5	5.5
Sik	59.4	53.6	−5.8	49.0	−4.6	50.5	1.5
Jerlun	59.5	53.9	−5.6	49.0	−4.9	52.9	3.9
Padang Terap	58.4	54.4	−4.0	48.0	−6.4	53.9	5.9
Pendang	52.9	51.0	−1.9	46.0	−5.0	49.9	3.9
Yan	57.2	55.7	−1.5	50.0	−5.7		
Kubang Pasu	75.4	74.2	−1.2	65.0	−9.2	67.3	2.3
Kuala Kedah	52.8	52.3	−0.5	49.0	−3.3	58.1	9.1
Pokok Sena	53.8	54.0	0.2	46.0	−8.0	56.9	10.9
Terengganu							
Kemaman	62.9	57.6	−5.0	48.0	−9.6	63.9	15.9
Kuala Nerus	53.6	51.5	−2.1	40.0	−11.5	54.5	14.5
Dungun	54.0	50.5	−3.5	39.0	−11.5	55.1	16.1
Marang	48.2	47.6	−0.6	37.0	−10.6	50.1	13.1
Hulu Terengganu	53.1	52.5	−0.6	43.0	−10.1	59.7	16.7
Setiu	55.7	55.5	−0.2	46.0	−9.5	58.5	12.5
Besut	50.4	54.6	4.2	45.0	−9.6	59.7	14.7
Kuala Terengganu	45.3	53.5	8.2	35.0	−18.5	51.6	16.6
Kelantan							
Tumpat	33.1	46.1	13.0	35.0	−11.1	48.3	13.3
Pengkalan Chepa	26.1	29.6	3.5	25.0	−4.6	41.1	16.1
Rantau Panjang	38.1	40.4	2.3	36.0	−4.4	48.8	12.8
Bachok	32.8	42.0	9.2	38.0	−4.0	53.5	15.5
Kuala Krai	30.8	42.5	11.7	43.0	0.5	53.4	10.4
Kota Baru	29.3	41.6	12.3	38.0	−3.6	51.9	13.9
Pasir Mas	33.9	44.3	10.4	39.0	−5.3	40.7	1.7
Tanah Merah	33.7	46.9	13.2	43.0	−3.9	54.3	11.3
Pasir Puteh	35.0	44.1	9.1	40.0	−4.1	46.2	6.2
Machang	32.6	43.4	10.8	40.0	−3.4	50.2	10.2
Peringat	35.3	50.5	15.2	43.0	−7.5	—	—
Gua Musang	22.7	21.9	−0.8	56.0	34.1	66.1	10.1
Jeli[a]	—	51.1	—	49.0	−2.1	63.8	14.8
Kubang Kerian[a]	—	33.5	—	27.0	−6.5	42.4	15.4

Note
a New seats in the 1995 general elections.

the opposition coalition, APU, comprising PAS and Semangat, had begun to encounter serious problems. In 1999, compared with the 1995 elections, the BN gained more electoral support in only two of these 31 seats, indicating a further and serious erosion of Malay support. Both these seats where the BN registered an improved performance were in Kelantan, one of which was retained by Razaleigh, who had returned to the UMNO fold. Razaleigh's seat was the only parliamentary constituency in Kelantan won by the BN.

In 1999, of all the 58 parliamentary constituencies where the UMNO faced a direct fight with a candidate from PAS, the BN won only four more seats than

the opposition. The UMNO barely secured 51 per cent of the popular vote in these 58 parliamentary seats. A majority of the contests between members from PAS and the UMNO were in parliamentary constituencies in the Malay heartland.

In spite of this decline in support in the Malay heartland after the 1995 elections, Mahathir did little to address the economic and social concerns of rural Bumiputeras. For this reason, it is probable that the BN would have faced further erosion of Malay support in many of these Bumiputera-majority constituencies in 1999 even if Anwar had not been sacked as deputy prime minister. Undoubtedly, however, the manner in which Anwar, who had presented himself as having a more populist orientation, was dismissed, contributed to the scale of Malay swing against the UMNO, specifically in Terengganu and Kedah. It is also probable that discontent among the UMNO grassroots over Anwar's dismissal and the choice of party candidates for this general election contributed to the party's poor performance in Kedah and Terengganu. Prior to the 1999 election, PAS had no parliamentary seats in Kedah and only one in Terengganu (down from two in 1990).

Of the 104 parliamentary seats that the UMNO contested in the 1999 election, the party secured victory in only about 69 per cent of these constituencies, that is 72 seats. In the 1995 election, the UMNO had won 89, or 87 per cent, of the 102 parliamentary seats it contested. This was the first time in the UMNO's history that the party commanded less than half the total number of seats in parliament, seriously undermining Mahathir's hegemony over the BN and the government.

In Kedah, the fall in electoral support for the BN between 1995 and 1999 was by more than 4 percentage points in all but one of the nine Bumiputera-majority parliamentary seats. Although the BN retained control of Kedah in the state-level elections, PAS won eight of Kedah's parliamentary seats compared with the UMNO's victory in only five of the 13 constituencies it contested.[27] In the state-level election, however, the BN component parties managed to retain 24 seats, while PAS won in all the other 12 state constituencies. The UMNO won 16 of the 28 state seats it contested in Kedah. The largest decline in support for the BN was in Mahathir's Kubang Pasu constituency, where a fall of nearly 11 percentage points between 1990 and 1999 had been registered. Although the UMNO lost to PAS in seven of these nine Bumiputera-majority seats, the margin of support the BN secured was between 46 and 49 percentage points, suggesting that a small swing was sufficient for the ruling coalition to wrest control of these seats in subsequent elections.

During the 2004 general elections, following Mahathir's departure as prime minister, the BN recorded an increase in support in all nine constituencies, and secured control of all but one of the Malay-majority parliamentary seats in Kedah. The swing in support to the UMNO increased appreciably, ranging from 10.9 percentage points (in Pokok Sena) to 1.5 percentage points (in Sik). However, in all but one seat, the UMNO secured less than 58 per cent of the popular vote, and in five of these constituencies, the BN support was less than 54 per cent. This suggested that a small swing in favour of the opposition in the next election would be sufficient for it to again undermine the UMNO's

territorial gains in the 2004 election. In all these Malay-majority parliamentary seats in Kedah, the BN's main opposition was PAS, indicating that the Islamic party remains an influential force in Kedah.

In Terengganu, diminished Malay electoral support for the BN between 1990 and 1999 was even more striking, with an almost double-digit percentage point fall in support in all constituencies, contributing to the BN's loss of control of the state to PAS in the 1999 general elections. In 1999, the UMNO did not win any of the eight parliamentary seats it contested in Terengganu. Of the 31 state seats in Terengganu that the UMNO contested, the party won in only four constituencies.

In the Dungun parliamentary constituency, the fall in support for the BN between 1990 and 1999 was a massive 15 percentage points, while in Kemaman it was 14.6 percentage points, Kuala Nerus 13.6 percentage points, Marang 11.2 percentage points, Hulu Terengganu 10.7 percentage points and Setiu 9.7 percentage points. During the 1999 elections, in the constituency of Kuala Terengganu, the fall in support for BN that year was a colossal 18.5 percentage points! In six of these eight constituencies, the BN's level of support was less than 45 per cent of the popular vote, suggesting then that the UMNO faced an uphill struggle to regain control of the state government in Terengganu in the next election.

For this reason, the BN's capture of the Terengganu state government during the 2004 elections was an extraordinary achievement. The swing in support from the opposition to the BN in all parliamentary seats was in double-digit figures, ranging from 16.7 percentage points (in Hulu Terengganu) to 12.5 percentage points (in Setiu). However, in four of these eight seats, the BN's margin of victory was less than 5 percentage points, again suggesting that while the BN had recovered much ground, the UMNO could still lose support in future if the government it now leads does not deliver on its pledges.

The BN's performance was almost as impressive in PAS' stronghold of Kelantan as it was in Terengganu in 2004. A comparison, however, of the voting trends in Kelantan during the elections in 1999 and 1990 (when the UMNO failed to win a single parliamentary and state seat) indicates that, in a majority of the state's parliamentary seats, the proportion of Malay support for the BN was higher in 1999. The BN secured two seats in the state-level election in 1999. During the 2004 elections, the BN further improved its performance, registering an increase in support in all parliamentary constituencies in Kelantan. In 11 of the 13 parliamentary seats under review, the increase in support was in double-digit figures. The percentage point increase ranged from 16.1 (in Pengkalan Chepa) to 10.1 (in Gua Musang), to 6.2 (Pasir Puteh). In only one constituency, Pasir Mas, was the margin of increase of support below 5 percentage points, that is a mere 1.7.

Table I.1 also indicates that during the period 1990 and 1995, the UMNO had managed to regain lost ground (following the emergence of Semangat which had helped PAS secure control of Kelantan in 1990). In 1999, however, in spite of the return of Razaleigh to the UMNO, but following the Anwar debacle that undermined Mahathir's legitimacy, the BN again registered a loss of support in all but two constituencies, Bachok (0.5 percentage point increase)

and Gua Musang (a massive 34.1 percentage point increase); Gua Musang is Razaleigh's constituency. In 1999, the BN's level of popular support in 12 of the 14 parliamentary constituencies was between a mere 25 per cent and 43 per cent. Under these circumstances, the BN's victory in seven of the 13 constituencies in 2004 suggested a major return of support for the UMNO. However, in all but two of these seven constituencies won by the BN, the margin of victory was by less than 5 percentage points, again suggesting that the UMNO's position in Kelantan was still quite tenuous.

PAS' performance in 2004, in terms of seats in the new parliament, was dismal, dropping from 27 to a mere seven, a severe regression for a party seemingly on the rise. Six of these victories were recorded in Kelantan, the remaining one in Kedah. PAS failed to win a single parliamentary seat in Terengganu, a major reversal of its fortunes compared with 1999 when the party denied the BN representation in any of the eight constituencies in this state. The Islamic party was not able to win a single seat in Perlis, Selangor and Pahang, states in which PAS was reputed to be growing in influence.

The results for PAS were similarly dire in the state-level elections. While the Islamic party had 98 state seats going into the 2004 elections, its total was reduced appreciably to a mere 36 when the results were declared. Although PAS had the largest number of seats among the opposition, 24 of these victories were in Kelantan. Of the remaining 12 seats under PAS, five were in Kedah, four in Terengganu and one each in Perlis, Penang and Johor. The victory in Johor was by default when the BN's nomination papers were rejected on technical grounds. Following the 1999 elections, PAS had 41 state seats in Kelantan, 28 in Terengganu, 12 in Kedah and three in Perlis. The party was not able to secure any representation in Pahang, where it had control of six seats going into the election, in Selangor, where it had four assemblymen after the 1999 state elections or in Perak where it previously had three representatives in the state assembly. In Kelantan, of the 24 seats won by PAS, in five of these constituencies, BN was narrowly defeated by razor thin majorities of less than 100 votes. In seven other constituencies, PAS' margin of victory was by less than 1,000 votes. According to one estimate, PAS' support in the Malay heartland fell by about 11 percentage points between 1999 and 2004, from 56 per cent to 45 per cent.[28]

PAS' partner in the BA in the 2004 election, Keadilan, another party reputedly with substantial Malay support, fared the worst among the leading opposition parties, winning – very narrowly – just one of the 58 parliamentary seats it contested, that is Permatang Pauh, formerly held by Anwar and represented by his wife and Keadilan president, Wan Azizah. The party did not win any of the 121 state seats it contested. Following the 1999 elections, Keadilan had five representatives in parliament and control of four state seats. Keadilan managed to reduce the BN's support in only one parliamentary seat, the Chinese-majority constituency of Alor Setar in Kedah, but even here the percentage point decline was a mere 0.8. This suggested that in Chinese-majority constituencies, Keadilan, probably because of its partnership with PAS, was facing much difficulty garnering support.

Keadilan recorded an appreciable decline in support in urban middle-class areas such as PJ Selatan, where the party expected to be received more favourably. In this constituency, although the Keadilan's candidate was a senior party leader and a prominent human rights lawyer, the party's decline in support was by nearly 13 percentage points compared with 1999. In the last election, the BA had managed to reduce the BN's majority by nearly 8 percentage points in this constituency.

The situation was similarly dire for Keadilan in other urban constituencies such as Bayan Baru and Nibong Tebal in Penang where the decline in support was by 15.6 and 12.9 percentage points respectively; in Gopeng and Lumut in Perak by 8.3 and 12.7 percentage points respectively; and in Gelang Patah in Johor by 7.5 percentage points. Keadilan had, however, contested primarily in constituencies that could be considered 'mixed' areas, seats normally retained by the BN with ease.[29] Among Kuala Lumpur's large middle-class population, where the BA, particularly Keadilan, was thought to have some backing, the party was unable to secure substantial support, losing all the seats in the city area that it contested. The 2004 elections results suggested that Keadilan had lost much of the urban middle-class electorate – and the non-Bumiputera community – support that it had secured in 1999.

Following the 2004 general elections, Keadilan leaders blamed PAS, and the latter's stand on promoting an Islamic state in Malaysia, for its disastrous showing in the polls. According to Abdul Razak Ahmad, Keadilan's Johor leader, 'They (PAS) failed to see that Malaysia is a multi-racial country and they would frighten people, including the Muslims in Johor who are a moderate group of believers'.[30] Razak also attributed Keadilan's poor performance to the dissipation of the '*reformasi* spirit' and the disunity among the opposition, drawing specific attention to the departure of the DAP from the BA.[31]

The 2004 electoral trends reflect a number of pertinent issues. First, the results suggest that the BA does not appear to be a viable alternative to many Malaysians, an issue that became apparent following the 1999 elections.[32] While analysts of the 1999 elections had argued that the 'split' among the Malays had contributed to the UMNO's loss of Bumiputera support to PAS in the economically less-developed Malay heartland, the BN maintained the community's support in the southern states of the peninsula. Although this indicated intra-ethnic Malay class dichotomies, the 2004 results also suggest that the BA, and the ostensibly multi-racial Keadilan in particular, could not muster support in more economically developed mixed constituencies.

Second, Keadilan's almost total rejection, PAS' abysmal performance and the DAP's negligible increase in support despite its withdrawal from the BA – the party secured one additional parliamentary seat in 2004 compared with 1999 – suggests that the opposition is a spent force. However, the results in the Malay heartland indicate that the Islamic party retains some influence. The electoral trends since 1990 reveal that PAS has persistently had about 40 per cent of support in the Malay heartland. A small swing in support is sufficient to allow the BA to regain a dominant presence in Terengganu, re-establish its control in

Kelantan and increase its number of seats in the rest of the Malay heartland. In fact, the 2004 results indicate that PAS' share of popular support had increased by 0.8 percentage points, to 15.8 per cent, compared with 1999,[33] suggesting that the Islamic party remained a serious threat to the UMNO. Even though the BN secured control of about 90 per cent of the seats in parliament, the UMNO's support in the Malay heartland amounted to only 55 per cent,[34] further indicating that a modest swing would be sufficient for the opposition to undermine the ruling coalition's electoral gains in 2004.

However, while PAS remains the main opposition to the UMNO, the electoral trends over the past 15 years suggest that the Islamic party did not gain ground over the BN because of its Islamic stance. PAS' national influence is limited, and it is unable to record electoral gains outside of the Malay world – the party secured a state seat in Johor for the first time in its history by default. Apart from promoting in multiracial Malaysia a system of governance that is hardly inclusive, PAS has reputedly alienated, through its rather conservative policies, two important groups – women and youth. According to one estimate of the voting pattern of the new 800,000 new predominantly young voters, a majority of them supported the BN. One prominent PAS leader, Haron Din, was quoted, as saying, 'I would say that from the early reading of the results, we did not get as many new voters as BN.' [35] The UMNO, probably recognising the alienation of women by PAS, had moved effectively to cultivate the support of this group, including by establishing a new government ministry of women and family development to promote, among other things, gender equality, and by fielding more women candidates in the 2004 elections.

Of the 55 women candidates that the BN fielded in parliamentary and state seats, 49 of them secured victory. Of these 55 women candidates 35 were UMNO members, and only four of them failed to secure victory; one lost by default. In the opposition, however, of the 38 women candidates fielded, only seven won in these contests. Of the 15 women candidates fielded by Keadilan only one won, while just two of the ten PAS candidates fielded secured victories, both in Kelantan. This was the first time since 1969 that PAS has fielded women candidates. The DAP fared much better with four of the nine women candidates it fielded winning seats.[36] In urban areas contested by BN women candidates, usually taking on Keadilan, the BA fared very poorly. In Gelang Patah (in Johor), in Ampang (Selangor), and in Lembah Pantai (in the KL Federal Territory), the BN's margin of victory was huge – of approximately 31,600, 15,000 and 14,000 votes, respectively. All the ten women candidates fielded by the BN in the Selangor state election won their seats with comfortable majorities.[37] Meanwhile, prominent BA women candidates fared poorly. The PAS' women's wing deputy president, Lo' Lo' Mohamed Ghazali, lost her bid to win the Bukit Gantang parliamentary seat in Perak while the Keadilan president, Wan Azizah, was nearly unseated in her Permatang Pauh constituency in Penang.

The voting trends in 2004 – and in 1999 – suggest important developments in Malaysian society that have not been adequately addressed by the BN and the opposition, though there is increasing recognition by politicians of demographic

changes and the need to respond to these new trends. Most political parties in Malaysia have, for example, acknowledged the importance of securing and maintaining the support of the young. After the 1999 elections, among the BN component parties, the UMNO and MIC responded to the issue of limited youth support by establishing *Puteri* (young women) wings. The leaders of the BN Chinese-based parties, the MCA and Gerakan, have acknowledged that they have faced much difficulty getting young Malaysians to join their parties. Following the 2004 elections, these two parties announced that they would commence talks about a merger, even considering the possibility of evolving into a multiracial party, though there was no evidence of much progress in these discussions by the end of 2006.

Structure of volume

The subsequent chapters in this volume will deal with four major topics, law and governance, human rights, gender and Islam. The final chapter provides an analysis of the 2004 general elections, with a particular emphasis on these four themes. The primary objective of these four thematic chapters is to highlight the resistance by the key Malay parties, the UMNO and PAS, to institute reforms involving these four issues. The final chapter indicates how the electoral voting trends suggest that the voters are sending a message to the politicians that the time has come for real change.

In Chapter 1, Marzuki Mohamad provides a historical profile of the issue of law and legal coercion in the UMNO and Malaysia. His primary objective is to indicate how the law is used by the government as a tool of political control, to contain or restrain dissent within and outside the UMNO. His analysis provides insights into two important issues. First, Marzuki shows how those within the UMNO who stand up to the party leader can be victimised. The law has been used on a number of occasions against prominent UMNO leaders, including Aziz Ishak in the 1960s, Abdullah Ahmad and Abdullah Majid in the 1970s, Razaleigh Hamzah in the 1980s and Anwar Ibrahim in the 1990s. The case studies on Aziz and Anwar reveal that UMNO leaders who take a different viewpoint from the party president can be subjected to the laws promulgated to act primarily against non-party dissidents.

On the other hand, Marzuki also indicates how party members can come to have significant influence on the actions of the prime minister and party president. A change of leadership in the UMNO can have a profound impact on the position of different factions. For example, the rapid ascent of Abdullah Ahmad and Abdullah Majid in the early 1970s was stymied by the sudden demise of Tun Razak in 1976. The subsequent case made against the two Abdullahs was an attempt by UMNO members to show how powerful factions and ambitious leaders in the party can turn on their opponents to ensure vested interests are protected.

The case studies on Razaleigh and Anwar call attention to the growing distance between the party president and grassroots members. While the president, in this

case Mahathir, may have had a developmental plan for Malaysia, it was evidently not a vision shared by party members or even his own colleagues in cabinet. Mahathir's plan of selective patronage to develop Bumiputera capital, employing also privatisation, was not received well by UMNO members who felt that these policies were only of benefit to a well-connected elite. Led by Razaleigh, a large segment of Mahathir's cabinet, as well as a huge section of the UMNO, challenged his leadership of the party. Anwar's problems with Mahathir – and the reformasi, led by an UMNO faction – stemmed, in part, from his opposition to government bail-outs of well-connected businessmen following the currency crisis in 1997. In both cases involving Razaleigh and Anwar, the UMNO president used the law and legal institutions to effectively check attempts by party members to undermine his position. In effect, Marzuki's study helps trace the growing centralisation of power in the office of the executive, which was well deployed to consolidate the UMNO president's position even though his influence over party members had diminished considerably.

Chapter 2, by Carolina López C., traces the history of human rights activism in Malaysia. López focuses on how the government responded to this activism, including adopting a number of different methods to deal with calls from civil society to respect human rights. From the 1960s until the late 1980s, the government dealt with human rights activism punitively, by resorting to draconian legislation such as the Internal Security Act (ISA) to detain activists without trial. López points out that there have been phases of ups and downs involving such activism, with the 1970s as a key decade when a number of new human rights organisations emerged. The mid-1980s, however, was a time when the activities of these groups were heavily curtailed, and when many of their leaders were detained without trial for long periods. Their detention and the government's use of draconian measures to deal with human rights activists led to a period of decline in social activism. In the 1990s, specifically during the reformasi, NGOs involved in human rights emerged as a major force, driving the reform movement and working in coalition, for the first time, with opposition parties, even participating in new multi-body institutions to promote human rights in the country.

During the early 1990s, as democracy spread through East and Southeast Asia, the BN government began adopting more nuanced methods to rebuff calls to implement laws respecting human rights. Mahathir, along with his counterparts in Singapore and Indonesia, who had developed their economies well but had yet to democratise their political system, articulated a new form of democracy, one ostensibly based on 'Asian values'. This discourse on Asian values by these leaders dithered during the 1997 currency crisis and was eventually discredited during the reformasi. Subsequently, the government resorted to establishing seemingly independent institutions responsible for monitoring human rights abuses in Malaysia. These institutions helped give the government a veneer of credibility, indicating that it was concerned about the promotion of human rights.

López's study draws our attention to another important point. There were segments in Malaysian society, deeply involved in NGOs, who also subscribed to the government's 'relativist' position on human rights. While her analysis reveals

the complex framework of Malaysian society, López also argues that regardless of the relativist or universalist position adopted by these NGOs, they were genuinely concerned with promoting the well-being of Malaysian society. The UMNO, on the other hand, was primarily motivated by the need to maintain power in government as well as defend its actions involving the abuse of human rights.

Through her historical study of the activism and discourse on human rights, López reveals how the UMNO has not progressed very much in terms of fundamental structural change to allow for greater democratic space in Malaysia. While the new Abdullah government has promised much in terms of creating room for open discussion on the problems within the state and society in Malaysia, there has been, to date, no attempt to repeal draconian legislation such as the ISA, the Printing Presses & Publication Act and the University and University Colleges Act (UUCA), to name but a few. The main newspapers remain under the control of the well-connected and publishing licences have to be renewed on an annual basis, thus hindering attempts by the press to develop independent analyses of social and political issues.

In Chapter 3, Helen Ting provides an in-depth historical analysis of gender relations and discourses within the UMNO and PAS, from the time these parties were established. Ting reveals how both parties have a women's wing, an institutionalised apparatus through which their voice, long on the margin, could be brought to the centre and be heard. However, her study reveals that in both parties, the women's wings could not function effectively as lobby groups to promote the welfare of women. The subservience of women in these parties, even senior leaders of the women's wing, to the male-dominated hierarchy is well-captured in her analysis of the marginalisation of dominant women politicians, one of whom, Khadijah Sidek, served in both the UMNO and PAS.

In more recent times, the UMNO and PAS have come to recognise the importance of securing the votes of women – and the young – in order to secure victory in electoral contests. Both parties have moved to accommodate women, with the UMNO even establishing the *UMNO Puteri*, a new wing to enlist women below the age of 40 as members. A new ministry was also established after the 1999 general election to focus on the needs of women and the family. While women are now seen to play a dominant role in the UMNO, as members of the party's Supreme Council as well as Cabinet members in federal and state governments, Ting points out that at the local level, women are still not recognised as people who can play a leadership role in the party. No women, for example, serve as chairperson of any of the UMNO state liaison committees, meaning they play no role as party leader of the individual states. No woman has ever served as *Mentri Besar* (chief minister) of any state in Malaysia. Currently, only one woman leads an UMNO division, a further indication of the minimal role for women as leaders at the grassroots level.

The situation involving gender equality in PAS, as Ting shows, is no better in terms of incorporating women into leadership and meaningful decision-making positions. Ting argues that both parties recognise that votes from the women cohort can swing electoral contests in their favour, but it is the UMNO that has

gone on a publicity blitz to portray the idea that gender matters to the party. In reality, however, the nature of the debates in parliament by UMNO members on topics involving women's rights indicate that the party remains insensitive to the issue of gender inequality.

In Chapter 4, Liew Chin Tong traces the history of PAS' handling of the concept of an Islamic state, a vision the party has long espoused for Malaysia. Although the establishment of an Islamic state in Malaysia is a central objective of the party, PAS had not tried to define this concept, probably – and primarily – because it was an issue that was bound to create dissension among not just non-Muslims but also among Muslims. In spite of this, when challenged by Mahathir to outline explicitly how an Islamic state would function in Malaysia, PAS responded by working on a blueprint to define this concept. This blueprint came to divide the party.

Liew's central argument is that PAS is divided into two major factions, which he calls the 'purists' and the 'mainstreamers'. The mainstreamers are pragmatic politicians who recognise the potentially explosive and divisive impact the Islamic state concept can have on a multiracial society. The purists, wanting to remain true to their Islamic vision for Malaysia, refuse to compromise on 'diluting' or structuring their definition to accommodate the interests of non-Muslims. This difference in opinion seriously undermined unity in the party, and when the purists eventually managed to gain a stranglehold on the issue, the blueprint caused a deep fracture in the BA, between the Islamic party and its main partner, the multiracial Keadilan. Prior to this, even before the blueprint was prepared, the DAP had departed the BA, damaging the prospects of the opposition to secure power at federal level. During the 2004 general elections, PAS was shockingly rejected in the Malay heartland, where it was expected to make greater inroads. The election results suggested that the electorate had rejected PAS over an issue that the purists had thought would win the party more support. In fact, the election results also suggested that the establishment of an Islamic state was not a primary concern of Muslims in Malaysia.

Liew's method of an in-depth analysis of the preparation of the Islamic state blueprint helps provide an insightful view of the factionalism within PAS. His analysis suggests that PAS, under the *ulama*, appears out of touch with society, while its arguments about the nature of an Islamic state in Malaysia laid bare the non-inclusive form of governance they hoped to implement.

In Chapter 5, Khadijah Khalid provides a comprehensive analysis of the results of the 2004 general elections, looking specifically at the theme of Islam, though also providing some comparative analysis of voting trends in the 1999 general elections. Khadijah's main contention is that the theme of Islam was portrayed by the media and the leading Malay-based parties as the dominant issue in this general election. The electoral trends indicate, however, that the manner of propagation and practice of Islam by the UMNO and PAS does not help explain how Muslim Malaysians cast their votes. Khadijah argues that the primary reason for the importance of Islam in political discourses is because of the UMNO's belief that PAS' support in the Malay heartland is due to its propagation of the religion as a means to deal with Malaysia's social and economic problems.

Khadijah argues that in order to understand recent electoral trends there is a need to focus on the issue of 'personality politics' and the outcome of economic policies. In view of the personalised nature of Malaysian politics,[38] voters have long been conditioned to view national and state politics from the perspective of the personality of the leaders in power and from their form of governance. The outcome of development policies and their impact on Malaysian society, specifically the rural poor, had a significant bearing on the voting trends of the electorate situated in the Malay heartland. Khadijah further contends that Mahathir's diminishing popularity among rural Malays, following the debacle involving Anwar's dismissal from the UMNO and his criticism of the Malay psyche, specifically their continued dependence on government for aid and concessions to uplift their status, helps explain the party's dismal performance in the 1999 general elections. A change of administration, with Abdullah securing the premiership and his pledge to institute meaningful reforms, was probably the major factor contributing to the UMNO's capacity to stem PAS' growing influence in the Malay heartland. In this regard then, Khadijah questions the usefulness of Abdullah's endeavour to counter PAS by promoting Islam Hadhari, his vision of just and accommodating religious values applicable in a multi-ethnic context.

Conclusion

The studies in this volume reveal that transitions have occurred in society, but not in political parties. While society has evolved with the rise of a new generation that has adopted different perspectives on key issues, including democracy, human rights, gender equality and national identity, the two main parties that have come to dominate the Malaysian political landscape, the UMNO and PAS, have not reviewed their position on these issues. The chapters in this book show cogently that the nature and discourse of politics among the leading parties have not changed after more than five decades, suggesting a growing mismatch between the UMNO and PAS and the electorate they claim to represent. It is clear in these studies that the UMNO and PAS are not ambivalent in their views about these core issues, specifically gender equality, democracy and national identity. On gender equality, for example, their problem is that while these parties need the support of women during federal and state elections, they remain reluctant to support or promote this issue in the party or in the country. In the UMNO, in spite of its rhetoric of the need to create a more inclusive environment, or a *Bangsa Malaysia*, party members are aware that policies promulgated to support Bumiputeras can be abused to benefit party members.

The chapters in this study indicate that as early as the 1970s there was a mushrooming of new and active NGOs led by charismatic leaders calling for political reforms. These NGOs would emerge as a bane to the UMNO, with their persistent attempts at exposing the flaws in government policies as well as the shortcomings of the BN's form of governance. The activities of these NGOs were undermined following the mass detention, without trial, of many of their leaders in the

mid-1980s, an event that severely hindered the movement for social reforms in Malaysia.

These studies also indicate that two important events that occurred in the early 1980s had a profound impact on the UMNO and PAS. First, in July 1981, when Mahathir became prime minister, he offered Malaysians a new vision and economic agenda for the country, one that would culminate in industrialised nation status for Malaysia by the year 2020. It was a vision that was not shared by his government colleagues, specifically his move to industrialise and privatise Malaysia. In PAS, the party leadership was taken over by a group of *ulama* who would come to have a major influence on the objectives and direction of the party. Malay nationalism was no longer PAS' rallying cry, while the tacit but subsequently overt pursuit of an Islamic state in Malaysia became the primary preoccupation of its leaders, sometimes even to the detriment of the party during electoral contests, as was the case during the 1986 general election.

In PAS, under the *ulama*, its pledge to form an Islamic state became the party's avenue to secure power, an objective that remained its guiding light even though it caused discord in the party. Party members were aware that this objective was alienating people from PAS and hindering its prospects of mustering broad-based support. PAS members were also aware that unless it cooperated with other parties, its hope of securing power at federal level was extremely slim, though such alliances meant that the party would have to tone down its call for the establishment of an Islamic state.

Both the UMNO and PAS subsequently came to be trapped in the outcome of these monumental leadership changes on their parties. Mahathir would bring about structural changes that would entail disempowering key institutions, including the media, judiciary and parliament, and then remoulding them to suit his understanding of how they should operate. Mahathir also domesticated the UMNO to the point that the party remained quite subservient to him as he centralised power in the office of the executive. Meanwhile, PAS fared well in the 1990 and 1999 general elections, when in coalition with other parties, but suffered a major defeat in the 2004 general elections, a loss of support that this study has attributed to its insistence on promoting an Islamic state in Malaysia.

PAS' poor electoral performance in 2004 was also due to the reforms Abdullah promised, including his desire to rebuild the institutions that had lost their legitimacy under Mahathir. His pledge to devolve power and weed out corruption, as well as his focus on policies that would help alleviate the plight of poor rural Malays, inspired hope for real change in Malaysia, more so given the declining influence of the reformasi. While Abdullah may have been sincere in his desire to institute these reforms, much of which still remain on the drawing board, the UMNO, however, appears rather reluctant to subscribe to his vision.

The UMNO's reluctance to institute meaningful institutional changes is not surprising, as the studies in this volume reveal that the political system, dominated by this party, has not moved on, even though major protagonists such as Mahathir have retired from public office while Anwar, now in opposition, vocally criticises the party's human rights record and racist rhetoric. Meanwhile, PAS remains

dogmatic about its desire to implement an Islamic state, in spite of suggestions that the influence of the *ulama* is beginning to wane. The nature of the discourse in PAS is showing signs of change, but the practice of politics remains the same. In the meantime, as society has evolved, Malaysians now are viewing with increasing concern the resistance of the two parties to institute a new, more democratic and inclusive political system.

Notes

1 Another member of this coalition was the *Parti Rakyat Malaysia* (PRM, or Malaysian People's Party), which eventually merged with Keadilan to form the *Parti Keadilan Rakyat* (People's Justice Party).
2 For an in-depth analysis of the reformasi and its failure to bring about a change of regime or major structural reforms, see Gomez (2004).
3 See Funston (2000), Weiss (2000) and Welsh (2004) for analysis of this general election.
4 See, for example, Funston (2000) and Weiss (2006).
5 For an analysis of the 1995 general elections, see Gomez (1996).
6 See Chapter 4 for an analysis of PAS' performance in the general elections when in coalition with other parties.
7 For an in-depth discussion on the concept of *Bangsa Malaysia* as seen by Mahathir, see Ooi (2006).
8 See Mahathir's speech entitled 'The New Malay Dilemma', delivered at the Harvard Club of Malaysia dinner on 27 July 2002.
9 The Chinese, Mahathir added, had managed to increase their ownership of corporate equity primarily because they had been forced to compete even harder during the implementation of affirmative action. See his speech 'The New Malay Dilemma'.
10 See *The Star* (23 November 2005).
11 For detailed studies on how UMNO and its members have benefited from abuse of the NEP, see Gomez (1990), Searle (1999), Sloane (1999) and Gomez and Jomo (1999).
12 See Chapter 2 for a discussion on Mahathir's definition of an 'Asian democracy' which is based on his understanding of 'Asian values'. In brief, Mahathir has argued that the values of people of this region are based on culture, involving, among other things, respect for the leader and the desire to resolve problems through dialogue and consensus, not through conflict. Following mass demonstrations against his government in 1998, the concept of 'Asian values' was discredited.
13 'Bumiputera', literally translated, means 'sons of the soil' and is a term normally used in reference to the Malays, though it incorporates other indigenous communities.
14 The Malays also protested the Union's desire to provide citizenship with equal political rights to all Malayans, irrespective of race, as long as they professed loyalty to and regarded Malaya as their home. See Roff (1967) and Khong (1984) for an account of the Malay protest against the Union.
15 Brown (1994).
16 See Ratnam (1965); Hua (1983).
17 Mauzy (1983, 1993).
18 Gomez (1996).
19 For a discussion on the NEP, see, for example, Ho (1988) and Faaland *et al*. (1990).
20 The NEP's second objective, the restructuring of society, was unquestionably the main emphasis of this policy. In 1969, the Bumiputera share of corporate wealth (by individuals and government trust agencies) amounted to a meager 2.4 per cent. Chinese equity ownership stood at 27.2 per cent, while more than 60 per cent of the remaining equity was under foreign ownership. For an in-depth study of the implementation of

the NEP and its impact on the Malaysian corporate sector, see Gomez and Jomo (1999: 24–74).

21 See Abdul Rahman (2001) for an insightful analysis of the rise of the new Malay middle class.
22 See Farish (2004) for an in-depth historical account of the PAS.
23 See Roff (1967); Khong (1984); Funston (1980).
24 See Jesudasan (1996).
25 Funston (1980); Gomez (1996).
26 The following analysis of electoral trends in the Malay heartland between 1990 and 2004 is based largely on my study of the 2004 general elections. See Gomez (2006).
27 The BN's MCA won the two other parliamentary seats in Kedah.
28 See *New Straits Times* (28 March 2004).
29 See Loh (2003). In 'mixed' constituencies, the division of the electorate along Bumiputera and non-Bumiputera lines is almost equal.
30 *The Star* (25 March 2004).
31 *The Star* (25 March 2004).
32 See Gomez (2004).
33 *New Straits Times* (24 March 2004).
34 *New Straits Times* (28 March 2004).
35 *New Straits Times* (24 March 2004).
36 *The Star* (25 March 2004).
37 The BN Selangor set a new record in state elections by nominating ten women. See *The Malay Mail* (27 March 2004).
38 See Hwang (2003).

References

Abdul Rahman Embong (2001), *State-Led Modernization and the New Middle Class in Malaysia*, Basingstoke: Palgrave.

Brown, David (1994), *The State and Ethnic Politics in Southeast Asia*, London: Routledge.

Faaland, Just, Parkinson, J.R. and Saniman, Rais (1990), *Growth and Ethnic Inequality: Malaysia's New Economic Policy*, Kuala Lumpur: Dewan Bahasa & Pustaka.

Farish A. Noor (2004), *Islam Embedded: The Historical Development of the Pan-Malaysian Islamic Party PAS (1951–2003)*, vols 1 and 2, Kuala Lumpur: Malaysian Sociological Research Institute.

Funston, John (1980), *Malay Politics in Malaysia: A Study of the United Malays National Organisation and Party Islam*, Kuala Lumpur: Heinemann Educational Books.

Funston, John (2000), 'Malaysia's tenth elections: status quo, *reformasi* or Islamization?', *Contemporary Southeast Asia*, 22/1 (April).

Gomez, Edmund Terence (1990), *Politics in Business: UMNO's Corporate Investments*, Kuala Lumpur: Forum.

Gomez, Edmund Terence (1996), *The 1995 Malaysian General Election: A Report and Commentary*, Singapore: Institute of Southeast Asian Studies.

Gomez, Edmund Terence (ed.) (2004), *The State of Malaysia: Ethnicity, Equity and Reform*, London: RoutledgeCurzon.

Gomez, Edmund Terence (2006), 'The 2004 Malaysian general elections: economic development, electoral trends and the decline of the opposition', in Saw Swee-Hock and K. Kesavapany (eds), *Malaysia: Recent Trends and Challenges*, Singapore: Institute of Southeast Asian Studies.

Gomez, Edmund Terence and Jomo, K.S. (1999), *Malaysia's Political Economy: Politics, Patronage and Profits*, Cambridge: Cambridge University Press.

Ho Khai Leong (1988), *Indigenising the State: The New Economic Policy and the Bumiputera State in Peninsular Malaysia*, PhD Thesis, Ohio State University.

Hua Wu Yin (1983), *Class and Communalism in Malaysia: Politics in a Dependent Capitalist State*, London: Zed Books.

Hwang In-Won (2003), *Personalized Politics: The Malaysian State under Mahathir*, Singapore: Institute of Southeast Asian Studies.

Jesudasan, James (1996), 'The syncretic state and the structuring of oppositional politics in Malaysia', in Garry Rodan (ed.), *Political Oppositions in Industrialising Asia*, London: Routledge.

Khong Kim Hoong (1984), *Merdeka! British Rule and the Struggle for Independence in Malaya, 1945–1957*, Kuala Lumpur: INSAN.

Loh, Francis Kok Wah (2003), 'Towards a new politics of fragmentation and contestation', in Francis Loh Kok Wah and Johan Saravanamuttu (eds), *New Politics in Malaysia*, Singapore: Institute of Southeast Asian Studies.

Mauzy, Diane K. (1983), *Barisan Nasional: Coalition Government in Malaysia*, Kuala Lumpur: Marican & Sons.

Mauzy, Diane K. (1993), 'Malaysia: Malay political hegemony and "coercive consociationalism"', in John McGarry and Brendan O'Leary (eds), *The Politics of Ethnic Conflict Regulation*, London: Routledge.

Ooi Kee Beng (2006), 'Bangsa Malaysia: vision or spin?', in Saw Swee-Hock and K. Kesavapany (eds), *Malaysia: Recent Trends and Challenges*, Singapore: Institute of Southeast Asian Studies.

Ratnam, K.J. (1965), *Communalism and the Political Process in Malaya*, Kuala Lumpur: University of Malaya Press.

Roff, William (1967), *The Origins of Malay Nationalism*, Kuala Lumpur: University of Malaya Press.

Searle, Peter (1999), *The Riddle of Malaysian Capitalism: Rent-Seekers or Real Capitalists*, St Leonards/Honolulu: Allen & Unwin/University of Hawaii Press.

Sloane, Patricia (1999), *Islam, Modernity and Entrepreneurship Among the Malays*, Basingstoke: Macmillan.

Weiss, Meredith L. (2000), 'The 1999 Malaysian general elections: issues, insults and irregularities', *Asian Survey*, 40 (May/June).

Weiss, Meredith L. (2006), *Protests and Possibilities: Civil Society and Coalitions for Political Change in Malaysia*, Stanford: Stanford University Press.

Welsh, Bridget (2004), 'Real change? Elections in the reformasi era', in Edmund Terence Gomez (ed.), *The State of Malaysia: Ethnicity, Equity and Reform*, London: RoutledgeCurzon.

1 Legal coercion, legal meanings and UMNO's legitimacy

Marzuki Mohamad

Introduction

The law has been a potent means by which the Malaysian government stifles dissent and maintains its power. The use of the law to intimidate and crush political opponents, the regression of the judiciary – as critics have charged – to a mere handmaiden of the political executive, and the various constitutional amendments which seemingly aggrandised the office of the prime minister vis-à-vis other sections of the state have generated popular disaffection with the government. The way the prosecutorial machinery was deployed by the executive to deal with former deputy prime minister Anwar Ibrahim, who was unceremoniously hauled to court on charges of corrupt practice and sodomy, confirmed widespread misgivings, locally and abroad, of the independence of the country's legal and political system. The subsequent vociferous call for political and legal reform, which included restoration of judicial independence, respect for human rights, war against corruption and greater participatory democracy, indicated that the legal and political system had been put on trial.

This chapter will examine the dynamics of legal coercion – how the law is used by the government as an instrument of state-led economic development as well as a tool of political control – in a climate marked by impressive upward social mobility, changing ethnic configurations and the proliferation of new legal meanings broadly defined as people's new consciousness of what is right and what is wrong. This article then seeks to determine if these dynamics have brought about any significant impact on and changes to the institutional character of the United Malays' National Organisation (UMNO), the dominant partner in the ruling *Barisan Nasional* (BN, or National Front), whose political elites seem to benefit the most from the use of legal coercion.

Law, coercion and legitimacy

The idea of law indicates some form of 'authority', 'enforcement', 'order' or 'coercion'.[1] Viewed from this perspective, law is often described as the coercive means by which those in authority exercise social control, that is a process by which their authority legitimises coercion of people to conform to a set of

approved behaviours. One form of social control is control of dissent when 'those in positions of power, who benefit from the existing power arrangement, use their influence to encourage the repression of challenges to the government'.[2] This statist perspective of the law exalts state authority in legislating, enforcing and giving meanings to law vis-à-vis other non-state actors.

Migdal offers a more pluralistic view of law.[3] Apart from state law, there are other sets of law which consist of what various groups of people in society think is just and use as their guide to proper behaviour. Some of these laws are formal codes, such as Islamic law, while others may be long-standing but much less formal rules. The notion of state law in this pluralist perspective is akin to a state-professed ideology seeking to enhance power and legitimacy. Migdal also notes that these non-state laws have a powerful legitimating force so much so that the ability of states to remain intact rests in part on their ability to create, through necessary harmonisation of non-state laws with state law, a broad shared meaning in the society. Problems are bound to crop up when state law sits uneasily with other sets of law, even threatening state cohesion. But, 'where state law has been transformed by these other sets of law, where it has created the condition for melding diverse sets of law generated in society, it has put states in a position to benefit from renewed, broadly shared meaning in society'.[4]

The pluralist conception of law does not regard the state, through its judicial arm, as the sole interpreter of the law from which people derive its meanings. More often, the state has to compete with non-state actors in giving meaning – what is right and what wrong – to its legal precepts.[5] These non-state actors include a wide range of social organisations such as human rights groups, professional associations and religious groups. These social organisations are by no means homogeneous. In plural societies, similar to Malaysia, most social organisations are divided along class, ethnic, cultural or religious identities. As their members would normally derive meaning from these distinct identities, rather than from a single authoritative national text, there are bound to be multiple legal meanings at work.[6]

In modernising and increasingly globalised societies, secular and international norms easily seep into people's conception of legal meanings, which in turn, have varying implications on state-created and society-generated legal meanings. Against this backdrop of an amorphous set of legal meanings, the state and various segments of society interact with and among each other. If the articulation of a shared legal meaning is so crucial to social cohesion, which helps determine the state's ability to stay intact, the law must have not only a coercive, but also an ideological function. Legislators and administrators, in this respect, must concern themselves not only with the imposition of social control through law, but also the sense of legitimacy it generates through its use in society.

So important is the need to maintain legitimacy that Barraclough observes that the use of coercion as a political strategy by the Malaysian government 'has not been indiscriminate or on a massive scale' and was 'strictly within the bounds of legality and relatively free from physical violence'.[7] This has led to popular belief that the government's use of legal coercion is legitimate. While the use of legal

coercion as a political strategy in Malaysia has not been on a massive scale compared with, say, Cambodia under Pol Pot or the Philippines under Marcos, it is not, however, convincing to argue that its use has been strictly within the bounds of legality and without physical violence. There have been numerous accounts of protesters being beaten by the police and of political detainees being subject to physical stress during solitary confinement.[8] The most high-profile case to date involving police violence was the beating Anwar got at the hands of none other than the former Inspector General of Police, Rahim Noor, when the former deputy prime minister was in police custody shortly after his arrest in 1998. Civil rights movements, opposition political parties, international organisations and concerned individuals condemned this police brutality, drawing attention to the state's abuse of legal coercion, which rendered it illegitimate.

Notwithstanding such condemnations, the Malaysian state has actively proffered ideological viewpoints to legitimise coercion. The mantra of national security, political stability and the need to rapidly develop the economy has been repeatedly sung to justify restrictions on democratic space. References are often made to the communist threat or racial violence in an attempt to illegitimatise certain opposition activities. When the Parliament amended Article 149 of the Federal Constitution in 1960 to allow for permanent footing of legislation against subversion in the country's legal landscape,[9] those who opposed the amendment were accused as 'fellow travellers of the Communist Party of Malaya (CPM) and therefore, it followed, were "anti-national" elements'.[10] From the 1960s through the 1970s, left-wing opposition politicians, unionists, Chinese educationists, student activists and peasants were arrested for alleged involvement in subversive activities. Most of them were branded as communists, not only to prove that they were a threat to national security, but also to rally the support of Malays who historically linked communists to the 'immigrant' Chinese who were ever ready to threaten their special position as natives.[11]

Islamic radicalism has also been treated as a threat to national security and its promoters have been subject to repression. During the 1982 general election campaign, a senior leader of the opposition *Parti Se-Islam Malaysia* (Pan-Malayan Islamic Party, or PAS) issued a *fatwa* (religious decree) alleging that UMNO members were infidels and that those who fought them would be considered martyrs. This *fatwa* caused a split in the Muslim community, particularly in the Malay heartland states of Kedah, Kelantan and Terengganu. There were incidences where some Malays refused to attend *kenduri* (feasts) hosted by other Malays, accusing the latter of being infidels. In some places, Friday prayers were held twice as one party claimed the prayers held by the other party, apparently the infidels, was void in religion. In November 1984, the government issued a White Paper, entitled 'Threat to Muslim Unity and National Security', which accused PAS and the CPM of subversive activities. The White Paper claimed that PAS had encouraged the people to topple the democratically elected government through the use of force and, as such, had allowed the CPM to slip through into the Malay-Muslim community. Using the CPM as a scapegoat, the government

sought to justify and legitimise coercive action, ostensibly to help promote national solidarity.[12] Other forms of repression meted out on reputedly Islamic radicals in the name of national security included the crackdown on a group of PAS followers in Memali, Kedah in November 1985 and the arrest of leaders of an influential spiritual organisation, *Al-Arqam*, in 1994. Al-Arqam was subsequently banned.

The need to rapidly develop the economy had also been the basis for legitimising legal coercion, but this argument came to a head with new social consciousness about the promotion of human rights and protection of the environment, fought on the basis of international norms as stipulated by various United Nations bodies. For former prime minister Mahathir Mohamad, however, the primary role of law, viewed in this essentially developmentalist context, was to facilitate, not to impede, industrialisation.[13] This idea was well encapsulated in the notion of 'developmental justice', which extols the virtues of development for the community rather than individual rights and freedom.[14] This view, which places the interests of the community on a higher plane than that of individual rights, is similar to the anti-pluralist discourse inherent in the Asian values debate during the 1990s.[15] In this discourse, political pluralism threatens political order and stability, which does not augur well for economic development. This observation fits neatly with Loh's interpretation of the emerging politics of 'developmentalism' in Malaysia.[16] This new political culture valorises 'not only rapid economic growth, rising living standards, and the resultant consumerist habits', but also 'political stability which growth and consumerism necessitated . . . even when authoritarian means are resorted to and cronyism is evident'.[17]

Treating law as an instrument of state-led economic development rather than a check on state power has far-reaching implications on the politico-legal system.[18] This essentially instrumentalist-purposive state-centred view of law, whose central theme is acceptance by the people of state-defined goals that the law *ought* to serve, would often lead to modifications of salient principles of law, such as rule of law and natural justice, tailored to meet the elite-defined national goals. In developing countries, where the state rather than the market is regarded as the best mechanism to lead the process of economic development, state law normally assumes its instrumentalist-purposive function. In this context, state laws tend to expand rather than limit state power. The concept of rule of law conceived in its instrumentalist-purposive function may thus follow a different trajectory from an essentially liberal-minimalist conception. Rais Yatim, presently a cabinet minister, wrote while he was in the political wilderness:

> The *Rule of Law* in the *Rukunegara* did not necessarily mean the same as the rule of law conceived by Dicey or the various ICJ [International Commission of Jurists] congresses. It was not particularly concerned with checks and balances necessary in the popular notion under a modern democratic system. It was proclaimed to mean *no more than rules and regulations made by the government must be followed* (emphasis is mine).[19]

The New Economic Policy (NEP), introduced by the government after the tragic 1969 racial riot, justified this instrumentalist-purposive view of law. Law now assumed an important role, not just to contain ethnic violence, but also to buttress economic development. This new emphasis on the purposive function of law aimed at providing a sense of predictability necessary for capitalist advancement while keeping disruptive resistance by workers at bay. As such, the initial stage of the state-led economic development project witnessed two contradictory, but mutually reinforcing, sets of legislation. On the one hand, the state instituted a liberal investor-friendly legal framework to facilitate economic growth. The provisions in this framework ranged from modern contracts and company laws to a formal system of justice with a conservative judiciary committed to the idea of strict legalism.[20] On the other hand, a set of illiberal labour legislations was introduced to regulate trade unionism and industrial relations. The purpose of these legislations was to force industrial harmony necessary for maintaining Malaysia's comparative advantage – its cheap labour.

Wu offers a catalogue of restrictive laws that severely controlled organised labour.[21] He argues that Malaysia's capacity to attract foreign investment was due primarily to 'the availability of a cheap and compliant labour force secured mostly by severe regulation on industrial activities often justified on the grounds of either national integration or economic imperative'.[22] As such, 'laws governing industrial behaviour are largely restrictive and keenly enforced, with the government and the bureaucracy often quick to intervene in the face of a perceived threat to economic prosperity'.[23]

Two pieces of post-Independence labour legislation, the Trade Unions Act 1959 and the Industrial Relations Act 1967, imposed comprehensive control over trade union affairs. The features of control in these two acts include: compulsory registration of trade unions; far-reaching power of the Director General of Trade Unions (DGTU) to refuse, or to cancel, the registration of any trade unions; restrictions on trade union activities, specifically those that can be construed as political; ministerial power to suspend a trade union; the exclusion of statutory authorities employees from joining private sector unions; and restrictions on workers to strike. A more restrictive measure was the deliberate act by the Parliament to 'shut out the court' in matters involving union regulations and industrial conflicts. Words such as the 'Minister's decision shall be final and conclusive' gradually crept into many pieces of legislation. In this climate, the scope for mobilisation of social groups was progressively restricted, while governmental powers increased disproportionately.[24]

The need to protect the environment also had to give way to achieving break-neck economic development. In February 1995, the government allowed a private concessionaire to begin work on the controversial multi-billion ringgit Bakun dam even though the project's environmental impact report had not been completed. The claim by tribal communities that this project would destroy their homes and ancestral land and alter their way of life was ignored when the Court of Appeal, ruling in favour of the project concessionaire, held that 'the deprivation of respondents' lives, a claim made under Article 5 (1) of the Federal

Constitution, was *in accordance with the law* (emphasis is mine)'.[25] The right of native peoples to customary land was also ignored in numerous other disputes between tribal communities and logging concessionaires. In March 1987, the communities in the Baram and Limbang districts in Sarawak began a series of human barricades to stop logging activities on their customary land. Many of them were arrested for mounting this protest. In November 1987, the Sarawak State Legislative Assembly amended the State Forest Ordinance, making it an offence to set up any structure on any road constructed by a timber licensee or permit holder.[26] Other rights-infringing and environmentally unfriendly projects, which generated strong protests from the people and human rights and environmental groups, were the construction of hazardous radiation-producing factory in 1982 in Bukit Merah, Perak, the mass clearance of peat swamp for construction of the world's largest eel farm in 1988 in Nenasi, Pahang, and the compulsory acquisition of agricultural land for commercial prawn-farming project in 1993 in Kerpan, Kedah. All these projects involved the interests of large companies backed by the state.

Ironically, these rights-infringing laws that were put in place to support state-led economic development had produced both intended and unintended results. On the one hand, Malaysia had emerged as one of the most successful developing economies by the mid-1990s. Upward social mobility, characterised by an expanding urban, educated middle class and political stability, manifested in the absence of major racial violence since 1969, earned the government accolades for its economic performance thus enhancing its legitimacy. The selective application of laws to limit the scope for political competition further increased the chances of the BN being returned to power during every election. On the other hand, upward social mobility also created a new consciousness about the place and meaning of self in the intricate web of state–market–society relations. The new consciousness found expression in discourses about the new materialist–consumerist culture, environmental degradation, women's empowerment, civil rights activism, trade unionism, Islamic revivalism and multiculturalism.[27] This new consciousness was the foundation on which social movements developed their ideas, organised themselves and developed new legal meanings for socio-economic issues.

Society-generated new legal parlance, or rather the rediscovery of old terms, such as 'rule of law', 'social justice' and 'constitutionalism', seemed to strongly contest state-created politico-legal jargon such as 'rule by law', 'developmental justice' and 'majoritarian rule'. From human rights groups, such as *Suara Rakyat Malaysia* (Voice of Malaysian People, SUARAM) and *Aliran Kesedaran Negara* (Movement for Social Justice, Aliran), to consumer associations such as Federation of Malaysian Consumers' Associations (FOMCA) and Consumer Association of Penang (CAP), to women's groups such as Women's Aid Organisation (WAO) and Sisters in Islam (SIS), to Islamic organisations such as Muslim Youth Movement of Malaysia (ABIM) and *Jamaah Islah Malaysia* (JIM), to political parties such as *Parti Keadilan Rakyat* (People's Justice Party, PKR) and Democratic Action Party (DAP), this new consciousness was translated into

activities and campaigns that at times fitted into the state-defined national goals, though it stood more often in stark contradiction with them. It is in the latter context that the new consciousness challenged state-created legal meanings inherent in its instrumentalist-purposive view of law, leading to societal pressures for legal change.

These societal pressures forced the government to be more responsive to demands from below, again an unintended consequence of its own developmental project, by amending existing laws or introducing new ones. One of the new legislations was the Domestic Violence Act 1994, enacted after a series of campaigns organised by women's groups seeking the introduction of a law that protects women from abuse. Decades of rapid economic growth had also helped expand the Malaysian middle class whose rising expectations of a better standard of living and quality life resulted in demands for better protection from unscrupulous producers, traders, retailers and house developers. After consumer groups had campaigned for years, the Parliament, in July 1999, finally passed the Consumer Protection Act. This Act provides for the setting-up of a tribunal to hear consumer claims worth less than RM10,000. The tribunal was introduced to help consumers get speedier legal redress at minimal cost, without being subjected to long and expensive legal battles in civil courts. Responding to criticisms that the Act was weak as it did not protect consumer rights on important issues such as disputes involving the acquisition of houses, Parliament passed the Housing Developer (Control and Licensing) (Amendment) Act 2002. The amendment to this Act provides more comprehensive protection for home buyers, including the setting-up of a tribunal similar to the one established under the Consumer Protection Act 1999. By responding to societal pressures, the government successfully allowed the new social consciousness to be incorporated into the body of state law, creating a sense of shared legal meaning while also enhancing the political legitimacy of the government.

However, the government remained adamant about maintaining a host of rights-infringing laws, in spite of similar pressures from society, which form the basis of ever-expanding executive power. These laws provide for detention without trial (Internal Security Act (ISA) 1960, Emergency (Public Order and Prevention of Crime) Ordinance 1969, Dangerous Drugs Act (Special Preventive Measures) 1985); control of dissemination of official information under the guise of government secrets (Official Secrets Act 1971); prohibition of public discussion on sensitive issues (Sedition Act 1948 (Revised 1969)); control and licensing of publication materials (Printing Presses and Publications Act 1984); limitations on workers' right to organise and to bargain (Trade Unions Act 1959 and Industrial Relations Act 1967); restrictions on the right to association (Societies Act 1966); and suppression of student activism (University and University Colleges Act 1971). In 2003, Parliament amended Malaysia's Penal Code to provide for terrorism and terrorism-related offences, which seemed to elevate simple offences to crimes of terrorism, based on vaguely defined intent to commit such offences.[28] It was feared that these vague definitions could 'lead to a clampdown of legitimate political dissent in the name of terrorism'.[29]

The use of these laws as an instrument of political control has been viewed with much suspicion as these legal arsenals have been selectively directed at the opposition, making dissent an undesirable and illegal act. But the scope of political opposition often transcends the boundaries of political parties. Therefore, it is erroneous to assume that legal arsenals were only directed at members of the Opposition. When power struggles within the ruling UMNO had much further-reaching consequences on the political regime, these legal arsenals were also convenient to silence internal dissent and purge rival factions.

Law and UMNO

This section enumerates cases of intra-UMNO rivalries that resulted in the use of the law and legal institutions to purge political opponents. For the purpose of brevity, this section only highlights some of the most important cases.

Abdul Aziz Ishak

Among the first to experience the brunt of legal coercion for refusing to toe the party line was Abdul Aziz Ishak, former UMNO vice president and minister of agriculture and Cooperatives in the cabinet of the first prime minister, Tunku Abdul Rahman. Aziz was a Malay folk-hero, a recognition he gained for his efforts to uplift the economic life of Malay farmers and fishermen, one of the most marginalised communities in post-independent Malaya. Aziz's problems with the UMNO arose over the terms of the contract agreed upon by coalition members of the Alliance before Independence in 1957.[30] This mutually beneficial agreement, in essence, sought to preserve Malay hegemony in politics without adversely affecting the status quo of the Chinese in the economy.[31] When Aziz began to persistently attack Chinese middlemen for allegedly exploiting poor Malays, causing the latter to earn an income often not commensurable to their hard labour, his criticisms were viewed as an attempt to undermine the spirit of this agreement. Aziz, however, continued to advocate for major reforms, including the establishment of government-backed cooperative mills in the rice-marketing sector to replace Chinese-owned private mills. His ministry also revoked licenses granted to Chinese middlemen. When he later insisted on a cooperative's monopoly for rice marketing in Northern Perak, the MCA leaders led a campaign to remove him as Minister of Agriculture.

Meanwhile, there were skirmishes between Aziz and Tunku. The prime minister felt that Aziz did not consult him or cabinet colleagues on important decisions, thus threatening the solidarity of the multiracial Alliance. The last straw was when Aziz went ahead with his plan to construct a factory to produce urea despite Tunku's disapproval. Urea, a new fertiliser, was to be used instead of ammonium sulphate, which was supplied by the British's Imperial Chemical Industries (ICI). Aziz's idea was that the people would benefit from the project by holding, through the cooperatives, substantial equity in the new plant. Tunku worked out a compromise when he suggested that Esso, another British giant corporation,

hold 51 per cent of the shares and the cooperatives and other local capital the rest of the equity. The cooperative's board opposed this idea and decided to go it alone, without government funding.[32] Subsequently, the cabinet decided in July 1962 to transfer Aziz to the Health Ministry. Expressing his disappointment in a letter to the prime minister, Aziz wrote:

> You may have given other reasons for wishing to remove me from the Ministry of Agriculture and Cooperatives to the Ministry of Health. You and I know the real reason, i.e. my persistence in trying to change from the Cooperative movement the trend of your present economic policy and as such I have to be removed. Do you really feel that the people particularly the rural people do not see this? Your advisors are also aware of this but they do not dare tell you. You have now forced me to resign and unless you change your mind I will have to go.[33]

Tunku did not change his mind and Aziz left the cabinet in early 1963. Prior to that, in the August 1962 UMNO election, Aziz barely secured a seat in the executive committee, with the second lowest number of votes. He also failed to get re-elected as vice president. One month after the party election, he was removed as Chairman of the Selangor UMNO Liaison Committee. After his forced withdrawal from the cabinet, Aziz launched attacks on the government, accusing it of failing to address the plight of rural people. He was later expelled from the UMNO, after which he organised his own National Convention Party (NCP). Joining the opposition, the NCP fielded several candidates in the 1964 general election, but none was returned. Aziz also lost his parliamentary seat in Selangor. But that was not the end of his political life. During the confrontation with Indonesia, he was detained without trial under the ISA, allegedly for conspiring with the Indonesian government to cause unrest in Malaysia. After a year in detention, he was released in 1966 but served with a restriction order barring him from active politics. This order was renewed two times until it was finally lifted in 1971. Describing his predicament in his autobiography, Aziz wrote:

> Obviously I was considered dangerous because my possible conduct was unpredictable. … Somehow or other, I must be silenced and under the ISA they had the power.[34]

Abdullah Ahmad and Abdullah Majid

An UMNO political schism in the 1970s led two of its leaders, Abdullah Ahmad and Abdullah Majid, to detention under the ISA. Abdullah Ahmad was a deputy minister and a long-serving political secretary to prime minister Tun Abdul Razak. Abdullah Majid was a parliamentary secretary and former press secretary to Razak. Both men were deputy ministers in the cabinet of Razak's successor, Tun Hussein Onn. The two Abdullahs, along with a few others, were known to be part of Razak's 'kitchen cabinet'. Their intimacy with Razak irked certain quarters

in the UMNO, specifically the party's 'Old Guard' that had been sidelined by the prime minister. Abdullah Majid and Samad Ismail, another close aide to Razak, reputedly had a leftist background. Their prominence in Razak's administration was perceived as the growing influence of the socialists who surrounded the prime minister. Moreover, the two Abdullahs were involved in a move to oust the charismatic Harun Idris, then the *Menteri Besar* (Chief Minister) of the state of Selangor and UMNO Youth Chief.

The untimely death of Razak in January 1976 provided an opportunity for Harun and his allies to fight back. They accused the two men of being communist agents and demanded that the government take serious action against them. This move against the two Abdullahs gained momentum after the arrest in June 1976 of two Malay journalists in Singapore for involvement 'in a communist scheme masterminded and directed by Samad Ismail'.[35] Samad was later arrested and made confessions that included, among other things, that through several younger UMNO leaders he had 'succeeded in approaching the leadership of UMNO and also through them (he) succeeded in influencing important UMNO leaders to see issues and solve them in (his) way'.[36] The younger UMNO leaders that Samad had referred to were apparently the two Abdullahs, with whom he had worked closely. Although the confessions were rather unconvincing, the Home Minister, Ghazali Shafie, ordered the arrest of the two Abdullahs under the ISA in November 1976. The arrest was seen as an attempt by Ghazali to prop up his popularity among the party's rank-and-file.

Tengku Razaleigh Hamzah

Mahathir's ascendancy in the UMNO and government was characterised by internal crises in which law and the executive powers derived from it played an important role. Mahathir was challenged by his archrival former Finance Minister Tengku Razaleigh Hamzah for the post of UMNO president in the 1987 party election. This was the first time the UMNO's leadership was seriously challenged from within the party. The tussle also divided the party into two factions – Team A led by Mahathir and Team B led by Razaleigh. In this election, Mahathir barely retained his post by a slim majority of 43 votes. Mahathir's team also won the deputy president post, two of three vice-president posts and about two-thirds of the Supreme Council seats. Mahathir subsequently purged Team B members from the cabinet.

In a twist to this event, disgruntled Team B members filed a suit challenging the legality of the election and sought orders to hold fresh elections. They contended that, among other irregularities, the presence of 44 delegates from 30 branches that had not been approved by the Registrar of Societies made the elections invalid.[37] The number of delegates who were not entitled to vote was enough to alter the election results. Interestingly, the defendant (Team A) argued that the plaintiff had no enforceable rights as the UMNO, by operation of section 12 of the Societies Act 1966, had become an unlawful society. Under this section, 'where a registered society establishes a branch without the prior approval of the Registrar

such registered society and the branch so established shall be deemed to be unlawful society'.[38] It was based on the strict construction of this provision that the High Court on 4 February 1988 declared the UMNO an unlawful society.

As the prime minister and home minister, Mahathir had a number of options to help him resolve the political and legal problem caused by the High Court's decision. The first option was to 'affirm his parliamentary majority by introducing a Bill in Parliament having the effect of reversing the High Court's decision'.[39] The second, as the Home Minister, he could have 'used his powers under section 70 of the Societies Act to exempt UMNO from the operation of section 12'.[40] Section 70 of the Act provides that 'the Minister may at his discretion in writing exempt any society registered under this Act from all or any of the provisions of this Act'.

Ignoring these options, Mahathir proceeded to secure the allegiance of BN leaders by getting them to affirm his majority support in the Parliament and applied for the registration of a new party by the name of UMNO *Baru* (New UMNO). A similar application by a Team B faction to form UMNO Malaysia was rejected by the Registrar of Societies. Team A supporters were re-recruited into UMNO Baru and an amendment to the Societies Act was tabled in Parliament to allow for the transfer of the old UMNO's assets to UMNO Baru. Razaleigh formed *Semangat '46* (Spirit of '46), and was thus completely deprived of the opportunity to challenge Mahathir again from within the UMNO.

That was not the end of this episode. The UMNO election case was scheduled to be heard on appeal before a full panel of nine Supreme Court judges in June 1988. This appeal was crucial to the political settlement because, if it was allowed, it would set the stage for the old UMNO to be revived, necessitating a fresh party election. Another dimension to this crisis was the judiciary's apparent activism, which pitted the judicial arm against the executive. In a number of controversial cases in the mid-1980s, the court had not decided in favour of the government.[41] There had been bitter exchanges of criticisms between the prime minister and members of the bench regarding these decisions which culminated in the sacking of then Lord president, Tun Salleh Abbas, and two Supreme Court judges in late 1988. Tun Abdul Hamid Omar, who chaired the tribunal which found Salleh guilty of allegations of judicial misconduct and incompetence, took over as Lord president. After this judicial change of guard, the ties between the executive and the judiciary improved. Meanwhile, the Supreme Court unanimously rejected the UMNO's election appeal, affirming Mahathir's grip on power. After an unsuccessful attempt to oust Mahathir through legal means, Razaleigh had no choice but to continue his political struggle with his new party *Semangat 46*, as a member of the opposition.

The UMNO election case and the judiciary crisis show the central role of law in the party power struggle. As prime minister, Mahathir had the capacity to influence administrative decisions and stack the judiciary with 'friendly' judges. As the judiciary no longer served as an avenue for the opposing faction to challenge Mahathir, they were forced to pursue their objectives from outside the UMNO. *Semangat 46*'s prominent role in the opposition front in the 1990 and

1995 general elections, in spite of its poor performance and short political lifespan, helped revitalise public debates on core issues, including that of authoritarian rule.[42] In this context of growing authoritarianism on the one hand and rising social consciousness on the other, the importance of separation of powers, judicial independence and political accountability emerged as serious issues.

Anwar Ibrahim

The more compliant judicial arm that had emerged after the 1988 judiciary crisis set the stage for the use of the court as a political arena to purge and disgrace party dissidents. Criminal and civil laws were used against political opponents in an attempt to reduce apparent factional battles to formal legal conflicts and to conveniently brand opponents as common criminals rather than dissidents. The rift between Mahathir and Anwar, the latter's abrupt sacking from the government and the party and his subsequent arrest, trial and conviction best illustrate the case of a 'political trial' in Malaysia.[43]

The Anwar–Mahathir rift can be explained from a number of perspectives, with political business-generated UMNO factionalism being the most plausible. In the mid-1980s, political business relations in Malaysia came to be characterised by the dominance of the private sector by well-connected individuals.[44] Within the UMNO, party factionalism and money politics had its roots in the way government concessions were created and distributed to a handful of Malay 'new rich' and non-Malay capitalists. By the early 1990s, Anwar was closely associated with a new group of mainly Malay businessmen who were frustrated with the dominance of corporate Malaysia by the allies of Mahathir and former Finance Minister Daim Zainuddin. It was no coincidence that many Anwar-linked Malay businessmen were also active in UMNO politics. These corporate-cum-political figures had helped Anwar consolidate his position in the UMNO, especially during the 1993 UMNO elections when he easily displaced Ghafar Baba as deputy president. The currency crisis in 1997 merely triggered the tension between Anwar's faction and those who were opposed to his rapid ascendancy in the party. In the wake of the 1997 crisis, Anwar was apparently opposed to the government's desire to bail out some well-connected firms, particularly a conglomerate linked to Daim, Renong and companies owned by Mahathir's son Mirzan.[45] Anwar's stance was said to confirm rumours that he was plotting Mahathir's removal. During the 1998 UMNO General Assembly, Anwar's boys in UMNO Youth criticised the government for practising cronyism and nepotism in the award of government contracts and the bail-out of selected companies. Mahathir reacted by disclosing the names of those who had received privatised contracts, some of whom included his detractors in UMNO Youth and members of Anwar's family.

On 2 September 1998, Mahathir sacked Anwar from the post of deputy prime minister for a host of reasons involving 'moral impropriety'. Subsequently, the UMNO Supreme Council decided to expel Anwar from the party. Refusing to acquiesce, Anwar defended himself against these allegations of impropriety and instead called for a comprehensive overhaul of the government to stem abuse of

powers and corruption. With growing support from non-governmental organisations (NGOs) and opposition political parties, Anwar launched his *reformasi* movement aiming at reforming Malaysian politics by introducing democracy, good governance and social justice. After weeks of numerous *ceramah* (political speeches) at his house in the elite enclave of Bukit Damansara and nationwide road shows, during which he accused the Mahathir government of corruption, nepotism and cronyism, Anwar, and many of his close associates, were arrested under the ISA in late September 1998. Those who were arrested included leaders of the UMNO and two mainstream Islamic organisations, ABIM and the National Union of Malaysian Muslim Students' Association (PKPIM).[46] Anwar had served as president of these two organisations in the 1960s and the 1970s.

Although released from the ISA, Anwar remained in jail, without bail, when he was charged in court for corruption and sodomy. Allegations of Anwar's sexual misconduct had been widespread since 1997 when Ummi Hafilda, his private secretary's sister, and Azizan Abu Bakar, his wife's former chauffeur, wrote a letter to Mahathir accusing Anwar of sodomising Azizan and having an illicit affair with the wife of his private secretary. These allegations were later published in a book entitled *50 Reasons Why Anwar Cannot Be Prime Minister*, which found its way into the bags of delegates to the 1998 UMNO assembly. Mahathir was initially hesitant about taking these accusations seriously, but it was these allegations that he referred to as 'incontrovertible evidence' of Anwar's impropriety.[47] It was in relation to these allegations that Anwar faced charges of corrupt practices. Anwar was charged with abusing his powers, for directing the Special Branch 'to obtain written admission from Azizan and Ummi Hafilda to deny sexual misconduct and sodomy committed by (him) for the purpose of protecting (himself) against any criminal action or proceedings.'[48] In his second trial, Anwar and his adopted brother, Sukma Darmawan Sasmitaat Madja, were charged with committing sodomy.[49]

Anwar insisted that he was a victim of a political conspiracy, his trial was politically motivated, and he above all was innocent of these crimes. The government, however, maintained that Anwar was a common criminal and that the trial was a normal legal process. The prosecution was incessantly opposed to any evidence of political conspiracy being adduced in court and sought to confine the trial strictly to legal matters. The defence, instead, was adamant that political conspiracy was their client's only defense and exclusion of such evidence would frustrate justice that the court sought to uphold. In Anwar's first trial, however, the judge, Augustine Paul, ruled that a defence based on political conspiracy was irrelevant. This ruling came after the judge allowed the prosecution to drop from the proffered charges the words 'sexual misconduct and sodomy committed' by Anwar, hence rendering any attempts by the defence team to provide evidence of a political conspiracy as irrelevant. This amendment, which was made at the end of the prosecution case, effectively barred the defence team from rebutting the prosecution's smear campaign.

Anwar was convicted on all the charges brought against him and sentenced to prison for a total of 15 years. With a five-year ban on contesting political office

after his release from prison, observers noted that Anwar would remain on the sidelines 'beyond the time frame of Mahathir's political life'.[50] The controversy over the political motives behind this trial, however, tarnished Mahathir's credibility. Case noted:

> Mahathir leaves a complex legacy. . . . Nor can one gainsay his country's rapid industrial progress. But the obduracy with which he has dealt with opposition forces while pursuing these aims – then tapped the country's judiciary so deeply for legitimacy that he has deadened it – forges an old trajectory in which the country modernizes its industrial base while its political institutions are demeaned.[51]

Anwar trial, contested legal meanings and the Malay revolt

Before the Anwar trial, the law was seen to serve a coercive function. During the Anwar case, the law was used not just to silence dissent, but also to disgrace an opponent. Not unexpectedly, some scholars subsequently argued that the Anwar saga had set the stage for a Malay cultural revolt against the ruling elite.[52] This was evident in the changing conceptions of the 'ruler' and the 'ruled' taking place among ethnic Malays, the UMNO's main constituency. Hari Singh traces the concept of loyalty to the ruler, who is so identical with the ethos of Malay political culture, to the narrative in *Sejarah Melayu*, where it is understood that subjects owe loyalty to their ruler as long as the ruler does not shame them. In this sense, loyalty to the ruler is absolute. Those who withdraw their loyalty are considered traitors and as such are subject to punishment. The ruler, on the other hand, has a moral obligation to act as 'protector' of his subjects. He may punish them if they are guilty of offences, but must not in any circumstances humiliate them.[53] This culture was apparently violated when Anwar was convicted of a crime that he claimed was trumped up and accused of committing sodomy, the most heinous sexual crime in the eyes of the Malays. The response of the Malays to this humiliating episode was to demonstrate in the streets, braving water cannons at 'illegal' assemblies, as well as to flock to the opposition's 'illegal' public *ceramah*. These acts were a reflection of the withdrawal of their loyalty to their hitherto 'ruler' and 'protector', the UMNO establishment.[54] To the Malays, the Anwar saga was a turning point, for their 'cultural revolt' was not only a breach of their cultural ethos, but an open declaration that they saw their 'ruler' as being unjust. The concept of justice in Islam was also evoked to justify their abhorrence of the court's verdict on Anwar. An Aliran eyewitness account quoted a member of the public as saying '(i)n Islam, we prize above all the law of Allah which ensures justice. But in this case, it is difficult to see the court being just.'[55]

This process of humiliating a political dissident, himself a 'subject', was systematically carried out by the media and legitimated by the court. Malaysian newspapers published in detail the contents of an affidavit filed by a senior police officer that accused Anwar of a host of sexual misconducts.[56] Anwar's crime was

portrayed as a breach of the country's law, as well as an act unbecoming of a deputy prime minister and a Muslim activist. The media also provided detailed and lurid accounts of Anwar's sex offences, as testified by prosecution witnesses during the trial. And, the media repeatedly published photographs of a semen-stained mattress, purportedly used by Anwar and his sex partners during their trysts, being brought to court. Mahathir's resolute determination in using the court as an arena to humiliate Anwar and vindicate the government was evident when a senior minister told reporters that 'once the evidence that has been accumulated against (Anwar) unfolds in court, more and more people will come to believe in what the government has been doing and saying thus far'.[57] The court did just that. In sentencing Anwar to a nine-year jail term for sodomy, which was to run consecutively after the expiry of his six-year conviction for corrupt practice – a severe sentence by any standard – Judge Ariffin Jaka criticised Anwar for 'being the number two in the hierarchy of the country's administration', and yet 'has not shown a high moral standard by committing sodomy, an offence which demands outright condemnation'.[58]

The trial was an attempt to legitimise the humiliation of a political dissident by interweaving legal precepts with moral standards generally accepted by the society. In this way, the state sought to articulate that Anwar had committed a crime that was demeaning and that the court was a legitimate arena that gave him a fair hearing. Anwar, on the other hand, believing that the court had been turned into a political tool, now deployed to destroy his political career, had chosen to contest this state-created legal meaning by turning the court into a contested political arena.

Throughout the two trials, Anwar revealed his opponent's political machinations to substantiate his main defense that these charges brought against him were nothing more than a plot to remove him from office. These revelations included his stressful relationship with some senior ministers who he alleged were involved in corruption, and who later worked in concert to purge him from government; the circulation of letters by a senior minister and his wife alleging his sexual misconduct; the involvement of a close aide to the prime minister in a conspiracy to topple him; Mahathir's directive to the Anti-Corruption Agency to close a corruption case involving a senior government officer; a Malaysian diplomat's attempt to bribe a limousine driver in Washington to induce the latter to declare they had sexual relations; and a failed attempt by two officers from the Attorney General's office to fabricate evidence against him.[59] But the most lethal of Anwar's political conspiracy arsenals was his insinuation that the court was not impartial, and that the country's highest ranking judge was incorporated into the plot to tarnish his reputation, shattering the whole basis of the court as a legitimate arena to try the case fairly. Anwar revealed:

> I have ample evidence to show that the Chief Justice craved for an additional six months extension, to ensure that no action would be preferred against him, and to ensure that I fail in my appeal. I am also privy, then as Deputy Prime Minister, to the fact that the Anti-Corruption Agency had prepared

> a preliminary report against the Chief Justice in 1998 over corruption. . . . And with the issue of the tribunal being pursued and the issue of corruption left hanging, would the CJ dare cause displeasure of the Prime Minister?[60]

Anwar attempted to hold the moral high ground when giving statements from the dock. He revealed corrupt practices involving senior judicial officers and members of the administration, including a report by a senior judge handed personally to him, while he was the deputy prime minister, revealing misbehaviour and professional misconduct by judges. This senior judge who exposed judicial misconduct was later transferred out of the capital, after which he chose to resign. Anwar revealed that a senior minister involved in corrupt practices was spared of criminal prosecution, despite a recommendation by the Anti-Corruption Agency and the Attorney-General that she be prosecuted. Above all, Anwar attempted to impress on the public that it was because he opposed corruption that he was expelled from office and that his case cannot be tried fairly. Describing the court's decision to convict him as 'stinking to high heaven', Anwar asserted that the trial has been a 'political persecution hiding behind the cloak of law'.[61]

It appeared that Anwar had managed to successfully turn the court into a contested political arena, challenging the legitimacy of the court and the attendant legal meanings that the government sought to articulate. It was in this vein that the trial was subsequently subject to much criticism, being cited for abandoning natural justice, the rule of law and judicial independence. The legal coercion and systematic humiliation of a Malay 'subject' by a Malay 'protector' had unleashed a whole set of legal meanings alien to 'Malay culture' itself. More and more ordinary Malays found themselves at ease discussing Western politico-legal jargons such as rule of law, natural justice and separation of powers. More significantly, major Malay/Muslim organisations too had interwoven these western concepts, and their attendant legal meanings, with that of Islam in their defence of Anwar and defiance against state repressions.[62] These legal meanings had then been turned into the Malays' text for resistance.

There were factors other than one which is essentially cultural that help explain open Malay revolt against the UMNO. Anwar's purge had occurred during a period when the use of repressive laws on the grounds of maintaining racial harmony and preserving national security was increasingly called into question. The expansion of Malay middle class and the narrowing inter-ethnic income disparity gap eased apprehensions about possible ethnic conflict. With the eclipse of the communist threat, the government's rationale for preserving the ISA to maintain national security no longer appeared legitimate. Moreover, since the 1980s, the ISA had been increasingly used against Malay political dissidents, a reversal from its trend since the 1950s when the law was mainly used against supposed communist elements often associated with the Chinese. There was also growing disaffection among Malays that now only a few well-connected individuals were benefiting from the UMNO's patronage of government grants and awards. This was conspicuously evident during the peak of the 1997 currency crisis, which was about at the time the UMNO leadership crisis unfolded, when the

government bailed out companies belonging to well-connected individuals. Those who benefited from government bail-outs included Mahathir's son and the Daim-linked Renong, exacerbating not only factional conflict within the UMNO, but also Malay anger towards the party. The notion of protector of the Malays, which the UMNO claimed to uphold, gradually diminished in the minds of disgruntled sections of the community.

Inevitably, during the Anwar trial, the instrumentalist-purposive function of law was widely perceived as a tool used by the ruling elite to crush political opponents to serve narrow factional interests. Coupled with the wide attention and voluminous analyses of the Anwar saga by the international community as well as local social movements, there had been intense contestations of legal meanings generated by society and those created by the state. Society-generated legal meanings were mainly informed by a minimalist conception of rule of law, and those of the government by a statist instrumentalist-purposive notion of rule by law, with both attempting to counteract each other in defining people's consciousness of what was right and what was wrong. Undoubtedly, however, the Anwar saga and the attendant legal coercion merely exacerbated the proliferation of society-generated legal meanings that had been unfolding in a society now experiencing upward mobility. The new legal meanings, in turn, served as the ideological basis for a Malay revolt against the political establishment.

UMNO's legitimacy: crisis and response

Despite the open Malay revolt and the attendant call for regime change in the aftermath of the Anwar saga, the UMNO shied away from showing any signs that it was moving to create more democratic space. UMNO leaders warned members not to join Anwar's *reformasi* movement or else face stern disciplinary action.[63] Twenty UMNO Youth exco members signed a memorandum urging the Supreme Council to take disciplinary action against its president, Ahmad Zahid Hamidi, Assistant Secretary, Saifuddin Nasution Ismail and its Penang and Negeri Sembilan chiefs, Abdul Rahim Ghouse and Ruslan Kassim, for their involvement in the *reformasi*.[64] The Selangor UMNO Liaison Committee recommended that disciplinary action be taken against six party members who allegedly helped organise a *reformasi ceramah* in the state.[65] By November 1998, the UMNO's Management and Disciplinary Committee had issued 45 show cause letters to members for alleged involvement in anti-party activities.[66] But there were more to these show cause letters. As the UMNO had often been associated with access to state concessions, the letters were a reminder to members that they stood to lose a lot of privileges by supporting the *reformasi*. Many UMNO members claimed that fear of being deprived of government contracts or the prospect of bankruptcy hindered them from supporting Anwar. Since a number of them had an unclean record, they were aware that they too could be subjected to criminal prosecution.[67]

In December 1998, the UMNO Special General Assembly adopted 38 amendments to its constitution that further curtailed democracy in the party. Among the

amendments was the introduction of a nomination quota system requiring that those vying for party posts obtain a minimum percentage of nominations from divisions in order to qualify to contest. A prospective candidate for the post of president had to obtain at least 30 per cent of the nominations, deputy president 20 per cent, vice-president 15 per cent and Supreme Council member 5 per cent. Other amendments included the abolition of the 10 bonus-vote system;[68] a three-year membership requirement for those contesting Supreme Council and division posts and two-year membership for those contesting branch posts; that those who were fined more than RM2,000 by a court would not be allowed to contest or vote in party elections; that members who contested federal or state elections as independent candidates or under an opposition party ticket would be sacked and never be readmitted to the party; that those suspended due to disciplinary action for less serious offences could appeal after two years; that sacked members could appeal for reinstatement after three years; and that the number of women's and youth's representatives to the general assembly would be reduced from 30 each to only 10 each.[69]

Instead of being responsive to the growing demand for political reform emanating from within Malay society, UMNO leaders chose to further consolidate their grip on power, hence foregoing its much needed legitimacy to rule. Apart from the open Malay revolt, the UMNO had to deal with the impending 1999 general election, which would evolve into the 'most historic challenge' from the opposition.[70] In this federal election, although the BN maintained its two-thirds majority in Parliament by winning 148 of 193 seats, the UMNO suffered a serious setback. Its overall share of popular votes dropped from 36.5 per cent in the 1995 general election to 29.5 per cent in 1999. Its archrival, PAS, apart from maintaining power in Kelantan and capturing control of the Terengganu state government, managed to win eight of the 15 parliamentary seats in Kedah, Mahathir's home state.[71] The opposition won 12 of 36 state seats in Kedah, one seat short of denying the BN of its two-thirds majority in the state's legislature.[72] In the 1999 election, the nascent *Parti Keadilan Nasional* (National Justice Party) led by Anwar's wife, Wan Azizah Wan Ismail, won five parliamentary and four state seats, all located in Malay majority constituencies.[73] Wan Azizah won the Malay-majority Permatang Pauh parliamentary seat previously held by Anwar. In the 58 Malay-majority parliamentary seats in the peninsula, the UMNO's share of popular votes dropped from 62 per cent in 1995 to barely 49 per cent in 1999. This translated into 31 seats won by the opposition and 27 by the UMNO. The opposition not only won handsomely in the Malay heartland states in the peninsula, but also made successful inroads into a number of central west coast states, hitherto BN's strongholds.

The 1999 general election results indicate that the UMNO had a serious legitimacy crisis. Taking the cue from its lacklustre performance, the UMNO moved to woo back Malay voters, particularly women and youths, many of whom had been active in the *reformasi*. A committee headed by UMNO vice president, Muhyiddin Yassin, held a nationwide tour in mid-2000 to gather feedback from party grassroots on ways and means to improve party performance. The committee received

some radical suggestions, including (i) holding Supreme Council elections at divisional rather than national level, hence enfranchising about 60,000 members, not just the 3,000 odd delegates to the party assembly; (ii) abolishing the nomination quota system to promote democracy in the party; (iii) limiting the term of office of Supreme Council members; and (iv) conducting elections at all levels in the same year, to reduce excessive intra-party politicking.[74] The Supreme Council rejected proposals (i), (ii) and (iii), but accepted (iv) with the modification that division and Supreme Council elections be held once in every parliament term, thus extending the tenure of office holders from three to five years.[75] The Supreme Council's counter-proposal drew protests from the rank and file fearing that democracy in the UMNO would further suffer. The Supreme Council finally retracted its proposal, reverting to the original three-year tenure.[76]

An UMNO Special Assembly held on 18 November 2000 approved 49 amendments to the party constitution.[77] These amendments included the abolition of the minimum duration of membership before a member could contest party posts or stand as candidates in general elections. Other amendments, which aimed at securing a wider support base for the party, included allowing Division A government officers to hold party posts and the setting up of *Puteri* UMNO, a young women's wing equal in status with the existing UMNO Youth. The main function of the *Puteri* wing was to woo young Malay women into the party, a task it accomplished with much success. Division A officers, however, still had to comply with a government ruling that prevented them from holding party posts, making this amendment less useful. An independent disciplinary board, whose members were appointed from among non-Supreme Council members, was established to help improve transparency and accountability in the UMNO.

Despite these amendments, the institutional character of the party remained rather undemocratic. The nomination quota system was perpetuated, giving incumbents important leverage in party elections. The system made it difficult for prospective non-incumbent candidates to even qualify to contest. This was evident at the subsequent party poll when the system was put in place. In the 2000 party poll, Mahathir and his chosen deputy, Abdullah Ahmad Badawi, won unchallenged the posts of president and deputy president, respectively. Tengku Razaleigh did attempt to mount a challenge, but since he received only one nomination for the post of president and two for deputy president, he was barred from contesting the two posts. Razaleigh again failed in his bid to challenge Abdullah for UMNO presidency in the September 2004 poll, when he only received one nomination from his own division. An UMNO *Menteri Besar* even accused Razaleigh of not loving the party when he decided to contest this post, a decision which ran counter to the Supreme Council's directive that the president and deputy president posts should not be contested.[78] In a move to diffuse any possible challenge against the incumbents, the Youth, Wanita and Puteri wings responded to Anwar's release from prison, after the Federal Court on 2 September 2004 overturned his conviction of sodomy, by passing a resolution to bar him from rejoining the party.[79]

The developments within the UMNO stood in stark contradiction to Abdullah's promise for political reform when he became prime minister in October 2003. There was an air of hope and expectation that Abdullah's soft-style politics would open up space for democratic reform, respect for rule of law and separation of powers, greater transparency and enhanced integrity. In fact, progress was made to reflect the new administration's effort at political reform. This included the formation of a royal commission to enhance the management and operation of the police force, the formulation of a national integrity plan, the setting up of a government institute for integrity and the prosecution of a number of high profile individuals for corruption offences. Apart from that, Abdullah also quickly addressed the feeling of economic alienation among the lower rung of Malay society, which had been the source of their disaffection towards the UMNO prior to the 1999 election.[80] He did so by revitalising its patronage dispensing function, by suggesting economic policies and concessions to address their problems. According to one UMNO politician, by the 2004 general election, the UMNO had managed to create an economic 'comfort zone' for the Malays, thus regaining its performance legitimacy.[81]

Abdullah's reform agenda, which was ostensibly a direct response to the proliferation of society-generated legal meanings and the subsequent call for political reform, coupled with his 'Islamic credentials' and efforts to alleviate Malay economic alienation, earned the new administration a phenomenal victory in the March 2004 general election. The BN won 198 of 219 parliamentary seats and 453 of 505 state seats. It recorded a surge in the popular vote from 56.3 per cent in 1999 to 64.4 per cent. The UMNO also regained its lost ground in large Malay-majority parliamentary constituencies. Its share of popular votes in these constituencies increased from 49.7 per cent in 1999 to 60.6 per cent in 2004, nearing its highest score of 62 per cent in 1995. The number of parliamentary seats it won in these constituencies also increased from 27 of 59 seats in 1999 to 63 of 71. The increase in the average percentage of majority in these constituencies, from 18 per cent in 1999 to 26.2 per cent, indicated that the contest for Malay votes was less intense in 2004.[82] The results show that the UMNO had regained the popularity it lost to the opposition after the Anwar purge in 1998. However, post-electoral development within the party indicates that its increased popularity hastened the process of internal power reconsolidation rather than accelerating the progress towards reform and rejuvenation.

Conclusion

Though the proliferation of society-generated legal meanings and the subsequent call for political reform forced the UMNO to find ways to rejuvenate itself, the final results show that the institutional character of the party had not undergone any significant change. Power seemed to be concentrated in the hands of the top echelon of party leaders and, with the perpetuation of stringent in-house regulatory mechanisms, such as the quota system, successful challenge from below is

almost impossible. Furthermore, Abdullah's ascension to power and his promise for political reform had a rather paradoxical impact on the UMNO. While his reform campaign at the governmental level boosted the UMNO's popularity and helped the party achieve resounding victory in the 2004 general election, it stopped short of bolstering internal efforts at overhauling the party's undemocratic structure. Ironically, it seems that the party's enhanced popularity eliminates the very reason for its own internal reform and rejuvenation.

Having said this, however, the society-generated legal meanings are not likely to make any premature exit from the political realm. As the government's promise for political reform was ostensibly a direct response to the proliferation of society-generated legal meanings, the progress of the much-awaited reform will bear significant impact on the re-proliferation of such legal meanings. It seems that Abdullah's reform agenda is making a rather slow and halting progress at the moment, while UMNO politics is back to its normal business. Nothing much has been done to rid the legal system of its instruments of coercion or to enhance judicial independence.

The basic structures for legal coercion are still available for convenient use should a struggle for political power once again reach the point of no return. To what extent society-generated legal meanings will re-proliferate and guide the state and the UMNO to a more responsive path will depend on the extent to which the state manages and legitimises the use of its coercive instruments, and the continuing dynamics that are taking place in determining individual consciousness of what is right and what is wrong.

Notes

1 Cardozo, cited in Vago (1981: 7); Weber (1954: 5).
2 Vago (1981: 182).
3 Migdal (1998).
4 Migdal (1998: 27).
5 Cover (1992) differentiates the social organisation of law as power from the organisation of law as meaning. He argues that legal precepts borrow meanings from social activity outside formal law-making. As such, although authoritative institutions may try to create meanings for the legal precepts they articulate, they act, in that respect, in an unprivileged fashion.
6 The polemic over which law is supreme helps illustrate the multiplicity of legal meanings on different social groups' understanding of law. For instance, those with a secular understanding would accept the Constitution as the supreme law of the land, while the Islamists are more likely to maintain that, although the Constitution is to be respected for its politico-temporal function, the *Shari'ah*, God's law, is supreme over all other laws.
7 Barraclough (1985: 820).
8 For illustrative accounts of such incidents, see Kua (1989) and Koh (2004).
9 The original Article 149 (legislation against subversion) provided that any law enacted thereunder would have validity for only one year. The 1960 amendment changed this to provide that the law, if not sooner revoked, would only cease to have effect if both Houses of Parliament passed resolutions annulling such law. This amendment set the stage for the enactment and permanent footing of the Internal Security Act 1960,

which provides for detention without trial, in Malaysia's legal landscape (Jayakumar 1978: 330).

10 Munro-Kua (1996: 36).
11 For a useful discussion on the immigrant Chinese and the native sons, see Esman (1994: 49–74).
12 Kamarul Nizam (1999: 271).
13 Mahathir (1997).
14 Soyinka (1999).
15 Jayasuriya (2001: 101).
16 Loh (2003).
17 Loh (2003: 278).
18 For a critical discussion on the role of law in economic development, see Trubek (1972).
19 Cited in Lee (2004: 7).
20 Khoo (1999: 208–210).
21 Wu (2003).
22 Wu (2003: 290).
23 Wu (2003: 290).
24 Wu (2003: 290).
25 *Ketua Pengarah Jabatan Alam Sekitar & Anor v. Kajeng Tubek & Ors and other appeals* ([1997] 3 MLJ 23).
26 Tan (1997: 240).
27 Loh (2001); Shamsul (2001).
28 Section 130B of the amended Penal Code defines a 'terrorist act' as an act or threat of action within or beyond Malaysia which involves, among other things, bodily injury, damage to property, the use of firearms and explosives, prejudice to national security, etc., to intimidate the public or the government.
29 Bon (2004: 4).
30 The British only agreed to grant Malaya independence if UMNO consented to share power through a multiracial coalition comprising the Malayan Chinese Association (MCA) and the Malayan Indian Congress (MIC). This tripartite grouping, the Alliance, was discarded in 1974 for the expanded coalition, BN, now comprising about 14 parties.
31 See von Vorys (1975).
32 Abdul Aziz (1977: 38).
33 Quoted in von Vorys (1975: 182).
34 Abdul Aziz (1977: 173).
35 Crouch (1980: 22).
36 Crouch (1980: 22).
37 *Mohamed Noor bin Othman v. Mohamed Yusoff Jaafar* ([1988] 2 MLJ 129).
38 The new section 12(3) as amended by Societies (Amendment) Act 1988 provides that '(w)here a registered society establishes a branch without the prior approval of the Registrar the branch so established shall be an unlawful society'.
39 Harding (1996: 145).
40 Harding (1996: 145).
41 These incidents included the Berthelsen's case, where the government's decision to revoke the work permit of a foreign journalist on the ground of national security was quashed by the court because he had not been given a hearing (*JP Berthelsen v. Director-General of Immigration* [1987] 1 MLJ 134); the UEM litigation in which Lim Kit Siang, Leader of the Opposition, was initially given standing to raise in court allegations of corruption against the government (*Lim Kit Siang v. United Engineers (M) Bhd & 3 Ors* (No.2) [1988] 1 MLJ 50); and the Aliran case, when the government's refusal to issue a licence to Aliran, a renowned reform group, to publish its magazine in Bahasa Malaysia was struck down (*Persatuan Aliran Kesedaran Negara v. Minister of Home Affairs* [1988] 1 MLJ 440).

42 Hari (1991).
43 Shklar (1964: 49) describes political trial as one whose objective was 'the destruction, or at least, the disgrace or disrepute, of a political opponent'.
44 Gomez (2002: 86).
45 Gomez (2002).
46 Among those detained under the ISA were UMNO Youth Chief, Ahmad Zahid Hamidi; party divisional heads, Kamarudin Jaafar (Tumpat), Kamaruddin Mohd. Noor (Pasir Puteh), Tamunif Mokhtar (Bandar Tun Razak); and Asma'on Ismail (Bandar Tenggara); Lumut UMNO Divisional Youth Chief, Zambry Abdul Kadir; Negeri Sembilan UMNO Youth Chief, Ruslan Kassim; ABIM leaders, Ahmad Azam Abdul Rahman (President), Mokhtar Redzuan (Deputy President), Shaharuddin Badaruddin (Secretary General) and Abdul Halim Ismail (Treasurer); International Islamic University Deputy Rector and former ABIM Vice-President, Sidek Baba; and PKPIM leaders, Amidi Abdul Manan (President) and Ahmad Shabrimi Mohamed Sidek (Secretary General). All of them were released after several weeks of detention. Some of Anwar's close associates including Ezam Mohd Noor (Political Secretary), Khalid Jaafar (Press Secretary) and Abdul Rahim Ghouse (Penang UMNO Youth Chief) fled the country.
47 Case (2003: 123).
48 *Public Prosecutor v. Dato' Seri Anwar bin Ibrahim* ([1999] 2 MLJ 1: 23–24).
49 *Public Prosecutor v. Dato' Seri Anwar Ibrahim & Anor* ([2001] 3 MLJ: 193).
50 Case (2003: 128).
51 Case (2003: 130).
52 See Hari (2000) and Maznah (2003).
53 Chandra (1992: 4).
54 For a detailed discussion on the concepts of 'loyalty' and 'protector' in Malay culture, see Chandra (1992).
55 Aliran (1999).
56 See, for example, *The Malay Mail* (3 September 1998); *New Straits Times* (4 September 1998).
57 *New Straits Times* (30 September 1998).
58 *Public Prosecutor v. Dato' Seri Anwar Ibrahim & Anor* ([2001] 3 MLJ 193: 319).
59 *Public Prosecutor v. Dato' Seri Anwar Ibrahim & Anor* ([2001] 3 MLJ 193: 288–303).
60 Anwar (2000: 2).
61 Anwar (1999: 2).
62 See, for example, ABIM's press releases 'Anwar Gets a Hate Verdict' (9 August 2000) and '*ABIM Kecewa Penolakan Rayuan Dato' Seri Anwar Ibrahim*' (ABIM Regrets the Rejection of Dato' Seri Anwar Ibrahim's Appeal) (25 April 2003).
63 *The Sun* (22 September 1998).
64 *New Straits Times* (23 September 1998).
65 *The Sun* (26 September 1998).
66 *New Straits Times* (5 November 1998).
67 Discussion with Anwar Ibrahim, 18 December 2004.
68 This bonus-vote system was introduced in 1988 to discourage members from nominating one candidate for a post, but voting for another during the general assembly. Under this system, those aspiring for the posts of President and Deputy President would automatically receive 10 votes for each nomination by a division. This system had a major impact on the results of the 1993 UMNO election when Ghafar, the incumbent deputy president, lost the election to Anwar before election day because of a flood of nominations for the latter.
69 *The Sun* (14 December 1998).
70 Maznah (2003).
71 In the July 2002 by-election in the Pendang parliamentary seat, held following the death of its Member of Parliament, Fadzil Noor, also the PAS President, the BN wrested control of the seat with a slim majority of 283 votes.

72 In the November 2000 by-election in the Lunas state constituency in Kedah, the opposition's Saifuddin Nasution won the seat, leaving the BN with less than two-thirds majority in the state assembly.
73 Although the multiracial Keadilan failed to win any single seat in ethnically mixed constituencies, it managed to significantly reduce the BN's margin of victory in these constituencies.
74 The practice at that time was that the election at the branch level was held annually, once every two years at division level and once in three years at supreme council level.
75 *Bernama* (30 October 2000).
76 *The Sun* (17 November 2000).
77 *Bernama* (18 November 2000).
78 *Utusan Malaysia* (11 July 2004).
79 *New Straits Times* (23 September 2004).
80 Gomez (2004).
81 Discussion with Zambry Abdul Kadir, Perak State Executive Councilor for Education, Information Technology and Human Resources, and Lumut UMNO Division Head, 2 February 2005.
82 Marzuki (2005: 42).

References

Abdul Aziz Ishak (1977), *Special Guest: The Detention in Malaysia of an Ex-Cabinet Minister*, Singapore: Oxford University Press.

Aliran (1999), 'The drama outside the court: the state vs the people', http://www.aliran.com/pp990414.html

Anwar Ibrahim (1999), 'I have no hope of justice', http://www.freeanwar.net/news/no_hope.html

Anwar Ibrahim (2000), 'The full text of Anwar Ibrahim's address during his appeal on the judge's decision to disallow the defense from calling the prime minister to court to testify at his second trial', http://www.freeanwar.net/news/appeal-fulltext.html

Barraclough, Simon (1985), 'The dynamics of coercion in the Malaysian political process', *Modern Asian Studies*, 19 (4): 797–822.

Bon, Edmund (2004), 'Impact of terrorism and anti-terrorism measures in Asia: Malaysia', *Human Writes* 12: 1–11.

Case, William (2003), 'The Anwar trial and its wider implications', in Colin Barlow and Loh Kok Wah (eds), *Malaysian Economics and Politics in the New Century*, Cheltenham: Edward Elgar.

Chandra Muzaffar (1992), *Pelindung? (Protector?)*, Penang: Aliran Kesedaran Negara.

Cover, Robert (1992), 'Nomos and narrative', in Martha Minow, Micheal Ryan and Austin Sarat (eds), *Narrative, Violence and Law: The Essays of Robert Cover*, Ann Arbor: University of Michigan Press.

Crouch, Harold (1980), 'The UMNO crisis: 1975–1977', in Harold Crouch, Lee Kam Hing and Michael Ong (eds), *Malaysian Politics and the 1978 Election*, Kuala Lumpur: Oxford University Press.

Esman, Milton J. (1994), *Ethnic Politics*, Ithaca: Cornell University Press.

Gomez, Edmund Terence (2002), 'Political business in Malaysia: party factionalism, corporate development, and economic crisis', in Edmund Terence Gomez (ed.), *Political Business in East Asia*, London: Routledge.

Gomez, Edmund Terence (2004), 'The 2004 general elections: economic development, electoral trends and the decline of the opposition', paper presented at the ISEAS

Workshop on 'The political economy of Malaysia: current trends and future challenges', 8–9 September, Singapore.
Harding, Andrew (1996), *Law, Government and Constitution in Malaysia*, Kuala Lumpur: Malayan Law Journal Sdn. Bhd.
Hari Singh (1991), 'Political change in Malaysia: the role of Semangat 46', *Asian Survey*, 31 (8): 712–728.
Hari Singh (2000), 'Democratization or oligarchic restructuring? The politics of reform in Malaysia', *Government and the Opposition*, 35 (4): 520–546.
Jayakumar, S. (1978), 'Emergency powers in Malaysia', in Mohamed Suffian, H.P. Lee and F.A. Trinidade (eds), *The Constitution of Malaysia, Its Development: 1957–1977*, Kuala Lumpur: Oxford University Press.
Jayasuriya, Kanishka (2001), 'The rule of law and regimes of exception in East-Asia', in Uwe Johannen and James Gomez (eds), *Democratic Transitions in Asia*, Singapore: Select Books.
Kamarul Nizam Abdullah (1999), 'National security and Malay unity: the issue of radical religious elements in Malaysia', *Contemporary Southeast Asia*, 21 (2): 261–283.
Khoo Boo Teik (1999), 'Between law and politics: the Malaysian judiciary since Independence', in Kanishka Jayasuriya (ed.), *Law, Capitalism and Power in Asia: The Rule of Law and Legal Institutions*, London: Routledge.
Koh Swe Yong (2004), *Malaysia: 45 Years Under the Internal Security Act*, Petaling Jaya: SIRD.
Kua Kia Soong (1989), *445 Days Behind the Wire: An Account of the October 1987 ISA Detentions*, Kuala Lumpur: The Resource and Research Centre, SCAH.
Lee, H.P. (2004), 'Competing conceptions of rule of law in Malaysia', in Randall Peerenboom (ed.), *Discourses of Rule of Law: Theories and Implementation of Rule of Law in Twelve Asian Countries, France and the US*, London: Routledge.
Loh Kok Wah, Francis (2001), 'Where has ethnic politics gone? The case of the BN non-Malay politicians and political parties', in Robert W. Hefner (ed.), *The Politics of Multiculturalism: Pluralism and Citizenship in Malaysia, Singapore and Indonesia*, Honolulu: University of Hawai'i Press.
Loh Kok Wah, Francis (2003), 'Towards a new politics of fragmentation and contestation', in Francis Loh Kok Wah and Johan Saravanamuttu (eds), *New Politics in Malaysia*, Singapore: Institute of Southeast Asian Studies.
Mahathir Mohamad (1997), *The Supreme Court of Justice*, speech delivered in Montevideo, Uruguay, 2 October.
Marzuki Mohamad (2005), 'Malaysia's 2004 general election: spectacular victory, continuing tensions', *Kasarinlan: Philippine Journal of Third World Studies*, 19 (2): 25–53.
Maznah Mohamad (2003), 'The contest for Malay votes in 1999: UMNO's most historic challenge?', in Francis Loh Kok Wah and Johan Saravanamuttu (eds), *New Politics in Malaysia*, Singapore: Institute of Southeast Asian Studies.
Migdal, Joel S. (1998), 'Why do so many states stay intact?', in Peter Dauvergne (ed.), *Weak and Strong States in Asia Pacific Societies*, Canberra: Allen & Unwin, & RSPAS, ANU.
Munro-Kua, Anne (1996), *Authoritarian Populism in Malaysia*, Basingstoke: McMillan.
Shamsul, A.B. (2001), 'The redefinition of politics and the transformation of Malaysian pluralism', in Robert W. Hefner (ed.), *The Politics of Multiculturalism: Pluralism and Citizenship in Malaysia, Singapore and Indonesia*, Honolulu: University of Hawai'i Press.
Shklar, Judith (1964), *Legalism*, New Delhi: Oxford University Press.
Soyinka, Wole (1999), 'Democracy, freedom and individual', *INSAF*, 28 (3): 40–61.

Tan Pek Leng (1997), 'Malaysia', in Vinod Raina, Aditi Choudhury and Sumit Chowdhury (eds), *The Dispossessed: Victims of Development in Asia*, Hong Kong: Arena Press.

Trubek, David M. (1972), 'Toward a social theory of law: an essay on the study of law and development', *The Yale Law Journal*, 82 (1): 1–50.

Vago, Steven (1981), *Law and Society*, New Jersey: Prentice-Hall.

von Vorys, Karl (1975), *Democracy Without Consensus: Communalism and Political Stability in Malaysia*, Princeton, New Jersey: Princeton University Press.

Weber, Max (1954), *Law in Economy and Society*, Cambridge: Harvard University Press.

Wu Min Aun, Jesse (2003), 'Prosperity at a price: regulation of organized labour in Malaysia', in Cristoph Antons (ed.), *Law and Development in East and Southeast Asia*, London: RoutledgeCurzon.

2 Globalisation, state and g/local human rights actors

Contestations between institutions and civil society

Carolina López C.

Global political economy and metamorphosis of state and civil society

Within the unfolding dynamics of the global political economy, there has been a marked shift in the nature of politics at the level of civil society. Under the bipolar world order, popular political movements were centred on labour and peasant-based class struggles. In today's globalising context, politics focuses primarily on human rights, identity, culture, feminism, environmentalism, peace, nationalism, religious revivalism and terrorism.[1] The role of the nation state is being redefined as it responds to pressures from the changing power configurations in the global economy and from the emerging political movements found in global and local (g/local) civil societies. In terms of human rights, states must respond to pressure coming from 'above' and 'below' from actors striving for democratic space within national civil society and from international human rights narratives, actors and institutions. Complicating this situation is the fact that states are struggling to find a balance between preserving basic rights while maintaining national security in the post-September 11 world, to protect themselves from possible attacks by non-state actors, often labelled as 'terrorist' or 'extremist' organisations.

In this equation between continuity and change, national governments and their institutional structures tend to limit, as well as define, the scope for change, acting as brakes on the evolving trends emerging from g/local civil society actors. Bureaucracies and institutions tend to take on a life of their own in their day-to-day functioning, implicitly aiming to ensure their own continued existence, and therefore tending towards rigidity and the maintenance of the status quo. As such, any issue arising from g/local civil society perceived to threaten the existence of the state and its institutions might be met with diverse official forms of resistance. While the state and its institutions tend to limit, even constrain, the impulse for change, the fluid and complex nature of civil society continually contests the structures, policies and practices of the state. It is in this contestation between the state and non-state actors that day-to-day life within the polity continues to evolve.

It is often the case that, compared with progressive voices within civil societies, the state lags behind in the discourse about the pace of change. On the other hand,

there are segments of civil society that perceive the government as liberalising far too rapidly, thus threatening local practices, traditions and values. While the interests and positions among groups in Malaysian civil society are diverse and complex, a major cleavage exists between those wishing to embrace universalist values and those choosing to resist them.

This study aims to examine the nature of the human rights discourse of the Malaysian state from the late 1980s to early 2005. An analysis of the nature of this discourse would provide insights into the evolution of the state. This study will also explore major trends in the narratives by civil society about human rights, based primarily on the United Nations' *Universal Declaration of Human Rights* and its other rights-based instruments. The rights positions expressed by civil society actors will be divided into those who advocate a *universalist position* – that all rights are applicable to all people at all times in all places – and those arguing from a *relativist position* – that rights are not universal, and must be adapted to fit the particularities of the local situation.

The major questions to be explored here include: what has been the history of human rights activism and the government's response to it in Malaysia? What is the government's official stance on human rights? What has been the form of the government's human rights practice? What are the points of convergence and divergence between the Malaysian state and local human rights actors? And between the state and global rights actors, including international human rights organisations?

An examination of these questions will help provide a comprehensive picture of how state structures and narratives have evolved in the area of human rights. These questions will also provide insights into the emergence and evolution of rights-related civil society organisations. To provide an analytical lens for examining these questions, the following section provides an overview of the theoretical discussion on generations of human rights, after which the major contemporary rights-related debates will be reviewed.

Rights generations

It was the French jurist, Karel Vasak, who originally proposed, at the Strasbourg International Institute of Human Rights in 1979, the classification of rights into three different generations. Vasak derived his inspiration for this classification from the three major watchwords of the French Revolution, liberty, equality and fraternity. Vasak's classification is useful since states and other actors, such as transnational corporations (TNCs), are more prone to upholding or violating certain types of rights. For example, governments seeking to develop the economy, as that in Malaysia, may choose to limit civil and political – or First Generation – rights, on the grounds that such measures are necessary in order to promote socio-economic well-being, which falls under the classification of Second Generation rights. Conversely, TNCs, to maximise profits, may act to the detriment of people's socio-economic and environmental well-being, which comes under what are known as Third Generation rights. Rights activists argue

that authoritarian states may choose to curtail First Generation rights, not as they claim, to ensure development, but to safeguard their grip on power. These same civil society actors often call for corporate accountability on the part of TNCs, in order to curb their abuse of Second and Third Generation rights, to which states may turn a blind eye, due to collusion or fear of losing foreign investment so vital to sustaining economic growth.

First Generation Rights are civil and political rights related to individual freedoms, including that of expression, association, assembly and religion, the right to a fair trial and so on. These rights were first enshrined in the UN's 1948 *Universal Declaration of Human Rights* to protect citizens from abuse of power by governments. The official line of the Malaysian state is that it is necessary to limit individual First Generation rights in order to ensure the well-being of the majority. While the Abdullah Ahmad Badawi administration has been less vociferous about the purported need to limit First Generation rights, compared with his predecessor, Mahathir Mohamad (1981–2003), its practices so far follow the same relativist position long adopted by the government. For example, Abdullah's administration continues to deny groups permission to gather publicly, even on issues on which the government and NGOs agree. When people were tear-gassed for demonstrating against the Iraq War outside the Australian Embassy in March 2003, this was seen as unnecessarily harsh, embarrassing the government. The arrest and detention without trial of suspected 'extremists' in the name of national security is clearly the most explicit mark of violation of First Generation rights.

Second Generation Rights relate to equality and include the right to work to earn a living, the right to receive an education and medical attention and the right to have a decent place to live. While the state is responsible for ensuring that its citizens enjoy these rights, many national governments implement policies that compromise the well-being of their citizens to attract and sustain foreign investment. In their constant attempt to achieve the greatest possible gain for the least possible input, TNCs often compromise Second Generation rights by paying low salaries and violating the right of workers to unionise. Government policies have facilitated the capacity of TNCs to abuse Second Generation rights in an attempt to keep foreign investors from uprooting and investing elsewhere. Critics claim it is not the fear of losing foreign investment that compels governments to compromise Second Generation rights, but rather that state leaders benefit greatly from collusion with TNCs to the detriment of both human and environmental well-being. Furthermore, the neo-liberal orthodoxy propagated by the World Trade Organisation (WTO) and international financial institutions like the International Monetary Fund (IMF) and the World Bank often impairs human well-being as it endorses policies that implicitly favour global capital. In spite of Mahathir's often virulent critique of the ideas of these international institutions, his support of pro-private sector policies, such as the privatisation of health, education and water services, among other things, have had an adverse impact on the well-being of Malaysian society.

Third Generation Rights deal with 'fraternity' or solidarity, such as the right to a clean and healthy environment, the right to self-governance, the right to share

in the common heritage of mankind and other identity-related rights. TNCs and domestic business interests often move to limit certain Third Generation rights, sometimes with the silent consent of the government, for example, when toxic waste or the over-exploitation of natural resources damages the environment. The state may turn a blind eye or choose not to enforce existing environmental legislation on issues involving over-exploitation of natural resources, such as rampant logging in the forests of Borneo, once again for fear that the TNC involved will leave or possibly because the local firms involved are owned by the well-connected.

Major debates concerning human rights

Indivisibility

One important debate that emerged with the spread of the human rights narrative to developing nations concerns the UN's formulation of the *indivisibility* of basic rights. Malaysia, under Mahathir, is an example of a government that questioned the validity of the indivisibility of rights. Throughout his 22 years in power, Mahathir consistently maintained that it was necessary to curtail civil and political rights to achieve rapid economic development,[2] implicitly prioritising socio-economic rights over First Generation rights such as individual liberty and freedom of speech, association and assembly. The logic behind this argument is that socio-economic well-being is more important than the enjoyment of civil and political rights.

In contrast to Mahathir's position, non-state actors including the NGOs *Suara Rakyat Malaysia* (Malaysian People's Voice, or SUARAM), *Aliran Kesedaran Negara* (National Consciousness Movement, or Aliran) and *Persatuan Kebangsaan Hak Asasi Manusia* (National Human Rights Society, or HAKAM) have argued for the indivisibility of human rights, maintaining that to ensure social and economic well-being, citizens and grassroots organisations must be able to exercise their civil and political rights and challenge the state to provide access to adequate housing, medical care, education, clean and abundant water supply, etc. These civil society actors contend that the exercise of civil and political rights is imperative to ensuring basic socio-economic well-being.

Universality

A second major area of debate is that of the universalist versus the relativist understanding of human rights. The universalist holds that the rights expressed in the global rights instruments[3] are applicable to all individuals and societies, at all times and in all places regardless of race, religion or culture. The relativist position is that human rights are subject to interpretation based on local norms, values, religious traditions and national priorities. In Malaysia, the state's position has been essentially relativist, while global human rights actors and local NGOs like SUARAM, Aliran and HAKAM advocate a universalist position.

This constitutes a second area of contestation between the Malaysian state and g/local human rights actors.

During his tenure as prime minister, Mahathir's Asian values rhetoric was consistently used to justify his regime's actions.[4] In Mahathir's response to the global human rights narrative, he argued for the need for more localised articulations of human rights. Put differently, the practice of human rights was relative, based on the Asian context. Islamic NGOs, such as the *Angkatan Belia Islam Malaysia* (Malaysian Islamic Youth Movement, or ABIM) and *Persatuan Kebangsaan Pelajar Islam Malaysia* (Malaysian National Association of Muslim Students, or PKPIM) also adopt a relativist perspective, arguing the need for a particularly Islamic understanding of human rights.[5]

While the state and some Islamic NGOs share a common relativist position, the former has a secular orientation based on Asian values, while the latter has an interpretation of human rights based on religious principles. In Malaysia, the state and some Islamic-oriented NGOs have challenged the universality of human rights as expressed by the UN. Furthermore, current events in the global arena call into question the universality of the practice of human rights because of the actions of actors engaged in the supposed 'global war on terror'. As Anil Netto of Aliran points out 'we currently see Western powers like the US trampling all over the supposed universality of the UDHR. Human rights rhetoric is only used when it serves their purpose. In this sense, the relativist argument is not incorrect. As Mahathir has often stated, the global powers tend to use the language of human rights to demonise leaders they don't like, especially from the developing world, but tolerate the abuses when "it's their guy" or when US soldiers abuse the rights of Iraqis'.[6]

Hegemony

A third and related debate revolves around the nexus between the mainstream interpretation of human rights and its connection with globalisation. Many governments in developing nations argue that the articulation of human rights as expressed in the UN instruments is actually a political tool for the diffusion of Western values and consumption patterns around the globe. Mahathir often expressed this point, as evidenced in his speech at the International Conference on the 'Future of Asia', held in Tokyo in 1995, where he said:

> [Asian countries] may grow but must never overtake the West. Asian countries may not talk to each other on any issue or act in concert on anything. They are all members of the United States-led APEC. World trade will be managed by the European Union (EU) and NAFTA, which by then would have come together to form the world's biggest trading bloc. A senior member of the EU is presently urging this and it is not unthinkable that this would happen. With their trading clout, the EU-NAFTA confederation could dictate terms to the rest of the world.[7]

In both its explicit rhetoric and implicit practice of human rights, Mahathir's government placed limits on the universality and the indivisibility of human rights. Abdullah, through his rather quiet style, has managed to tone down the state's official critical stand on human rights. Although the state of human rights under Abdullah could be greatly improved, the lack of overt anti-rights rhetoric on the part of his government makes it more difficult for human rights actors to catch and hold the public's attention when rights violations do occur.

The fact that the US and its allies have ceased their criticism of arbitrary detentions in Malaysian, even though more than 100 suspected extremists are presently detained without trial, suggests that there is some merit to Mahathir's views. When the US subsequently enacted its own set of restrictive laws post-September 11, they relinquished the right to critique nations that similarly restricted individual liberties.

Discourses and laws restricting fundamental rights and liberties

Within the rubric of the Malaysian federal constitution, a series of restrictive laws has been legislated, which allows the state to limit the rights and freedoms of citizens, ostensibly to maintain stability. Among these laws are the Internal Security Act (ISA) that allows for detention without trial, the Police Act, which curtails aspects of individual freedom, the Official Secrets Act, the Printing Presses and Publications Act, the Sedition Act, the University and University Colleges Act and the Societies Act. These legislations strongly regulate the modes of action and expression of NGOs. National and international human rights actors have long criticised these legislations as state mechanisms for stifling legitimate dissent by civil society. Local human rights activists and international watchdog organisations have also lobbied persistently for the repeal of these legislations 'to bring them in line with global human rights standards'.[8]

Under Mahathir, despite local discontent, along with global pressure to conform to basic standards of equality and fundamental rights, the government remained firm in its relativist position on human rights. In his capacity as finance minister, Daim Zainuddin, in a speech given in 1997, succinctly summarised the official position of the government on the issue of the rights of citizens:

> For the record, let me categorically mention Malaysia's own position on human rights. For Malaysia, the protection of human rights and fundamental freedoms, consonant with the principles enshrined in the *Universal Declaration of Human Rights* (UDHR), is guaranteed in the Malaysian Constitution. Malaysia, however, believes that human rights and fundamental freedoms would be meaningless if the country is destabilized by social, political and economic chaos. Malaysia believes also that there is a need to review the various human rights instruments and also the standards of human rights that were defined and established almost 50 years ago. Such a review should also take into account the peculiarities of national values, religions,

> customs, tradition, social and economic systems in a particular country, and attempts should be made to harmonize human rights in a balanced manner, moving away from the present unhealthy predominance of Western values and concepts.[9]

With respect to the mainstream global human rights narrative, Daim suggested the need for a revision, or an updating, of the UDHR in the following terms:

> The passage of time and the emergence of new situations and issues necessitate the formulation of a new declaration or a major overhaul of the present Declaration to make it acceptable to all nations and peoples. Developing countries, particularly from the South, have always been sceptical of the West's insistence that they conform to the high ideals that the West itself cannot match. I think that such highhanded treatment smacks of arrogance of a bygone era when nations of the North believed they ruled the world. That era has gone and will never return again . . . Besides the social and cultural milieu, the widely differing state of development of the countries of the South as compared to those of the North makes any attempt to ensure universal compliance by all nations sound hollow. The developing countries believe that development is a prerequisite for the promotion and protection of human rights. The indifference of the western countries towards the crucial link between human rights and development may be construed as a deliberate intention to maintain and perpetuate the North-South divide.[10]

Daim's arguments clearly indicate that the state's position on human rights is relativist. He argues for the need to develop a rights discourse from within local history, culture and values systems or, in a sense, to hybridise them to fit the domestic context. Furthermore, these statements by the former finance minister suggest that the global rights narratives are actually instruments for perpetuating Western hegemony.

The discourse on Asian values by Mahathir – and Singapore's Lee Kuan Yew – stressed similar relativist arguments. These values were said to emphasise deference to authority, acceptance of relatively strict government control and non-interference by one nation in the internal affairs of others as the basis for their concomitant understanding of human rights. Mahathir maintained that 'some of the values which Asians hold dear' help bring order to society, ensure societal harmony, promote accountability by public officials, enhance openness to new ideas and encourage freedom of expression and respect for authority.[11] Mahathir does not address whether only Asians hold these values dear. Mahathir's primary objective with the Asian values rhetoric was to prioritise economic development over civil and political rights. The same narrative served to justify repressive laws used many times during his tenure to stifle competing views and to arrest dissenting voices, especially prominent NGO leaders and opposition members of parliament.

Mahathir's understanding of Asian values and his views of the West are most lucidly articulated in his following two statements:

> We do subscribe to the universality of human rights, but not to the irresponsible variety propounded by the West. Human rights are not a license to do anything without regard to the rights of others. The rights of the majority are just as valid as the rights of the minority or the individual. A society has the right to protect itself from the unbridled exercise of rights by individuals or a minority, which in the West, has contributed to the collapse of morality and the structure of human society.[12]
>
> If democracy means to carry guns, to flaunt homosexuality, to disregard the institutions of marriage, to disrupt and damage the well-being of the community in the name of individual rights, to destroy a particular faith, to have privileged institutions [i.e. the Western Press] which are sacrosanct even if they indulge in lies and instigations which undermine society, the economy, and international relations; to permit foreigners to break national laws; if they are the essential details, can't [nations]…opt to reject them? Hegemony by democratic powers is no less oppressive than hegemony by totalitarian States.[13]

As the ideological-structural theory suggests, communal identities are often constructed and described as 'virtuous' in juxtaposition with an 'evil other', in order to gain political mileage by setting the state up as protector of local virtue in the face of a hopelessly decadent 'other'.[14] While some characteristics attributed to the West by Mahathir do exist, it is questionable if they are solely present in a monolithic West. The crude juxtaposition of monolithic narratives of Asia and the West, from which values and anti-values are said to arise, is highly problematic for a number of reasons.[15] Nonetheless, the Asian values narrative managed to capture the imagination of many people, both in the East and the West, at least up until the 1997 currency crisis. Since then, official use of this narrative to criticise the West and global human rights instruments has declined.

Under Abdullah, the Asian values rhetoric is not used to justify restrictive acts on the part of the state. Instead, the official position voiced, when the occasion calls for it, is to cite the need to ensure national and regional security in the face of threats from 'extremists'. The issue of an 'extremist threat' is specifically mentioned when the government is queried about detentions under the ISA, for example, of the hundred odd Muslims allegedly linked with Jihadi-type organisations. This threat is cited as the primary reason for Malaysia's increased collaboration with the US military, purportedly to enhance both national and regional security.

Voices in civil society: points of convergence and divergence

Malaysia is home to a myriad of civil society organisations dealing with a broad range of issues. The groups seen as more liberal include human rights NGOs

and those dealing with gender, the well-being of migrants and prisoners and environmental issues. These NGOs tend to espouse a universalist position concerning human rights. NGOs based on a particular religion, such as ABIM, may concur with these liberal civil society actors on certain points, including opposition to the Iraq War, but could also disagree with them, and converge with the state on other matters. This is not surprising given the fluid and complex nature of interests among civil society actors and between these actors and the state.

For example, the 1970s and the 1980s, characterised as a period of Islamic revivalism, was also a time marked by the activism of the Islamic youth movement, ABIM, the Al-Arqam movement (1976–1994) and the *Jemaah Tabligh* (Community Sermon, or JTM). In this same period, other civil society organisations advocating democracy and human rights emerged, further adding to the awakening of national civil society to basic rights issues. These groups included NGOs such as Aliran, initially led by Chandra Muzaffar, who now heads the International Movement for a Just World (JUST), and the Institute of Social Analysis (INSAN), previously led by Jomo K.S.[16]

In 1987, during the premiership of Mahathir, civil society actors suffered a serious setback when the government arrested 106 activists under the ISA in a mass crackdown code named *Operasi Lallang*. Those arrested included NGO members, unionists, opposition leaders, educationists and church social activists. Many of the detained were held without trial for two to three years, effectively crippling the leadership of these civil society organisations for the duration of their detention. This meant that the impetus for greater democratic participation, accountability, the rule of the law, justice and the like was severely stymied by the state's repressive response to the groundswell of involvement in non-formal politics. The desire of the state was to contain, re-channel and limit political activity to the realm of formal politics, through political parties. By stymieing non-electoral political activity through coercive means, the state was clearly presenting its official line on the practice of human rights.

In the 1990s, when these national – and international – NGOs debated and propagated their human rights agendas, they attempted to contest the state about the validity of restricting democratic space to maintain harmony and promote economic growth. The government has, as mentioned, used the discourse on Asian values as one avenue to provide a counter narrative. Arguing that economic development should be prioritised above civil and political rights, the government has defended the need to sustain repressive laws. So far, the government has, at best, only suggested that it might modify the ISA and has shown no sign of repealing legislation that limits fundamental liberties.

The government's determination to maintain these laws has been a major bone of contention between it and local and international NGOs. After the detention of scores of Muslims in 2001, Said Ibrahim, chairman of the Islamic NGO *Jamaah Islah Malaysia* (Muslim Community of Malaysia, or JIM) spearheaded the Abolish the ISA Movement, a coalition of NGOs that has transcended racial and religious divides to forge a common front to protest national laws that curtail First Generation Rights. JIM's primary argument was that the basis of the

ISA contradicts Islamic principles and teachings concerning social justice and basic liberties.

This pressure by NGOs of all stripes on the state to observe and respect civil and political rights constitutes a primary example of the convergence of diverse national civil society actors to challenge violations of human rights committed by the state. A further example illustrating global and local convergences was the grassroots' response to the High Court ruling of October 2003 that found Irene Fernandez guilty of issuing a false report about the deplorable conditions in migrant detention camps. NGOs around the world and in Malaysia argued that the state's action against Fernandez was designed to stifle popular criticism concerning rights issues. National rights groups such as HAKAM, SUARAM and Aliran reacted with shock to the allegedly unjust verdict. Meanwhile, the global rights group Amnesty International vowed to name Fernandez a 'prisoner of conscience' if the state imprisoned her.

Re-emergence of non-formal politics: the Anwar saga and *reformasi*

Popular memory of *Operasi Lallang*, coupled with the fear of coercive laws and repressive state actions, undoubtedly played a role in limiting public participation in non-electoral politics. However, civil society actors ventured back into the political scene in response to the sacking of Anwar Ibrahim from his post as deputy prime minister in September 1998. Anwar was also expelled by his party, the United Malays' National Organisation (UMNO), and subsequently arrested, prosecuted and jailed on charges that elicited cries of foul play from within and outside Malaysia. While the government's treatment of Anwar was the catalyst that gave birth to the *reformasi* movement,[17] his supporters brought to the fore the broader issues of justice, participatory democracy, the rule of the law and the repeal of existing coercive laws, in particular, the ISA. The movement called for an end to corruption, cronyism and nepotism, allegedly widespread within the government. Anwar's dismissal from government, arrest and character assassination provide another example of how state leaders could act in response to a crisis, and to a perceived or real threat to their hold on power.

Meanwhile, in neighbouring Indonesia, allegations of nepotism, corruption and abuse of power had led to the fall of Suharto as president of the country. It is widely speculated that Mahathir feared similar accusations would be levelled against him. Prior to his arrest, Anwar specified that the main reason for the campaign against him was because he knew 'too much that could be harmful to the PM, UMNO and select associates'. He added, 'I know how many projects were used to benefit a few friends and his relatives. They are terrified because I have this information'[18] Jomo noted, 'I don't think Mahathir minded attacking *korupsi* and *kronisme*, but *nepotisme* came too close to the bone'.[19]

Following Anwar's arrest, two new movements were formed, the *Gerakan Demokrasi dan Anti Korupsi* (Malaysian People's Movement for Justice, or GERAK), headed by Fadzil Noor, then the president of the *Parti Islam*

SeMalaysia (Malaysian Islamic Party, or PAS), and the *Gagasan Demokrasi* (Coalition for People's Democracy, or GAGASAN), led by Tian Chua of SUARAM. Both movements comprised PAS, other opposition parties such as the Democratic Action Party (DAP) and the *Parti Rakyat Malaysia* (People's Party of Malaysia, or PRM) and NGOs. These movements helped foster cooperation between the opposition parties and Anwar's followers.[20] Not long afterwards, from within these two organisations another movement emerged, *Pergerakan Keadilan Sosial* (Movement for Social Justice), also known as ADIL, led by Anwar's wife, Wan Azizah, with the prominent activist, Chandra Muzaffar, acting as the vice-president. ADIL was an attempt to provide the still nebulous *reformasi* with a clear organisational structure.[21]

As news emerged of Anwar's ill-treatment at the hands of the police while under detention, diverse members of society came together irrespective of racial and religious difference, united in a common sense of indignation about abuse of power by the government. This was a defining moment in the history of Malaysian civil movements, for it marked an unprecedented unity among a large number of the population, collectively and openly voicing concern about the need to respect and protect basic civil rights. The state did, however, manage to quell this burgeoning mass protest by threatening the use of the ISA against dissidents, permitting the police to use force to disperse demonstrations and deploying the media to suggest that ethnic violence would occur if the protests persisted. The state-controlled media also continued to portray Anwar in a poor light and ensured that reports about police brutality and the message of the reform movement were blacked out.

The *reformasi* movement was important as it helped reveal the importance of a counter-discourse of participatory democracy and it represented the evolution of a truly autonomous public sphere in which civil society actors could openly participate in non-electoral politics. In terms of NGO linkages with the opposition, Loh noted:

> This counter-discourse was subsequently adopted not only by leaders of the *Reformasi* movement, who re-organised themselves as a political party, *Parti Keadilan Nasional*, but by the new opposition coalition, the *Barisan Alternatif* (BA) as well. The spirit of counter-discourse is evident in the BA, . . . and the formulation of its joint manifesto was facilitated to some extent by the decision of several prominent NGO activists to join the opposition parties . . . and to promote the democratic agenda of the BA writ large. Several former NGO leaders also contested the election under the banner of one or another of the BA parties. The entry of these NGO leaders into party and electoral politics was perhaps the culmination of the earlier engagement of the NGOs . . . with . . . *Gagasan* and *Gerak* in 1998 to coordinate joint activities to protest Anwar's mistreatment and related issues.[22]

The BA represented a clear example of the possibility of linking electoral and non-formal politics within the larger rubric of participatory democracy.

The merger of civil-society-driven politics and opposition parties provided a powerful link through which local, on-the-ground responses to national governance could be heard. Loh also points out that in response to the Anwar incident and the *reformasi* movement, Malaysia saw a proliferation of NGOs and other independent groups that made their political positions known before the 1999 general election.

> Most of these groups and initiatives . . . were not associated with the BA opposition coalition or directly concerned with the outcome of the election. Rather, the emergence of these groups, alongside the *Reformasi* movement and the formation of the BA, indicated that Malaysia was in democratic ferment. It further indicated the coming together of the formal and non-formal realms of politics. Probably for the first time, significant numbers of the Malay middle-classes were also involved. Previously supporters of the BN-UMNO government, these Malays now considered the BN government *zalim* (cruel) and *tak adil* (unjust) and expressed their anger openly. This change in attitude and orientation was due to Anwar's mistreatment, which for many Malay dissidents was considered to have breached 'traditional' norms and practices. They also revealed that Malays were now equally concerned with larger issues of justice and democracy. Through organisations like ABIM and JIM (Reform Movement Malaysia), which reached down to the grassroots, lower income Malays were also drawn into the movement. UMNO no longer held the same hegemony over the Malay community.[23]

Government responses to g/local pressures

In the midst of the outcry over the state's handling of Anwar, the government hastily established in 1999 the *Suruhanjaya Hak Asasi Manusia* (Malaysian Commission on Human Rights, or SUHAKAM). Both local and foreign NGOs responded with strong objections about the regime's unilateral formation of SUHAKAM. These NGOs argued that the way SUHAKAM was set up and would operate was in direct conflict with the Paris Principles, which required that such a Commission be truly independent, unafraid to probe and critique actions by the state and judiciary. SUHAKAM, moreover, had explicitly defined its human rights position in accordance with the limitations on basic liberties expressed in the Malaysian Constitution, thereby embracing the government's relativist position. Furthermore, its commissioners are appointed and paid by the government over a two-year term, with the prime minister and the *Agong* (or King) having the prerogative to decide if a commissioner's tenure was to be renewed or terminated, contributing more doubts about the Commission's independence and neutrality.

Due to the tumultuous human rights situation at the time of its inception, SUHAKAM was widely viewed as a political strategy employed by the state to respond to the groundswell of dissent from local and international groups about its poor human rights record. Regardless of the state's motives for setting up the Commission, its birth served, to a degree, to placate local and international

critique about the Anwar saga. Concerning the reasons for the regime's decision to create SUHAKAM, Ramdas states:

> 1998 was a horrendous year for human rights in the country. The authorities could deal with local dissent with their media, statecraft and their arsenal of laws, but they could not deal with upsurge of international condemnation arising from the Executive's treatment of Anwar, the black eye, and state retaliation against the growing *Reformasi* movement. Also ASEAN was seen to be moving ahead of *Malaysia Boleh* (Malaysia Can). Indonesia, the Philippines, India and Thailand were all setting up human rights commissions. Malaysia couldn't be seen to be left behind.[24]

The government, naturally, cited other reasons for creating SUHAKAM. Foreign Minister Syed Hamid Albar expressed the official rationale for establishing the Human Rights Commission in Parliament on 15 July 1999. He stated that the Human Rights Commission Bill was not a public relations exercise by the government, but then went on to repeat the government's long-held relativist view on human rights by arguing that Malaysia must not be 'blindly following the model of other nations, but of improving [*sic*] ourselves so as not to let the nation descend into chaos. While the government listens to the plurality of interests, it must give priority to its primary responsibility for the development of the nation for the benefit of all'.[25]

Syed Hamid added:

> The Human Rights Commission of Malaysia Bill 1999 should be regarded as a positive development towards protecting the interest and realizing the aspirations of our people. This Bill is intended to give greater opportunities for citizens to express whatever grievances they may have for the Commission to investigate. [However,] we must not be hasty in our accusations [to think that] just because there are certain preventive laws, we deny the existence of the true practice of human rights in this country. We must admit that, in reality, there is no such thing as absolute freedom. We must respect the rule of the law when we practice individual and group freedom and rights.[26]

Given the myriad laws limiting human rights in Malaysia, Syed Hamid's statement that 'we must respect the rule of the law' when exercising basic rights implicitly subordinates individual rights to the legal restrictions placed upon them. After Syed Hamid's speech, which was intended to assure society that the Commission was not formed in response to critique of the state's human rights record, parliament enacted the Human Rights Commission of Malaysia Act 1999.

Contesting SUHAKAM: response from opposition and NGOs

After SUHAKAM was set up, numerous civil society actors, along with opposition parties, expressed their discontent with the way the state controlled this

new institution. Lim Kit Siang of the DAP called on the Government to ensure that the Human Rights Commission should not be an 'alibi institution to legitimise human rights violations in Malaysia'.[27] Lim went on to state that the government did not follow the Paris Principles as it did not allow civil society to participate in the drawing up of the Human Rights Commission Act or in the setting up of SUHAKAM. According to Lim:

> In the past four decades of Malaysian nationhood, human rights have been the greatest victim of the culture of political hegemony of the *Barisan Nasional* and its predecessor the Alliance. In the past four decades, and in particular in the past eighteen years of the Mahathir government, there has been a relentless erosion of fundamental rights and democratic freedom of Malaysians, to the extent that there can be very little dispute that Malaysian democracy and human rights today are definitely worse off than when Mahathir first became Prime Minister in 1981, or when the country achieved independence in 1957. . . . The most repressive laws of the British colonial times to keep subjects under tight control have become even more draconian – as in the case of the Official Secrets Act, which makes Malaysia the only Commonwealth parliamentary democracy which provides for mandatory minimum one-year jail sentence for any offence under the Act – institutionalizing a more secretive government to protect corruption, cronyism and nepotism and going against the international trend towards a more open and accountable government. . . . How can the establishment of a National Human Rights Commission protect and promote human rights unless there is a dismantling of the repressive and draconian laws and measures such as the Official Secrets Act, the Internal Security Act, the Printing Presses and Publications Act, the Sedition Act, the Police Act, and the four Proclamations of Emergency? In fact the very existence of these repressive and draconian laws serves notice that there can be no effective and credible Human Rights Commission in Malaysia to protect and promote human rights.[28]

Lim went on to call for the Act to provide a clear definition of the scope of human rights that would be respected, pointing out that Malaysia had not signed on to several of the international human rights instruments. Instead, Lim claimed, the government had justified its violation of these rights by arguing that the Constitution provided allowances for it to dispute and ignore universally accepted human rights standards.

Sothi and Ramdas, challenging the argument that Constitutional and legal constraints had precedence over the basic rights promoted by the UN, observed that these constitutional guarantees covered only a narrow range of rights.[29] For example, the liberty of a person can be curbed by the ISA, while the Sedition Act and the Printing Presses and Publications Act limit freedom of expression. Furthermore, freedom of assembly and association are hindered by the need to obtain police permits. Furthermore, students in tertiary institutions and their academics are restricted from active participation in social issues by the Universities and University Colleges Act.

Burdekin further critiqued SUHAKAM's restricted mandate in light of the Paris Principles:

> It is of primary importance that commissions be given as broad a mandate as possible, which assumes the ratification of the complete body of human rights instruments, as this allows the commission to inquire into violations of not *some*, but *any* human rights. The Paris Principles recognize rights as being indivisible and universal, which differs markedly from the State's relativist position on human rights. The Principles also state unequivocally that members of the Commission must be established in accordance with a procedure that guarantees pluralist representation of the social forces of civilian society.[30]

At the time of SUHAKAM's inception, it was evident that local response to government limitations on the commission was clearly in line with universal human rights standards and narratives. While the state had jumped on the global bandwagon by forming a National Human Rights Commission, supposedly in accordance with democratic political systems, in reality, it continued to limit the very rights the commission was supposed to uphold. The state was attempting to acquire the trappings of a democracy while yet controlling or prohibiting the participation of non-state actors in the political process. This contradiction was manifested with the arrest of civil society leaders when they attempted to engage with SUHAKAM while lobbying for democratic freedom.

Arrest of *reformasi* leaders

In spite of popular dissent over the creation and mandate of SUHAKAM, in April 2001, *Reformasi* activists announced a plan to present the Commission with the 'People's Memorandum to the Human Rights Commission', asking for the guarantee of freedom of speech and assembly, a free press, an independent judiciary, socio-economic rights of the marginalised, the elimination of racial discrimination, the abolition of tyrannical laws; the ratification of international human rights conventions; an investigation into corruption, cronyism and nepotism; and an investigation into police incompetence.[31] The state's response to the announcement of their plan to present this memorandum on SUHAKAM was the prompt arrest of seven *reformasi* leaders under the ISA.[32] The official justification for these arrests was that these individuals were planning for the 'armed and violent overthrow of the government' on 14 April 2001, the very day the memorandum was to be presented to SUHAKAM.[33] Some of those detained had purportedly gone abroad to recruit foreigners to take part in the violent demonstrations to be held that same day.[34]

Although no evidence was made public by the government to substantiate these allegations, the press faithfully endorsed the state's pre-emptive act. According to the government-controlled *New Straits Times*, the authorities felt that these detentions were necessary in order to 'ensure the preservation of values long held sacred in Asian societies, i.e. social order and respect for authority'.[35]

Shortly after the release of these detainees in June 2003, Ramdas Tikamdas of HAKAM commented:

> At present, we no longer see *Reformasi* because people can't meet, since peaceful assemblies are not allowed. They don't have the media either. They only have the internet, which doesn't allow for the same spontaneous discussion. For two years, the *Reformasi* leaders were behind bars; the movement had no direction. People generally don't see these detentions from point of view of principle; surely the intention in putting the leaders away was to break the back of the *Reformasi* movement.[36]

The state, September 11 and Islamic movements: struggle for control of narratives

Apart from its wariness of civil society actors promoting human rights discourses, the government had long insisted on the inappropriateness of advocating 'fundamentalist' Islamic views in multiracial Malaysia. As large numbers of Malay voters began shifting their support to PAS during the height of the Anwar crisis, the UMNO initially responded by cranking up its level of Islamic rhetoric. UMNO members, however, eventually began to recognise the futility of trying to 'out-Islam' PAS. The strategy then shifted to one of aiming to control the narrative of what it meant to be a good Muslim in a globalising world. This discourse fitted more comfortably with the UMNO's long-standing version of a 'friendly and progressive' Islam – now *Islam Hadhari* under the Abdullah government – that allowed for modernisation and development. While PAS was attempting to enact the *Hudud* and *Qisas* laws in the state of Terengganu, the then Deputy Prime Minister Abdullah was hosting events such as the 'Kuala Lumpur International Forum on Islam', held in July 2002 and featuring speakers such as Iran's reformist president, Seyed Mohammad Khatami, and the well-known progressive Malaysian Muslim thinker, Chandra Muzaffar. The position of the Malaysian state under Mahathir on Islam can be summed up in his keynote address at this conference entitled 'The State of the Muslim World Today: Knowledge as a Tool of Muslim Political Empowerment', where he stated, 'the lack of progress among Muslims today . . . [is] because of the rigid and wrong interpretations the Muslims [have] practiced. The *ulamas* in the yesteryears had condemned these Western things such as electricity and mechanized vehicles and governments must obey these injunctions or risk being labelled un-Islamic. . . . And so we lost valuable time as the Industrial Revolution passed us by'.[37]

The fact that the Forum on Islam was hosted by the Deputy Prime Minister's Department was viewed as an attempt to highlight Abdullah's Islamic credentials, which the UMNO hoped would serve to solidify Malay Muslim support for the party.

Meanwhile, at this conference, key civil society actors made important statements about Islam, democracy and civil rights. Chandra pointed out that it was

the authoritarian interpretation of the religion that sometimes gave the impression that Islam was not compatible with democracy and human rights, but that 'this is wrong. No one has the right to monopolise the discourse'.[38] Chandra went on to say that one of the objectives of the Forum was to establish that Islam is compatible with human rights and democracy. Zainah Anwar, Executive Director of Sisters in Islam, added, 'when a political party is associated with the idea of progressive Islam, it has to find ways to change the thinking of the rank-and-file'.[39] Since its inception, Sisters in Islam has been treated with tolerance by the state, probably because this adds to the image of Malaysia as a progressive Muslim-majority country.

State's position concerning radical Islamists

In the aftermath of September 11, the Malaysian government came out strongly in support of global efforts to counter 'terrorism' and 'extremism'. Malaysia and the US signed an anti-terror pact during a visit by Mahathir to the White House in May 2002. In the July 2002 visit of the then US Secretary of State Colin Powell to Malaysia, it was announced that 'the United States and Malaysia [were] planning to open a joint anti-terrorism training centre to instruct Southeast Asian security services on how to combat extremist violence'.[40] This centre is presently in full operation, quite an irony given Mahathir's open anti-imperialist rhetoric. In July 2005, steps were being taken to increase US military presence in the Straits of Melaka on the west coast of the peninsula, purportedly due to the concern with piracy and extremism in the region.

Meanwhile, according to one report, by mid-2002, the Malaysian government had arrested more than 70 suspected Islamic militants, including people allegedly linked to the *Jemaah Islamiah* (JI), a group that was allegedly responsible for a number of terrorist activities.[41] By mid-2005, the number of such detainees had exceeded 100. Interestingly, Western countries have not voiced displeasure that suspected Islamic militants have been detained without trial, in the manner similar to their protest of the detention of *reformasi* activists.

In anticipation of Powell's 2002 visit to Malaysia, SUARAM 'accused the government of using the fight against terrorism as a "pretext" for abusing human rights' and urged the US Secretary of State to press the government to comment on its poor human rights record and commit itself to reforms to create more democratic space.[42] SUARAM's attempt to engage a major US leader to echo its position concerning the state of human rights in Malaysia constituted an interesting g/local linkage, given this NGO's positions on US militarism.

During his meetings with government officials, Powell did make it 'a point to tell all . . . interlocutors that we [the US] still believe strongly in human rights and everything we do has to be consistent with the universal standards of human rights'.[43] Powell further stated the US's position on Anwar was that he had been wrongfully convicted of corruption and sodomy. Foreign Minister Syed Hamid's rebuttal was that Malaysia valued the importance of human rights, but it was also imperative 'when subscribing to universal human rights standards' to view the

issue 'from the national perspective'.[44] Syed Hamid added, 'we have never used the ISA for the purpose of frustrating our political opponents . . . it is used for the purpose of ensuring that the peace and prosperity of the country are protected. If anybody takes action which will jeopardize our security, then we will take action'.[45]

The visit by Powell suggests that the state's active promotion of Malaysia as a moderate Muslim country had served to place it in a favourable light with Western powers, especially after September 11. The government-sponsored Forum on Islam showed a state actively engaged in the struggle to shape Islamic discourse at the international level and within national civil society as well. These events helped put Malaysia in a good light globally, while consolidating UMNO's position locally.

The release of both Anwar and the *reformasi* 7 seems to have had the effect of casting the government, under Abdullah, as one that is more responsive to human rights issues. While many citizens and some observers have become less critical of the government's position on human rights, the question that begs to be asked, but somehow is not appearing in the popular discourse, concerns the state's continued detention of individuals suspected of having links with extremist organisations. Even though some suspected extremists have been detained without trial for nearly three years, the public is still unaware how these individuals constitute a threat to national security. According to analyst Anil Netto, 'by not bringing these people to court, we don't know how real the threat is, what kind of movements these are. This lack of transparency and judicial process serves to create a new enemy'.[46] This uncertainty also helps justify increased military and intelligence collaboration between Malaysia and the US.

Conclusion

At one level, globalisation may homogenise and universalise both the forms and the narratives of national governance. However, it has also served, particularly in some developing countries, as a catalyst for the consolidation of communal identity in juxtaposition to global narratives and structures penetrating local spaces. This conflicting set of dynamics has brought to the fore a self-conscious articulation of local identities, seen in Mahathir's Asian values rhetoric, as well as in the state's relativist line concerning basic rights. This contradiction is due, in part, to an attempt to capture or hybridise global narratives, adapting them to serve vested political interests. The degree and the level to which global human rights narratives and practices will take root in Malaysia is still moot, given the ongoing debate about the universality of this issue between the state and global and local activists. Moreover, in the post-September 11 world, the concept of the universality of human rights has come into question.

In terms of civil society, it is important to remember that we cannot speak of *the* will of civil society, but of *multiple* wills, interests and concerns which vie for attention and participation in the political process. At certain points, or on some issues, the position of the state concerning human rights will converge with the will of particular segments of civil society, while diverging from the position of others.

Furthermore, among the numerous rights-related NGOs, there are issues over which these civil society actors converge, while on other points there have been disagreements over their position and goals. The picture is complex, and the alliances and alignments shift and flow on different issues, depending largely on the underlying beliefs, interests and values espoused by these NGOs. More often, the state's relativist position on some issues converges with that of those civil society actors, including those who are reluctant to accept the global human rights regime in its entirety.

The advent of SUHAKAM in 1999 does constitute a change in the structures of national governance, which may serve primarily to lend credibility to the state concerning its human rights practices. However, the issues that SUHAKAM chooses to deal with publicly tend to be those that are not controversial and over which it can adopt a universalist position. These issues include those pertaining to gender, children and the right to education.[47] In so far as the government's stand on these issues serves to make the rights discourse more visible to citizens, the Commission may serve as a catalyst for furthering awareness about human rights. Beyond that, it is questionable if the institutionalisation of SUHAKAM has helped to further protect people's rights.

On more controversial issues, involving fundamental freedoms, the state has consistently adopted a relativist line. The relativist nature of the state's rights narrative became particularly apparent under Mahathir during the height of the Asian values debate. Although the state under Abdullah has been much less clear about its stand on human rights, an examination of his government's rights practice clearly indicates that it is relativist in orientation. In particular, there have been no major reforms at the legislative level, meaning that the battery of restrictive laws and acts remain firmly in place.

Abdullah's administration has, however, undertaken a few notable deeds. He established a Royal Commission to enhance the operations of the police force. This Commission subsequently made some constructive recommendations concerning corruption and accountability on the part of police officers, and recommended changes that would have an impact on promoting and protecting human rights. The real test, however, will be to see whether the Commission's recommendations are implemented. History has shown that recommendations for change involving government institutions have not always been carried out.

While local NGOs may diverge on certain rights-related issues, such as gender equality and moral policing by the state, there appears to be fairly broad agreement that the state should repeal laws and acts that restrict some of the first-generation individual liberties. These legislations include the ISA, the Printing Presses and Publications Act, the Sedition Act, the University and University Colleges Act, the Official Secrets Act and the Police Act. This, however, is unlikely to occur as the Malaysian government would prefer to have the liberty to detain people without trial, a position it can now adopt with the support of powerful Western countries.

Apart from the repeal of laws restricting First Generation rights, other issues of concern include the privatisation of healthcare, education and water supplies.

Labour-related issues also figure prominently here, specifically the weakness of the Malaysian Trade Union Congress (MTUC) and labour movements in general. Environmental issues persistently crop up in this discourse, as does the issue of control of the media and attempts to suppress the alternative press. The devolution of power from the centre to the local level is another issue that is well debated, above all in Penang where advocates are calling for greater localisation of political decision-making on the island state.

An obvious step in the direction of devolving implementation powers would be to repeal the ISA and all restrictive laws that create a climate of fear within civil society. A second important step is for the state to approach grassroots organisations for briefings on issues of social concern. The present government has already begun to move in this direction, for example, when the Commission of Police Enquiry asked civil society actors for their input in an effort to resolve problems of abuse of power and torture by the nation's police force. A third and important step is to decentralise decision-making powers to the national bodies that work to promote human rights.

The NGOs could be asked to report on their activities, so that the state will be aware of the activities and the needs of people, to facilitate work carried out in pursuit of universal well-being. In other words, states can and should consult civil society organisations with expertise concerning the situation on the ground, as well as hear their views concerning legislation that have an impact on human rights and social well-being.

It would be in the interest and to the benefit of all actors concerned for genuine devolution to occur and for the government to recognise the benefits and necessity of NGO involvement in policy formation, implementation and monitoring, especially on issues pertaining to human rights and social and economic well-being. Once the state is able to trust these actors to work for the good of citizens of the polity, then it is a matter of making the decision to begin implementing this process.

However, history shows that the post-Merdeka governments have consistently maintained a relativist position concerning human rights. Some of the more salient restrictive government actions during the Mahathir years include *Operasi Lallang* in 1987, the attack on judicial independence in 1988, the uprooting of countless *orang asli* in 1998 in order to implement the Bakun Dam project and the incarceration, torture and character assassination of former deputy prime minister Anwar, also in 1998. Throughout his tenure in office, Mahathir was vociferous in his defence of these and other government actions that were widely critiqued by global and local actors as blatant violations of basic human rights. While Mahathir was vociferous in his justifications of these and other perceived abuses, Abdullah's milder style tends to make rights issues less visible to national and international observers. Nonetheless, denial of permits for peaceful public gatherings, restriction of student involvement in political activities, continuing incidents of police brutality and the arbitrary detention of scores of suspected 'extremists' in the name of security make it evident that the rights situation has not improved significantly under the Abdullah administration.

Although the official position of the Abdullah administration suggests that grievances can be addressed through SUHAKAM, the Commission has, for the past several years, seemed to avoid issues that could embarrass the government. In spite of serious differences between the state and local rights actors, the administration has shown a willingness to study the rights-related practices of the police force. However, it remains to be seen just how critical the royal commission will be in the event of violations committed by the authorities.

In the international arena, a convergence can be found between the restrictive rights practices of the Malaysian state and those of several powerful governments, which have legalised restrictive practices in the name of security in the post-9/11 world. This convergence does not arise from a liberalisation of Malaysian rights legislation. Instead, this alignment of the global and the local, at the state level, is the result of a shift towards the restriction of basic rights on the parts of these international actors. While the Mahathir government was severely critiqued by Western powers for perceived rights abuses before September 11, the Abdullah administration has systematically detained suspected militants without charge, only to be met with the complacent silence of the very governments which once labelled this behaviour as a stark violation of human rights.

International organisations like Amnesty International and Human Rights Watch have applauded the administration's creation of the commission for inquiry into police conduct, as well as its consultation with ordinary citizens concerning this matter. However, these same organisations continue to challenge the government's human rights practices pertaining to restrictive laws and acts, mistreatment of immigrants, detention without trial, corporal punishment and the death penalty. With increased restrictions on human rights on the part of the major powers, international NGOs have lost a powerful ally in governments such as the US and Britain which once joined with them in their critique of the Malaysian government's human rights practices. As these Western regimes have begun restricting the basic rights of people on their national soils, their critiques of the Malaysian government's human rights practices have all but ceased.

In terms of the state's rights discourse, a change can be seen in Abdullah's reticence in discussing Mahathir's 'Asian values' for limiting first generation rights. Mahathir tried to condition the nature of the discourse on human rights in a relativist manner by promoting the Asian values debate. Although this concept got discredited after the1997 currency crisis and the rise of the 1998 reformasi, these crises did not lead to reforms but to further restrictions on NGOs and the opposition. In contrast to Mahathir's use of the Asian values rhetoric, Abdullah has justified limitations on human rights by invoking the 'war on terror' and security concerns. A second change involves the institutionalisation of the human rights narrative through the formation of SUHAKAM, which would give the appearance that basic rights are to be respected by government actors. However, a closer examination reveals that while institutions such as SUHAKAM and the Royal Commission have been created, their capacity to act independently is limited, undermining their credibility. Abdullah has promised reforms, but so far little has been done to devolve power or to include NGOs in discussions

on fundamental issues. The prime minister has shown little interest in removing repressive legislation, while his most important contribution has been to reform the police force, but not necessarily limit its powers.

Meanwhile, monumental changes have occurred in society. The 1970s saw the active rise of NGOs, which were suppressed in the 1980s, but re-emerged with new vigour in the 1990s, and achieved much prominence during the *reformasi* period. Since then, there has been some decline in NGO activism, due in part to repression in the aftermath of the Anwar saga. Furthermore, the attempt of NGOs to promote their agenda and play a bigger role in society has also been undermined by the September 11 incident, which allows the state to limit basic rights in the name of national security.

Moreover, in order for the state to institute genuine reforms involving devolution of power to NGOs, it would need to change its long-held perception that civil society actors somehow pose a threat to the regime in power. The reality is that the diverse NGOs share common goals pertaining to the well-being of the nation and its citizens. The question remains, however, if Abdullah is truly ready to hear the truth involving problems in government and society, mainly because of the implications of the reforms he may have to institute on the UMNO.

Notes

1 Mittelman (1997).
2 Mahathir (2000).
3 The UN's *Universal Declaration of Human Rights* and the *International Bill of Human Rights*.
4 Mahathir's definition of Asian values will be discussed later in this chapter.
5 The 1972 Charter of the Organisation of Islamic Conference (OIC) endorses international law and reaffirms its commitment to the UN Charter, including its provisions for fundamental human rights. The OIC Charter further accepts the principles and purposes of the UN Charter as a sound basis for cooperation among the world's peoples. In practice, however, many OIC nations adopt a relativist interpretation of human rights, based largely on Islamic precepts.
6 Personal interview, 6 June 2005.
7 Mahathir in Hashim (2000: 9).
8 Malaysian Charter on Human Rights (1999: 8): http://www.suaram.org/malaysian_hr_charter.pdf
9 Quoted in Aidcom (1999: 19).
10 Quoted in Aidcom (1999: 19–21).
11 Quoted in Hashim (2000: 15).
12 Mahathir in Hashim (2000: 74).
13 Quoted in Bello (1998: 2).
14 López (1997, 1999, 2001a,b, 2004, 2005).
15 I deal with these issues at length elsewhere. See López (1997, 1999, 2001a,b, 2004, 2005).
16 Saliha (2002).
17 The *reformasi* movement cut across the ethnic divide prevalent in Malaysian society. As it also involved women and the youth, the movement had great potential for promoting unity across the traditional divides in the realm of non-formal politics.
18 Quoted in Hilley (2001: 153).

19 Quoted in Hilley (2001: 153).
20 Hilley (2001: 152).
21 Hilley (2001: 152).
22 Loh, in *Aliran Online* (2002).
23 Loh, in *Aliran Online* (2002).
24 Personal interview, 2 July 2003.
25 Quoted in Sothi and Ramdas (1999: 105).
26 Quoted in Sothi and Ramdas (1999: 106).
27 Lim (1999: 111).
28 Lim (1999: 112–113).
29 Sothi and Ramdas (1999: 188).
30 Burdekin (1999: 67).
31 *MalaysiaKini* (14 April 2001) (www.malaysiakini.com).
32 Keadilan members who were arrested were Youth Chief Mohamad Ezam Mohd Nor, Vice President Tian Chua, Supreme Council member Saari Sungip, Vice Chairman Gobalakrishnan Magapan, and Youth Exco member Abdul Ghani Harun. Also arrested were Raja Petra Raja Kamruddin, Director of the Free Anwar Campaign, and social activist Hishamuddin Rais. Keadilan Supreme Council member, Budrul Amin Baharom, was later arrested, bringing the number of the detained to eight (*New Straits Times*, 25 April 2001).
33 *New Straits Times* (12 April 2001).
34 *New Straits Times* (12 April 2001).
35 *New Straits Times* (13 and 14 April 2001).
36 Personal interview, 21 July 2003.
37 Mahathir in Zulkifli (2002: 2).
38 *New Straits Times* (22 July 2002).
39 *New Straits Times* (22 July 2002).
40 *MalaysiaKini* (31 July 2002) (www.malaysiakini.com).
41 *The Straits Times* (25 January 2003).
42 *MalaysiaKini* (26 July 2002).
43 Quoted in Tan (2002).
44 Quoted in Tan (2002).
45 Quoted in Tan (2002).
46 Netto, personal interview, 6 June 2005.
47 I am indebted to Netto for making this point. Personal interview, 6 June 2005.

References

(Aidcom) Asian Institute for Development and Communication (1999), *Human Rights Handbook for ASEAN Journalists*. Kuala Lumpur: Dynamic Business Press.

Alvares, Claude (1996), 'Human without rights: the intellectual dimension of Western global domination and its consequences for the human rights of five-sixths of humanity', in *Human Wrongs: Reflections on Western Global Dominance and Its Impact upon Human Rights*, Penang: JUST World Trust.

Andaya, Barbara and Andaya, Leonard (2001), *A History of Malaysia*, Honolulu: University of Hawaii Press.

Bauer, Joanne and Bell, Daniel (eds) (1999), *The East Asian Challenge for Human Rights*, Cambridge: Cambridge University Press.

Beh Lih Yi (2005), 'PM: no plans to ban foreign terror organisations', *MalaysiaKini* (29 March), Kuala Lumpur.

Bello, Waldon (1998), 'Asian values democracy', *The Nation* (20 July), Bangkok.

Burdekin, Brian (1999), 'Basic concepts of a National Human Rights Commission: an international perspective', in S.S. Rachagan and R. Tikamdas (eds), *Human Rights and the National Commission*, Kuala Lumpur: HAKAM.

Chandra Muzaffar (1996a), 'Towards human dignity', in *Human Wrongs: Reflections on Western Global Dominance and Its Impact Upon Human Rights*, Penang: JUST World Trust.

Chandra Muzaffar (1996b), 'The United Nations and the rights of the peoples and nations in the "new world order"', in *Human Wrongs: Reflections on Western Global Dominance and Its Impact Upon Human Rights*, Penang: JUST World Trust.

Hashim Makaruddun (ed.) (2000a), *Democracy, Human Rights, EAEC and Asian Values: Selected Speeches of Dr. Mahathir Mohamad, Prime Minister of Malaysia*, Petaling Jaya: Pelanduk Publications.

Hashim Makaruddun (ed.) (2000b), *Managing the Malaysian Economy: Selected Speeches by Dr Mahathir Mohamad*, Petaling Jaya: Pelanduk Publications.

Hilley, John (2001), *Malaysia: Mahathirism, Hegemony and the New Opposition*, New York: Zed Books.

Lim Kit Siang (1999), 'Will the Human Rights Commission be irrelevant?', in S.S. Rachagan and R. Tikamdas (eds), *Human Rights and the National Commission*, Kuala Lumpur: HAKAM.

Lim Teck Ghee (1995), 'Nongovernmental organisations in Malaysia and regional networking', in Tadashi Yamamoto (ed.), *Emerging Civil Society in the Asia Pacific Community*, Tokyo: Japan Center for International Exchange and Singapore: Institute of Southeast Asian Studies.

Loh Kok Wah, Francis (2002), 'NGOs and non-electoral politics', Aliran Monthly, http: www.malaysia.net/aliran/monthly/2002/11b.html

López C. Carolina (1997), 'Integrated ideological-structural analysis of global ideological reproduction: the case of Mexican educational policy', PhD dissertation, Northern Arizona University.

López C. Carolina (1999), 'Ideological-structural analysis of shifts in cultural traditions influenced by global mass media', paper presented at the International Conference on *Communication in the Asia Pacific Region: Toward the 21st Century*, 26–29 April.

López C. Carolina (2001a), 'The British presence in the Malay world: a meeting of civilizational traditions', *Sari Journal of the Malay World and Civilization*, 19: 3–33.

López C. Carolina (2001b), 'Ideological-structural analysis of external influences on current human rights discourses in Malaysia', *Akademika: Journal of the Social Sciences and Humanities*, 59: 53–73.

López C. Carolina (2004), 'Ideological-structural analysis: macro- and micro-theory of intercivilizational dialogue', *Malaysian Journal of Science and Technology Studies*, 2: 1–50.

López C. Carolina (2005), *Ideological-Structural Analysis Micro and Macro Theory: Antología de escritos teóricos*, Editorial Tec de Monterrey: Monterrey.

Mahathir Mohamad (2000), 'Asian versus Western values' (speech given at the Senate House, Cambridge University, England, 15 March 1995), in Hashim Makaruddin (ed.), *Democracy, Human Rights, EAEC and Asian Values: Selected Speeches of Dr. Mahathir Mohamad, Prime Minister of Malaysia*, Petaling Jaya: Pelanduk Publications.

Mittleman, James (1997), *Globalization: Critical Reflections*, Boulder: Lynne Reinner.

Saliha Hassan (2002), 'Political non-governmental organizations: ideals and reality', in Francis Loh Kok Wah and Khoo Boo Teik (eds), *Democracy in Malaysia: Discourses and Practices*, Curzon Press: Richmond, Surrey.

Shamsul A.B. (1986), 'The politics of poverty eradication: the implementation of development projects in a Malaysian district', in Bruce Gale (ed.), *Readings in Malaysian Politics*, Petaling Jaya: Pelanduk Publications.

Shamsul A.B. and Sity Daud (2002), 'One state, many nations: colonial legacies, nation formation and the idiosyncratic state in Malaysia', paper presented at the International Conference on *Revisiting the Asian State*, 28–30 June, Leiden University, Holland.

Sothi S. Rachagan and Ramdas Tikamdas (1999), 'The Human Rights Commission of Malaysia Act 1999: a critique', in Sothi S. Rachagan and Ramdas Tikamdas (eds), *Human Rights and the National Commission*, Kuala Lumpur: HAKAM.

Tan, Kevin (2002), 'Powell: US still believes Anwar trial is flawed', *MalaysiaKini*, 30 July.

Vasak, Karel (ed.) (1982), *The International Dimensions of Human Rights*, vols 1 and 2, UNESCO: Paris.

Young, Kevin (1980), 'Dasar Ekonomi Baru dan Isu-isu Pembangunan Jangka Panjang', in Kevin Young, W. Bussink and P. Hasan (eds), *Malaysia: Pertumbuhan dan Keadilan dalam Masyarakat Majmuk*, Kuala Lumpur: Universiti Malaya Press.

Zulkifli Abdul Rahman (2002), 'PM: knowledge is a vital tool', *The Star*, 20 July.

3 Gender discourse in Malay politics

Old wine in new bottle?[1]

Helen Ting

Introduction

During the 2004 General Assembly of the United Malays' National Organisation (UMNO), the hegemonic party in the ruling *Barisan Nasional* (BN, or National Front) coalition, the issue of gender equality was a key theme among delegates attending the meeting of the women's wing (*Wanita* UMNO) of the party.[2] These delegates urged the public and private sectors to promote more women to key decision-making posts. Some of them called for more women to be absorbed into the *Syariah* and civil courts. In his inaugural speech as UMNO president at this general assembly, Abdullah Ahmad Badawi also affirmed his commitment to the 'protection of the rights of . . . women' which was listed as part of the ten goals to be achieved through the promotion of *Islam Hadhari*.[3] Does the prominence given to the issue of women's rights, emphasised energetically from the time preceding the 1999 general elections and now endorsed by the new Abdullah administration, suggest that a fundamental change is emerging in terms of women's rights in the UMNO as well as in Malaysian society?

This article argues that in spite of a proliferation of assurances by UMNO leaders of their commitment to women's rights in the recent past, government concessions on gender matters continue to be piecemeal measures based on strategic political considerations. More profound changes, in terms of government reforms involving gender equality, have so far remained mainly rhetoric. In addition, the underlying socio-political dynamics confronted by Malay women in the UMNO have not changed in an appreciable way since the party was formed in 1946.

Female UMNO members have been playing a crucial role in the party since its formation, specifically as loyal grassroots party campaigners during elections. They played a crucial role collecting membership fees, an important source of revenue for the party, as well as raising funds by organising various activities.

Apart from providing the UMNO with an army of dedicated manpower, the women's wing, especially their national leaders, attempted to effectuate social change to promote women's rights. Situated within the hegemonic party in Malaysia, the question that arose from time to time was whether the women's wing of the UMNO was the best-positioned lobby group to promote the interests

of women in the country generally, and the welfare of the Malay or Muslim women specifically. An earlier study by Manderson[4] on this question concluded that the UMNO's women's wing had not been too successful in the pursuit of its goals. The first part of this chapter will explain why an important branch of the hegemonic UMNO could not be more effective in instituting reforms that would serve to improve the well-being of women in Malaysia.

Some scholars have argued that the nature of the leader-follower relations within the UMNO is but a reflection of traditional feudal relations between the rulers and the ruled.[5] The UMNO was a part of the tripartite ruling coalition, the Alliance, which was endorsed by the British colonial government to ensure that the economic *status quo* of post-colonial Malaya would be retained. Inevitably, the Malay party's early leaders were English-educated aristocrats who maintained a conservative outlook and hierarchical political culture. The general conservatism of the UMNO leadership was seen in matters concerning gender as well.

By reviewing the gender issues raised by three of the early UMNO women's wing leaders, which provoked a number of controversies, this study will be able to gauge the extent of chauvinism within the party. An analysis of the struggle by these Malay leaders will help shed light on the subordinate role of women in the UMNO and their tenuous position, in spite of the outstanding capacity of their leaders, in the battle for equitable gender relations.

The second part of the article will analyse the contradictory impact on gender relations and reform in the Malay community brought about by socio-economic development and Islamisation from the 1970s onwards. The influence of conservative Islamic forces, inclined towards preserving traditional gender relations, grew during this period, and young women themselves were active participants and protagonists in the promotion of local Islamic movements. Meanwhile, state-led Islamisation also enhanced the bureaucratic power and political leverage of Islamic religious authorities on the government. These religious actors, along with second echelon UMNO leaders, were a force to be reckoned with by the federal government when it came to legal reforms related to family and gender issues involving Muslims. On the other hand, social change also brought about important developments in the lives of the younger generation of Malay women, particularly in their new role as wage-earners providing income to the family. Their articulation of female subjectivities was shaped by this tension arising from dealing with their increased relative economic autonomy and a deeper entrenchment of conservative Islamic discourse in both their private space of marriage and family life and the public sphere of politics.

The cleavages that evolved within the Malay community because of social change were clearly manifested during the *reformasi* (reformation) that erupted in 1998. As the UMNO realised that it was losing its grip over a huge section of the Malay community, the party tried to regain political control by adopting various measures, including weakening the growing influence of the *Parti Se-Islam Malaysia* (*Malaysian Islamic Party*, or PAS), a leading member of the newly formed opposition coalition, the *Barisan Alternatif* (Alternative Front, or BA). One point of interest here is the gender issue, which was raised following the emergence of the *reformasi*.

The last part of this article attempts to assess the post-1999 changes by looking closely at specific government reforms and the subtle use of the media to portray the idea that the UMNO was now concerned about gender issues. In reality, however, the nature of the gender discourse by male UMNO members of parliament reflected little change in their attitude to women's rights. Given the inflexibility of male UMNO members on the promotion of women's rights, it is doubtful if the new premier has the capacity to re-shape the nature of Islamic gender discourse.

Early UMNO women leaders and gender reforms

The controversies encountered by the early leaders of the women's wing provide useful historical insights into the dynamics of gender relations in UMNO politics. Khadijah Sidek, Fatimah Hashim and Aishah Haji Abdul Ghani, three prominent leaders of the UMNO's women's wing, attempted to promote gender reforms that led to serious disagreements among party leaders and members.

Khadijah Sidek[6] was the third chief of the women's wing of the UMNO, from 1954 to 1956. She was well known for her fiery oratory style and her radical stand on the need to appoint more women to leadership positions in the UMNO. Khadijah was also the only UMNO woman chief to have been expelled from the party. Fatimah Hashim replaced Khadijah as head of the women's wing. Fatimah, in contrast to Khadijah, remained as leader of the women's wing for 16 years. She was elected as the parliamentary representative of the Jitra-Padang Terap constituency in Kedah in 1959. Fatimah also became the first woman minister in Malaysia in 1969, overseeing the Ministry of Welfare Services. She retired from politics after being defeated by Aishah Ghani in 1972 as leader of UMNO Wanita. Subsequently, Aishah replaced Fatimah as the Minister of Welfare Services.

In the three and a half years that Khadijah spent in the UMNO, she experienced a meteoric rise and an abrupt fall. Her brief stint with the UMNO has been described as tumultuous, because of the contentious issues she raised in the party. When she joined the UMNO in 1953, the then newly elected president, Tunku Abdul Rahman, needed her to help revive the women's wing, as the stormy exit of his predecessor, Onn Jaafar, had adversely affected the morale of the party. Khadijah travelled tirelessly throughout the country to meet women in villages, recruit them into the UMNO and train them to be local branch leaders. Her well-known status as an anti-colonialist and her inspiring speeches awakened in women the need to address the injustices of colonial rule. However, when Khadijah embraced the common people and advocated that they should be accorded the same dignity and respect as the local dignitaries, she incurred the displeasure of senior UMNO leaders, many of them members of the Malay aristocracy.

Barely a year after she joined the UMNO, when she spoke at the General Assembly as a representative of the women's wing, Khadijah questioned why not a single woman was elected to the Supreme Council despite the substantial contribution women had made towards building up the party. At the UMNO General Assembly in 1954, she had to fend off an attempt by male members to

prevent her from being elected as chief of the women's wing, and then proceeded to criticise the objections by the delegates to the proposal that women be nominated to contest in the impending federal elections in 1955. She found it totally unacceptable that women members were merely expected to play the role of collecting membership fees and securing votes for the party.[7] Eventually, of the 35 UMNO candidates nominated to contest in the 1955 federal elections, only one candidate was a woman, even though the women's wing had requested five seats. Khadijah was bypassed as a candidate.

Khadijah stated openly that some of the male leaders were 'afraid' of her. They disliked her assertive attitude, uncompromising position and confrontational approach. Many UMNO male leaders, conditioned by a feudalist and hierarchical attitude, found Khadijah's belligerent style intolerable. She was belittled as an 'outsider' who did not understand the appropriate way of getting things done, a dangerous person who was imprisoned for subversive activities and an insincere feminist as she had agreed to become a second wife. Those who disliked her finally managed to oust her from the UMNO after an initial unsuccessful attempt. The official reasons for her expulsion included the fact that she was not cooperative with the party and that her conduct was detrimental to the interests and well-being of the UMNO.[8]

The stark fact was, however, at the end of 1956, independence for Malaya was imminent. The UMNO's political dominance as the senior partner in the ruling Alliance was well entrenched after the 1955 federal election. Khadijah's services were no longer indispensable to the party and the UMNO's top leadership now felt little need to shelter her from the criticism she was subject to by members. To rub salt into the wound, in 1958, Fatimah was awarded the honorary title of 'Tan Sri' for her purported contributions to the promotion of women and the struggle for independence,[9] while a widowed Khadijah languished in poverty, struggling to earn a living to feed her family.

Fatimah, unlike Khadijah, has a calm and diplomatic personality. She has been described as 'soft and easy to handle',[10] even though this need not imply that she was not firm in her convictions.[11] Fatimah grew up in a traditional Malay home, with a strict religious upbringing. Her era was one that straddled the pre-war colonial period, when Malay society was still steeped in tradition and feudalism, and the turbulent post-war time when ideas of a modern nation-state, Western science and technology, as well as new models of economic development, were being embraced. Her perspective on the role of women was a reflection of the times she lived in and cannot be described as very progressive. Fatimah tried to adapt traditional attitudes and modes of conduct to accommodate modernity without overly disrupting established norms. She recognised that there were some gender issues that rendered women 'second class citizens in Malaysia'.[12] She believed that women were entitled to equal rights in all fields: economic, political and social.

Fatimah, however, made a distinction between the struggle for equal rights and the struggle 'to be able to be like men in all aspects'. She believed that the primary and most important role of a woman was in the domestic sphere,

as an educator and administrator of her family's affairs.[13] She emphasised that as women, 'we must know very clearly where our limits are in fighting for our rights and freedom'.[14] Fatimah's gender perspective was reflective of the auxiliary role played by UMNO's women's wing under her, as captured perceptively by Manderson:

> (The women's wing was) 'identified as a group subordinate to the parent party, as women were to men. The members of the section were nurturers in the public area as in their own homes, they supported rather than led, deferring to the wisdom of the party and the state'.[15]

Fatimah believed that the interests of the party came before that of women's concerns. She also argued that the rights and freedom of women should first and foremost serve the national interest, to enable them to contribute more meaningfully to nation building.[16] Accordingly, the principal duty of women in the public domain was to educate and lead other women in order to cooperate and contribute to the achievement of national priorities of development.[17] It was evidently a point of view that the UMNO leadership was more than willing to accept.

In contrast to Khadijah, who played the role of an underdog challenging a feudalist culture and male chauvinism, Fatimah blended in well with the 'system'. She was part of the 'London club elite circle' when she accompanied her husband to Britain to further his legal studies.[18] Many members of this circle, upon completing their studies and returning to Malaya, became either top bureaucrats or key leaders of the UMNO. Hence she was well integrated with the top UMNO establishment. It is striking that Fatimah described her life as 'following the current and letting it carry her along to wherever she ended up with (it)'.[19] This self-portrayal reveals that she believes in evolution, not revolution. When confronted with the fast changing socio-economic situation in Malaysia brought about by rapid modernisation, she adopted cautiously and selectively aspects of the changes that had occurred, to 'keep up with' the times.

The uncontroversial Fatimah was not able to spearhead any substantive gender reforms through the women's wing. UMNO Wanita under Fatimah continued to debate and pass resolutions calling for an increased number of women to be nominated to contest seats in state and federal level elections. In 1964, the women's wing passed a resolution calling for the appointment of a woman to the Cabinet. In spite of this, Fatimah personally had serious concerns about putting too much pressure on the UMNO's male-dominated leadership to increase the representation of women in the federal and state legislatures.[20] In the face of such demands, UMNO leadership generally responded with token gestures, at strategic moments, just sufficient to pre-empt possible agitation and maintain the goodwill of the women's wing which was a crucial labour force during elections.[21]

Fatimah was nonetheless proactive on the issue of equal wages for similar work done by men and women. When trade unions exerted pressure on this issue, she did her part by speaking out in parliament in support of the campaign, even leading a delegation to talk to the prime minister about this issue. She was, however,

forced to retract her support publicly when the opposition put forward a motion in the parliament requesting legislation to enforce parity of remuneration.[22] But Fatimah persisted in supporting the campaign and allegedly played a role in persuading the prime minister to accept the reform.[23] Indeed, the unions would acknowledge her contribution in helping the campaign on wage parity to succeed.[24] Nevertheless, she was blamed by other UMNO leaders for incurring additional national expenses of up to a sum of RM4.2 million because of the equal wages that now had to be paid to women civil servants![25]

Wanita UMNO was less successful in securing satisfactory reforms in Islamic family law, to render it more woman-friendly, another issue that was repeatedly debated during the women's wing assemblies. The delegates expressed concerns over the effectiveness and capacity of these family laws to protect the rights of Muslim women. Alarmed by the high rate of divorce among Muslims, compared with other ethnic communities, Wanita UMNO requested better legislative measures to ensure justice for Muslim women following a divorce. The women's wing under Fatimah had made repeated appeals and recommendations to the Council of Rulers to ensure that Islamic family law was uniform in each state.[26] The Malay sultans are the head of Islam and oversee Islamic administration in their respective states in the federation. Since there was no uniformity in family laws in the 13 states, Muslim men could circumvent strict conditions regarding polygamy in one state by crossing over to another that had more lax requirements on this issue. In spite of the efforts by Wanita UMNO, little was achieved on this issue, until the women's wing came under the control of Aishah Ghani.

Aishah's perspective on gender and her leadership style could be said to be one that straddled the middle ground between Khadijah and Fatimah. Aishah was sent by her father to receive an Islamic education in Sumatra where she was exposed to a rather radical political atmosphere. Khadijah's initiation to politics was through an exposure to a similar political environment. Aishah's initial political involvement was with the radical Malay Nationalist Party, and she even became the leader of its women's wing AWAS (abbreviated from *Angkatan Wanita Sedar*). After she left this movement, Aishah followed her husband into the UMNO. She clearly had greater exposure to and sympathy for progressive movements and ideas than Fatimah. Aishah was, nonetheless, uncomfortable with Khadijah's confrontational style.

In the 1970s, during Aishah's tenure as Wanita UMNO president, she kept reform of legislation involving marriage and divorce among Muslims as a high profile issue. Aishah was primarily able to do so because she maintained a good working relationship with Abdul Razak, the then UMNO president. In her memoirs, Aishah acknowledges that the reforms involving Islamic family law would not have taken off without Razak's support as a good portion of Muslim men had objected vehemently to any attempt to hinder them from taking more than one wife. She recounted how at one UMNO general assembly she was accused of leading the women's wing astray in Islam through this issue.[27] There was opposition from even a portion of the UMNO women delegates.

Razak appointed a working committee in 1973, with Aishah included as one of its members, to review legislation on polygamy and divorce. The government's National Council for Islamic Religious Affairs provided secretarial assistance to this committee. This committee recommended the codification of a uniform and comprehensive Islamic family law, where basic principles concerning marriage and divorce were spelt out. Based on this proposal, a drafting committee was formed and a complicated process of consultation with various authorities concerned was initiated.[28] The end product was a draft of Islamic family laws that Malaysian Islamic feminist Zainah Anwar would claim to be 'among the most enlightened in the Muslim world'.[29] Aishah claimed credit for keeping up the momentum on this reform through Wanita UMNO.[30]

This draft was legislated as the Muslim Family Law Act of 1984 for the Federal Territories. However, the passage of this bill in parliament was realised only after much resistance from some of the male UMNO parliamentarians. The 1984 Federal Territories version of the Muslim Family Law Act was supposed to serve as a model to be adopted by each state so as to render it uniform nationwide. The resistance from the Islamic Departments of the various states was so great that many state governments only did so between 1989 and the beginning of the 1990s.[31] Even after its adoption, fair implementation of this law hinged on the attitude of the religious officials concerned. Zainah recounts how, soon after the adoption of this law, a Syariah court judge had allegedly asked a woman who had objected to her husband's application to marry a second wife whether she wanted to obey the laws of Aishah Ghani or the laws of God.[32]

The experiences of these three women leaders help highlight the gender dynamics in UMNO politics. In spite of their evident dynamism and foresight, and even in their position as president of the women's wing, they were relatively powerless actors in UMNO politics. The profiles of Khadijah and Fatimah indicate that a woman leader, even the president of the women's wing, could not hold on to power based on her own merit and faced serious encumbrances if she stood up to the UMNO leadership. In the first three decades after the party was formed, the Wanita UMNO leader needed the patronage of the top leadership if she hoped to be able to carry out reforms. This was indicative of the conservative attitude of the party towards women in leadership roles, male and female members alike. In fact, a woman's worth and hence her legitimacy as a party leader was measured by the social position of her husband.[33]

Dancz notes that Hajjah Zain Suleiman, a well-respected Malay educationist who was UMNO's second women's wing chief and Khadijah's predecessor, 'relied on her working relationships with Datuk Onn Jaafar and then Tunku Abdul Rahman' in leading the women's wing.[34] Khadijah had managed to stave off the first attempt to remove her as head of the women's wing only because she then had the support of the top male leadership.[35] In her memoirs, Aishah attributed Fatimah's long tenure as chief of the women's wing to two factors. First, that Tunku, as the UMNO president, had strongly discouraged any leadership contest. Second, Fatimah was Tunku's favoured and trusted choice.[36] Even though Aishah

had been nominated several times to challenge Fatimah for the presidency of the women's wing, she felt obliged to decline these nominations, except once, for fear of incurring Tunku's displeasure. After the initial defeat, Aishah waited until there was a change of guard at the top before she accepted the nomination to challenge Fatimah again.[37] As president of UMNO Wanita, Aishah's endeavours to reform Muslim Family Law would not have been successful if she did not have the firm support of the UMNO president.

These unequal gender power relations, where women politicians were rather subservient to the UMNO president, was a manifestation of the general political dynamics in the UMNO. These dynamics were related to the hierarchical way the UMNO functioned, as 'protector' of the Malays, which perpetuated the image of a feudal culture that demanded unquestioning loyalty.[38] Challenging the leaders was neither encouraged nor well received.

These kinds of political dynamics fostered a particular approach to gender reforms, that is the patronage of the top male leadership of the UMNO was necessary if they were to be implemented. This suggests that the few gender reforms that were realised were often implemented without necessarily winning the support of many second echelon male UMNO leaders and party members. No attempt was initiated to educate members or debate these issues thoroughly, nor to foster within the UMNO a greater awareness and more open attitude towards gender issues in order to help the party articulate a clear position on this issue.

The paradoxical impact of modernisation and Islamisation

While gender relations were unequal during the 1950s and 1960s, the attitude of women themselves at that time was extremely self-defeating and passive. However, economic development from the 1970s has arguably brought about fundamental changes in the nature of gender relations within the Malay community, albeit in an uneven way.

During the 1970s and 1980s, a substantial increase in foreign investments and a boom in manufacturing resulted in the swift expansion of the industrial sector of the economy. The most significant changes, however, were brought about by the implementation of the New Economic Policy (NEP), which introduced affirmative action in favour of the *Bumiputera* community.[39]

Under the NEP, transnational corporations were legally obliged to ensure that at least 30 per cent of their work force was Bumiputera. By the late 1970s, about 80,000 village girls, between the age of 16 and mid-20s, had been recruited to work in factories predominantly based in urban areas.[40] In an increasingly commercialised economy, the wages contributed by wives and daughters to the family were considered as crucial to sustain a decent lifestyle. The new importance of women in the economy and the family helped enhance their status in relation to men. Their economic standing gave them relative freedom, mobility and some autonomy. Since some of them could save enough to pay their wedding

expenses, instead of depending on their parents for money, they had more say in the choice of their spouse.[41]

In addition, within a span of two decades after the NEP was introduced in 1970, a substantial number of professional, middle class Malays had emerged, many of whom had benefited from scholarships and other government aid through affirmative action. As there had been no gender discrimination in the channelling of government assistance, the level of educational achievement of Malay women was on par with that of their male counterparts. In fact, in recent years, women have outdone men in terms of educational achievement, such that the proportion of female undergraduates now far exceeds male students in local universities. As a consequence, more women began embarking on a professional career or became wage-earners. In an even more significant way than their sisters at the lower end of the socio-economic scale, these middle class women arguably have a greater sense of control over their personal lives.

Interestingly, in a survey done by Narli in 1984 among 150 final year Malay students in five local universities,[42] she found that a large number of female students did not consider a woman's place to be at home, nor did they agree that their primary role was to be a mother and homemaker. Nevertheless, their sense of opportunity that came with tertiary education and hope for personal development outside the domestic sphere appeared to be mitigated by a sense of insecurity, incertitude and ambivalence. Narli noted that they had to contend with conflicting normative expectations of what an 'ideal woman' could or should be.[43] On the one hand, their educational training had oriented them towards life in the production line, so to speak, opening up the prospects of pursuing a professional career, and the capacity to evaluate their accomplishments based solely on merit and not on their gender. On the other hand, the normative scripts of tradition and Islamic teaching had barely evolved with time on issues pertaining to women's rights, where the primacy of men over women was still seen to be the norm.

This tension that women faced was echoed by Nik Safiah,[44] who argued that Malay women were confronted with an 'identity crisis', in terms of the social role expected of them. She stressed that this crisis had nothing to do with the nature of 'womanhood and Malayness' (*sifat kewanitaan dan kemelayuannya*) of Malay women, which she claimed had remained unchanged.[45] What Nik Safiah perceived as the source of this crisis was the contradiction between the additional roles demanded of women, to contribute towards the process of economic growth and the lack of acknowledgement and appreciation of their contributions to this endeavour.[46] Another reason for this identity crisis was that women were normally held responsible for the breakdown of the family unit and the new social ills that had emerged with rapid modernisation.[47]

A re-articulation of their gender roles and identity in the context of an evolving society were rendered more difficult and contentious with the phenomenon of Islamic revivalism that emerged during the same period as the implementation of the NEP. The rise of the Islamic movements such as the *Angkatan Belia Islam Malaysia* (ABIM, or the Muslim Youth Movement of Malaysia) and *Darul Arqam* was, in a way, a response to the social impact of modernisation and economic

development brought about by the NEP. New values and lifestyles brought with them new social problems and many turned to their religion for answers and solutions. What emerged was, nevertheless, a defensive and conservative Islamic discourse that appeared strongly opposed to Western ideologies and culture, seen as the main culprit behind the social ills and decadence permeating Malaysian society. Instead of encouraging a more dynamic and contextualised understanding of Islamic teachings, the ideas propagated by these movements generally advocated the restoration of a pure and pristine form of Islam as practised during the golden era of Islam and substantiated by verses from the *Quran* and *Sunnah*, often interpreted in a literal sense. More importantly, the traditional understanding of the role of women in society and in the family was often taken by these Islamists to be fixed and God-sanctioned. Some women were willing and active collaborators in the propagation of such ideas after they were co-opted by these groups.

However, by examining the various subjective meanings given to the wearing of the head-scarf (*tudung*), a prominent exterior sign of increased Islamisation, Maznah argued that some of the Malay women who took to it were no more 'subjugated' than their contemporaries in the West who resorted to cosmetic surgery or the like in compliance with their presumed criteria for beauty in order to please or be accepted by their male counterparts. Hence, the wearing of the *tudung* could also be seen from one angle as a minimal trade off willingly engaged in by many Malay women to be 'socially acceptable', according to their religious understanding, without necessarily conceding to other social restrictions preached to them in the name of Islam.[48] The rise of popular Islamic movements during the 1970s and 1980s also put more pressure on the government to bolster its Islamic credentials. This need for the government to present a more Islamic face was also imperative when the UMNO's arch-rival, the Islamic party, PAS, began expounding the idea of creating an Islamic state in the country.

In 1982, the government under the control of Mahathir Mohamad, co-opted Anwar Ibrahim, the then ABIM president, into its fold in an attempt to boost its Islamic credentials. Once in government, Anwar spearheaded the state's Islamisation programme, first by introducing the so-called Islamic values and then by establishing Islamic institutions, including an Islamic bank and an international Islamic university. The Islamic legal reforms introduced during the 1980s also placed the Islamic judiciary on equal footing with the civil legal system. A three-tiered *Syariah* court system was also set up.

More than two decades of various Islamisation endeavours pursued by the UMNO had fostered an increasingly Islamic bureaucracy in the various states as well as the emergence of a powerful group of Islamic officials. The perspective of these state-level religious authorities, as we have seen in the earlier section, more often than not appeared to be out of sync with the relatively liberal discourse and opinions held by leaders at the federal level. From the point of view of reforms in matters concerning Muslim women and the family, this in effect means that these religious authorities have increasingly become a powerful social force.

Since 1993, state religious authorities have been endowed with wider-ranging power over their respective Muslim communities. Section 36(1) of the 1993

Administration of Islamic Law (Federal Territories Act) provides the *mufti*, the top state religious official, the sole authority to amend, modify or revoke a *fatwa*[49] issued either by him or any previous mufti. More significantly, in some of these states, the *fatwa* of the mufti was rendered automatically binding and legally enforceable on the people, contrary to the traditionally advisory nature of a *fatwa* in Muslim societies. This power, given under the provisions of the Syariah Criminal Offences Act/Enactment, effectively rendered the mufti a legislator parallel to the state assembly, albeit one without the need to be accountable to an electorate. In addition, the act of giving, propagating or disseminating any opinion concerning Islamic teachings and law or any issue contrary to any *fatwa* in force also became a criminal offence.[50] In effect, this rendered criminal anybody who challenged the theological reasoning of a *mufti*, rightly or wrongly.

Due to the decentralised way Islamic administration was organised, the federal government did not have determinant control over the appointment of top Islamic officials, such as the *mufti*, which was the prerogative of the sultan of each state. Even the enactment of Islamic legislation was subject to the scrutiny and independent evaluation of the State Islamic Department, an issue discussed earlier in relation to the unsuccessful federal efforts to standardise Islamic family law. These state religious authorities constitute a formidable autonomous voice on Islamic matters and exercise much influence over the Muslim community.[51]

However, as most of the state governments were under the control of the UMNO, albeit within the framework of the BN, the party's state assemblymen could not absolve themselves of their role in shaping the form of Islamic family legislations. With majority control over these state governments, the UMNO helped enact these bills. But, by supporting the enactment of these bills, these UMNO state assemblymen did not appear to share the same concerns as some Federal leaders about affording maximum protection to Muslim women.

For instance, a number of UMNO's elected representatives adopted the 1984 Muslim Family Law Act after further amendments and modifications of their own, such that they negated the original intention of providing protection or rights to women. The 1984 Muslim Family Law Act for Federal Territories, as the model legislation to be adopted by various states, introduced five strict conditions to be fulfilled by a husband before he could be allowed to practise polygamy. The amendment made in one state legislature, before the adoption of this bill, removed the fifth condition, which requires that a man's act of taking on another wife should not directly or indirectly lower the standard of living enjoyed by the existing wife and their dependents.[52] Another state amended the model statute to allow polygamous marriage, engaged in without the court's permission, to be registered upon the payment of a fine or the serving of a jail sentence. This, in practice, amounted to legalising a polygamous marriage upon the payment of a minimum fine regardless of whether the man fulfilled the specified conditions.[53]

Some of these UMNO politicians were also not afraid to express publicly their reservations about more pro-women amendments to Islamic Family Law proposed by the Federal government. This was exemplified by the response of the Perlis chief minister, Shahidan Kassim, to the appeal by the deputy premier,

Najib Razak, for specific states to amend their Islamic Family Laws on polygamy[54] as proposed by the Federal government.[55] Several male UMNO parliamentarians also expressed reservations in the parliament on the new rulings and questioned their practicality. One parliamentarian voiced his concern that this law might encourage husbands, who intended to practise polygamy, to keep their future second wives as mistresses 'to avoid conflict with the first wives'.[56] The underlying logic in this argument was that polygamy is an acceptable way to legitimise the husband's extra-marital relations and to absolve him of his infidelity.

As the Islamic discourse began to gain currency among a growing segment of the Malay electorate, UMNO's traditional supporters, party leaders became even more careful not to make any *faux pas* that would allow PAS to accuse them of being 'un-Islamic' or of violating or misrepresenting the conventional understanding of Islam. However, the race between the UMNO and PAS to out-Islamise each other, especially since the late 1980s, created a momentum of its own. It appeared that the UMNO's central leadership also faced a challenge from within and found it difficult to rein in over over-zealous UMNO leaders who at times tried to up the ante to outdo PAS. One example was the proposal in 2000 to enact the Restoration of Faith Bill to curb apostasy and 'deviant Islamic teachings and practises'.[57] The prime minister was obliged to voice his opposition to this bill, which was subsequently withdrawn.[58]

From the point of view of gender reforms, one pertinent example was the Domestic Violence Act (DVA) in 1994, which took more than a decade of campaigning by women's groups before it was enacted. Even after it was approved by parliament, it was only gazetted in 1996 after the women's groups applied more political pressure. One issue of contention was whether the Act should cover Muslim women, as Islamic family law was under the jurisdiction of the *Syariah* courts. A more controversial issue, marital rape, was subsequently excluded from the definition of domestic violence. The definition of domestic violence in the Act[59] is such that it provides some leeway for conditional beating, should a Muslim woman refuse to have sexual intercourse with her husband.

Gender in the 1999 elections

The 10th General Elections held in November 1999 were momentous in many ways, particularly in terms of gender issues. The elections were held at a time when mass street protests were occurring because of the abrupt sacking of the deputy prime minister, Anwar Ibrahim, on 2 September 1998 and his subsequent brutal treatment while in police custody. The groundswell of a movement demanding political reform and democratisation was a manifestation of the discontent among a significant section of the population about the way the political system of the country had been functioning. The demand made by the movement soon broadened from justice for Anwar to issues such as transparency and accountability, the repeal of coercive laws such as the Internal Security Act (ISA) and 'justice for all'. The popular slogan of the *reformasi* was 'corruption, cronyism and nepotism', which drew on a similar movement in Indonesia, that called for

an end to *kolusi, korupsi, nepotisme* (KKN), which subsequently brought down the Suharto regime.

This *reformasi* involved an unprecedented gathering of large numbers of people at public rallies and street demonstrations, but it was widely seen as a predominantly 'Malay phenomenon'.[60] With the rise of the *reformasi*, the UMNO, after decades of political hegemony, began to fear that it was losing ground among Malays to PAS as well as the newly formed *Parti Keadilan Nasional* (National Justice Party) headed by Anwar's wife, Wan Azizah Wan Ismail. Non-Malays were, however, also active in the *refomasi*, participating mainly in their capacity as members of non-governmental organisations (NGOs) or the predominantly non-Malay based opposition party, the Democratic Action party (DAP).[61]

While many women NGO activists participated in the *reformasi*, many Muslim women (and men) who had previously not been engaged in any civil movements actively began attending public gatherings, seminars and campaigns for democracy. It was now common to see Malay women holding banners and shouting slogans during demonstrations. One popular feature during these mass rallies, besides Wan Azizah, was her eldest daughter, Nurul Iza, dubbed the *Puteri Reformasi* (Reformation Princess). This *reformasi*, coupled with the fact that for the first time in Malaysian history a Malay woman had become the head of a political party and a popular icon of a new civil movement, fired public imagination of the growing empowerment of Malay women.[62]

In anticipation of having to dissolve parliament no later than 5 June 2000, the government moved quickly to foster optimal conditions to win the impending electoral battle. The UMNO refuted the opposition's allegations of its misdeeds and made counter-accusations to discredit Anwar. The ethnic card was played by the UMNO to divide Malaysians. The Bumiputeras were repeatedly warned that Malay disunity would only serve to undermine their economic standing in the country. The non-Malays were reminded of the 13 May 1969 racial riots to curb their support for the opposition. The anti-Chinese violence in Indonesia during the toppling of the Suharto regime was regularly featured in BN's electoral advertisements to suggest to non-Bumiputera voters that riots would occur in Malaysia in the event of a takeover by the opposition.[63]

On the economic front, the Malaysian economy, which had been battered by the 1997 currency crisis, was beginning to benefit from a region-wide recovery, which commenced in early 1999. An increase in international demand for manufacturing products in the electronics and electrical sector, then Malaysia's most important exports, further aided the recovery of the economy. Government spending also increased correspondingly as the date for the elections drew near.

Warming up to the gender discourse

Meanwhile, the opposition parties and NGOs, in anticipation of the upcoming general election also began their preparations. Activists working on women's issues eventually came out with two separate but complementary strategies. The first was the formulation of a platform document dubbed the Women's Agenda for

Change (WAC),[64] to lobby the government and opposition parties on issues promoting women's interests. The second approach, the Women's Candidacy Initiative (WCI), was novel as it aimed to put forward an electoral candidate specifically for the purpose of championing women's issues.

A draft of the WAC was first prepared by four women's organisations,[65] together with a number of concerned women activists. The WAC platform identified ten relevant general themes,[66] to be analysed from a gender perspective, before making policy recommendations. In January 1999, the draft document was presented for discussion and endorsement to representatives from 34 NGOs. After incorporating the suggestions from these NGOs, the finalised agenda was launched in May with the endorsement of 76 organisations nationwide. Support for the document was broad-based, as these organisations comprised those working on issues ranging from women's rights, consumer welfare and trade unionism, to environmental protection and religious freedom.

Government reaction to the WAC document was surprisingly receptive. Within days, different factions within Wanita UMNO contacted the WAC organising committee to indicate their interest in discussing the document further. In the space of ten days, three meetings were arranged between government representatives and WAC committee members. The first meeting was with the deputy prime minister, Abdullah Badawi, and women leaders from different component parties of the ruling national coalition, the BN. A proposal was put forward to set up task forces around the various themes set out by the WAC. This meeting was followed up with another involving a former female minister and prominent female MPs.

Nevertheless, inconsistencies in the stand of the BN on gender issues, and at times its patronising attitude to the WAC, were apparent during the period leading up to the general elections. The WAC, in a bid to keep up pressure on women's rights, sent letters in early August 1999 to all MPs and opposition parties requesting their support and concrete commitment to future plans on all aspects of their agenda. The response by these parties to this letter was compiled, after the designated three-week duration had expired, and a press conference was called to announce the results. Only seven male MPs,[67] out of 192, and four parties[68] committed themselves to the WAC agenda. The women's wing of PAS said that it was still studying the document. The female MPs of the BN did not endorse the document, apparently because they were unhappy they had not been consulted beforehand about the whole exercise. At least one male MP perceived the WAC attempt of seeking endorsement and commitment to its agenda as 'arrogant', for it meant that the organisation expected all MPs to accede to their expectations.[69]

All the reiterations and declarations of the government officials and MPs of the need 'to do something' and 'work together' on gender issues was not immediately followed up after the 1999 general elections. It appeared that these meetings were nothing more than a publicity stunt, not sincere attempts to better understand and deal with the issues raised by the WAC.[70] Nevertheless, the WAC and WCI initiatives helped raise public profile regarding women's issues. Political parties paid greater attention to gender issues in the period leading up to this

general election,[71] while the media appeared to be supportive and sympathetic to the cause.

The component members of the BN, in their desperation to generate electoral strategies to boost their popularity, realised that they could use the gender issue to contrast themselves in a more positive light to their primary political nemesis, PAS.[72] Aiding the BN were the remarks made by Nik Aziz Nik Mat, the chief minister of the Kelantan state government under PAS, months before the general election. Nik Aziz's views about working women and child-upbringing were twisted and whipped up by the media to suggest that he was against women working outside the home.[73] A few months after this event, Nik Aziz undermined further his own position when he issued a directive instructing his state government officers not to recruit beautiful women as they had better prospects of finding a rich husband.[74] Various organisations, including the BN component parties, were swift and loud in their disapproval of this statement by Nik Aziz.

In their efforts to wrestle Kelantan from PAS, UMNO members in this state exploited the gender card energetically. The BN MP for Kota Bahru, Ilani Isahak, declared that an Equality Act should be legislated in order to ensure gender parity in all spheres of life.[75] Tengku Razaleigh Hamzah, once leader of an opposition party allied to PAS but freshly reinstated at the June 1999 UMNO general assembly to head the UMNO in Kelantan, allocated a substantial amount of funds to Kelantanese women in business, who were reputedly renowned entrepreneurs.[76]

Another 'electoral gift' by the federal government to help bolster its image of being 'progressive' on gender matters was the sudden amendment of the 1961 Guardianship Act. The amendment granted non-Muslim women equal guardianship rights over their children.[77] This, in practice, enabled non-Muslim mothers to apply for identity cards and passports for their children as well as to enrol their children in schools.[78] This amendment, clearly a concession to woo non-Malay support, was secured only after three decades of lobbying and numerous memoranda by women NGOs to the government.

It is equally noteworthy that Muslim women were not granted the same rights on this issue as non-Muslim women. At least one of the women's groups, Sisters in Islam, pondered aloud why Muslim women were not granted the same status. The government appeared cautious because of their fear that by granting Muslim women similar rights, this would bring them into a confrontation with conservative Islamic authorities. At the same time, the government did not hesitate to insinuate that PAS strongly resembled the hard-line Taliban regime in Afghanistan. The UMNO was thus treading a fine line, positioning itself as more progressive on gender issues compared with PAS while judiciously trying to avoid offending conservative religious forces in Malaysia. Subsequently, one of the most prominent themes in campaign advertisements in the media during the 1999 general election was that of women's rights, a cause that the BN claimed it was championing.[79]

Nevertheless, these half-hearted concessions and gestures were insufficient in garnering greater sympathy from among women voters for UMNO candidates in the 1999 general election.[80] Nonetheless, they did subsequently help bring about

a noticeable shift in the discourse on gender within the BN. Welsh noted that the BN national leaders realised that their pre-election gestures were unconvincing and smacked of political expediency.[81] In this election, the UMNO performed very poorly, securing just 72 seats. This was the first time in UMNO's history that the party commanded less than half the total number of seats in parliament. The BN did, however, try to invest more in building up its credibility on gender issues after the 1999 general election.

Gender reforms between 2000 and 2003

In May 2000, Zeti Akhtar Aziz was appointed Governor of *Bank Negara*, the central bank. At the end of the same year, Ainum Mohd Saaid was appointed as the first woman Attorney-General of Malaysia. While there was no doubt that Zeti and Ainum were extremely competent and well qualified to assume their respective posts, it is unclear if their appointments were a means for the government to stress its commitment to the issue of gender equality.

At the Women's Conference in August 2000, attended by representatives from the government, NGOs, professional bodies, academia and political parties, 24 resolutions were passed, involving recommendations to the government that required its attention and action. One of the resolutions called for the setting up of a Ministry of Women's Affairs, Children and Family Development.[82] Ng Yen Yen, the leader of the women's wing of the Malaysian Chinese Association (MCA), UMNO's leading partner in the BN, immediately endorsed this recommendation. In his dialogue session with the women's groups, the then prime minister Mahathir also promised that a committee would be established within the Islamic Affairs Development Department to monitor all gender-related aspects of Islam.[83]

Subsequently, the Women's Affairs Department (Hawa), which was previously under the jurisdiction of the prime minister's department and under the care of a deputy minister, was upgraded to be the Ministry of Women's Affairs in January 2001. However, in a surprise move, the name of the ministry was hastily changed to the Ministry of Women and Family Development. Sharizat Abdul Jalil, the deputy minister overseeing Hawa, was appointed as its minister. The statements issued by Sharizat indicated that there was no clear blueprint or agenda for the ministry when it was established. In fact, Sharizat reportedly said that one of the three grey areas that she was going to look into was the need to reinforce women's basic and traditional functions such as cooking and caring for the household! This brought on a barrage of criticisms from the women's groups.

On 1 August 2001, the government amended Article 8 of the Constitution to outlaw discrimination based on sex, a substantive act to encourage gender equality. The minister in charge, Rais Yatim, even made a point to remind the Malaysian women to 'be thankful to the government that this step has been taken.'[84] In actual fact, government leaders had agreed to undertake legal reforms of these laws as they had acceded to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on 5 July 1995.[85] This constitutional amendment was a belated effort to fulfil the requirement of

Article 2(a) of CEDAW. Similarly, the amendment of guardianship law by the government before the 1999 general elections was also in compliance with part of the provisions of Article 16(f) of CEDAW.

During a cabinet reshuffle following major leadership change in the Malaysian Chinese Association (MCA), the party's Ng Yen Yen was 'promoted' when she was transferred from her post as deputy culture, arts and tourism minister to the Finance Ministry, as second deputy minister, generally regarded as a 'heavy-weight' ministry. Premier Mahathir remarked that this was in recognition of the capabilities of women and proved his government was not gender-biased.[86]

Gender discourses, albeit those matters of a less controversial sort, were becoming part of mainstream debates. 'Women-friendly' discourses could be heard from time to time among some members of government, especially on auspicious occasions such as the International Women's Day or the Malaysian *Hari Wanita*. In a message delivered at the *Hari Wanita* celebration in 2001, Human Resources Minister Fong Chan Onn said that smarter women would take more top jobs from 'lazy' men.[87] Fong also declared that the labour department would set up a special unit to monitor and investigate discrimination against women workers. Fong described the gender approach adopted by PAS as being 'highly restrictive' because, as a solution to sexual harassment in the workplace, the Islamic party had suggested that companies employ less attractive women.[88] In his presentation of the 2002 national budget, premier Mahathir had allocated a sum of RM59 million to fund the national women's development programme, as a gesture of the government's commitment to women. Mahathir also declared that widows who previously had to relinquish their pension rights after re-marrying could henceforth continue to claim it.[89] In his keynote address at the launch of Women Summit 2003, again in conjunction with the *Hari Wanita* celebration, deputy prime minister Abdullah declared his government's commitment to the welfare, safety and security of women.

That the gender card played by the UMNO was part of its strategies to undermine PAS could be illustrated in the formation of a new young women's wing, the *Puteri UMNO* in April 2001.[90] Puteri UMNO recruits Malay women under the age of 40. The UMNO leadership realised that the party was losing support among the young urban middle class Malay women and needed to find ways to reach out to them. The stakes were high as, according to an assessment by the UMNO, about 1.5 million women aged 35 years and below would be eligible to vote for the first time in the following general elections.[91] Mahathir's appointee to lead the new movement was interesting. Azalina Othman Said, an unmarried lawyer with a black belt in taekwondo, was appointed by him to build Puteri UMNO. That Azalina did not fit the traditional image of a Malay woman was noted by a number of political analysts. Puteri UMNO was presented as the 'caring face of freedom for women',[92] an image that was directly opposite to the conservative notion of womanhood espoused by PAS. In fact, the UMNO tried to sell the idea of the 'new Malay woman' through discreet propaganda. Maznah noted that a number of Malay novels and films targeting young women were produced during the time that the party was beginning to actively promote Puteri UMNO.[93]

On 15 April 2003, the *New Straits Times*, an English-language newspaper controlled by the UMNO, published a feature entitled, 'The modern Malay woman: What makes her tick?' This feature article presented parallel interviews conducted with an executive committee member of Puteri UMNO, Nolee Ashilin Mohd Radzi, and Aiman Athirah Al-Jundi, an executive committee member of women's wing of PAS, *Dewan Muslimat*. This article began by asking whether Malay women differ greatly 'if they belong to different political parties'. In effect, it was trying to contrast differences between these two ladies, in terms of their understanding of gender relations, thus subtly leading the readers to decide whether UMNO or PAS' position corresponded with their notion of a 'modern Malay woman'. The questions asked included what the two ladies thought about the implementation of *Hudud* (Islamic penal code), obedience to a husband's wish, wearing of the *tudung*, pre-marital sex, pro-monogamy campaign and seeking the husband's permission to leave the house. In effect, Nolee came across as a person who was not subservient to her husband, a keen supporter of the monogamy campaign and a defender of the right of each individual to decide if she would wear a *tudung*. Aiman, on the other hand, came across as one who adopted a more conservative stand on women's issues, including holding the view that the wife was subordinate to her husband, as shown by her position that it was *wajib* (compulsory) for her to obey her husband in all things and that the wife had to get her husband's permission before leaving the house.

There was, undoubtedly, an element of propaganda in this newspaper feature, as the opinions of these two women did not really reflect differences in gender perspective along party lines. While what was espoused by Nolee represented the aspirations of a segment of middle class Malay women, as indicated by the remarkable success of Puteri UMNO,[94] a section of PAS women would also probably not object to her perspective. On the other hand, a good portion of UMNO male members would well prefer that women be placed at a more subordinate position to them, as described by PAS' Aiman.

In reality, then, the gender views of most UMNO members are probably not much more enlightened than those of PAS members. Within the UMNO, the mentality of a handful of even its second echelon leaders smacked of male chauvinism, as exemplified by the choice of words by some party members during parliamentary debates. There have been repeated incidents when UMNO members of parliament have used lewd and inappropriate language. On 25 February 2000, Parliament was reported to have to adjourn for 10 minutes following a row over a motion to censure two UMNO MPs for making sexist remarks. One MP allegedly asked a female opposition MP, '*Boleh masuk sikitkah?*', translated literally, 'Can I enter a little?'; a colloquial way of asking for more clarifications, hence its double meaning. Another male MP then joined in to say, '*Beri masuk sikitlah*' ('Let him enter a little'). Even when told that these remarks were offensive, the MPs were unrepentant.[95]

During a discussion on government efforts to combat AIDs, one female opposition MP asked what steps the government had taken to curb needle-sharing among drug addicts, a predominant way the HIV virus had spread in Malaysia.

Instead of responding to her questions, the deputy health minister replied that he did not understand 'what kind of needle' she meant. Immediately a few back-benchers broke into laughter saying that 'there are big needles and small needles' (*jarum ada besar, ada kecil*) which could cause AIDS.[96] Apart from this, on more than one occasion, unmarried female MPs in the opposition bench have been subjected to sexist and belittling comments about their status as single women.

On the other hand, within PAS, there is also the cleavage between the more conservative group, the so-called pro-*ulama*, and the more vocal and autonomous professional group within the *Dewan Muslimat*.[97] In an interview with the tabloid, *The Sun*, on 9 October 2004, Siti Mariah Mahmud, a PAS Central Working Committee member, the information chief of the *Dewan Muslimat* and a part of the professional faction, expressed views that were clearly more liberal than those held by Aiman.

The more liberal PAS faction subsequently gained leadership control of the *Dewan Muslimat*, under Kalthom Othman and Lo' Lo' Mohd Ghazali, in 2003. Lo' Lo' was well known for her public criticism of the PAS leadership, for disallowing women party leaders from sitting alongside male leaders on the stage at PAS' National Convention (*Muktamar*) in 2000. That year, Lo' Lo' was appointed, along with Kalthom Othman, to the party's Central Working Committee. Lo' Lo' was elected in the 2001 *Muktamar* to the Central Working Committee.[98] These vocal PAS women leaders emerged as an important force in the party, even managing to persuade the male leadership to nominate women candidates in the impending 2004 elections. In this general election, PAS fielded nine women candidates. This was the first time since 1978 that PAS has fielded women candidates. PAS' decision to field women candidates was also attributable to external pressure. Since the UMNO had persistently accused PAS of repressing women, the fielding of women candidates helped put the Islamic party in a more favourable light among the electorate.[99]

The nature of the discourse on gender issues by both PAS and UMNO members indicate how out of touch they are with the young female electorate, which both parties are endeavouring to capture. The way UMNO members discussed gender issues also suggested that the legislative and institutional reforms introduced by the party after 1999 were merely expedient strategies to win the hearts and minds of a newly emerging Malay generation.

Gender under Abdullah

After the 1999 general elections, the BN, realising the need to regain the support of women voters, introduced a number of institutional reforms, including the setting up of a ministry to oversee gender issues. Meanwhile, Puteri UMNO had played a key role in trying to portray the party as one that remained relevant to the young. The well-controlled mainstream media was deployed to present the government as one that was 'women-friendly', especially compared with PAS.

These measures probably appreciably helped the BN to secure the support of more women during the 2004 general elections, compared with 1999, when the

coalition recorded a remarkable victory.[100] Siti Mariah Mahmud, a member of PAS' central working committee, commented that an internal study conducted by her party had revealed its support among women had declined.[101] While Siti argued that unfair media coverage was partially the reason for the decline in support, she also admitted that PAS needed to make a more conscious effort to woo women voters. Although PAS had fielded an unprecedented nine women candidates during the 2004 elections, the public was well aware that the party leadership had been pressured into making this concession. Nonetheless, this concession that was made was seen as one that was too little and too late.

The 2004 general elections were also seen as a mandate-seeking election for the new premier and UMNO president, Abdullah Badawi, who took over the helm from Mahathir in November 2003. Abdullah had consistently cultivated an image of a politician who was women-friendly. On a number of occasions during his term as deputy premier, Abdullah had announced women-friendly measures and publicly stated his commitment to women's issues. He was also among the few MPs who had pledged his support for the Women's Agenda for Change that was issued before the 1999 general elections. During the 2004 election campaign, the newspapers had portrayed him as a loving and caring husband. His wife, Endon Mahmood, had publicly endorsed a monogamy campaign launched by the women NGOs.

Electoral success and gender rhetoric notwithstanding, it appears that the new premier is genuinely open-minded in terms of his personal views on women's rights. Nevertheless, the social constraints and reality within UMNO remain unchanged. And if his performance as deputy premier could be used as a gauge, Abdullah's cautiousness suggests no radical or rapid changes in the foreseeable future.

Abdullah's cautiousness was well illustrated in his ambiguous position on the issue of a Muslim mother's right to guardianship of her children. In August 2000, the then deputy prime minister Abdullah announced that mothers could henceforth sign official government forms, such as passport applications for their children, consent for surgery and those relating to school matters.[102] A directive was sent to government departments to amend all official forms and legal documents so that the signature of either the mother or father was equally valid.[103] Abdullah clarified, however, that this directive 'did not touch on the question of guardianship', and therefore was not against *Syariah* law.[104] In other words, the reform was of a purely administrative nature. A Muslim mother is still not recognised as the legal guardian of her children, unlike her husband. Abdullah's directive can be viewed from two perspectives. First, he was astute enough to provide immediately tangible convenience to Muslim mothers in their role as a parent while carefully pre-empting any possible controversy expressed in religious terms. On the other hand, he avoided addressing the core issue, that of legal recognition of the authority of a mother over her children.

Abdullah's evasive attitude on gender issues involving Muslims could also be seen in relation to the Monogamy Campaign launched by the Coalition on Women's Rights in Islam in March 2003.[105] This coalition was formed shortly

after the remark by the chief minister of Perlis, Shahidan Kassim, who had encouraged Muslim men to take another wife in Perlis because this state's Islamic law did not require that men get their first wife's consent before doing so.[106]

This coalition argued that polygamy is not an absolute right for Muslim men and can only be practised in exceptional cases. The members of this campaign suggested that the wife be given the option of a divorce should she disagree with her husband's intention of taking a second wife. The most prominent patron of this campaign was Abdullah's wife, Endon Mahmood. Wanita UMNO and Puteri UMNO – as well as component parties of the BN – sent representatives to the launch of this campaign,[107] again indicating the divisions within the party over the issue of gender equality.

The campaign caused an instant uproar among the Islamic officials. The *mufti* in the various states made critical statements about the campaign, calling for it to cease its activities for they were contravening Islamic teachings and Islamic laws. When PAS MPs brought up the issue in parliament, UMNO leaders appeared more circumspect in stating their stand. Shahrizat, the Women and Family Development Minister, clarified that the campaign did not intend to question men's right to polygamy but only encouraged monogamy which she said would strengthen the family institution. Subsequently, Abdullah was quoted as advising the campaigner organisers to consult the Department of Islamic Development Malaysia (Jakim) before promoting their ideas among Muslims in the country. The religious advisor to the premier, Abdul Hamid Othman, also reportedly said that such matters should be referred to religious scholars.[108]

One relevant issue concerned the recognition of marital rape as a crime. In August 2004, Abu Talib Othman, chairman of the Malaysian Human Rights Commission presented a paper to the parliamentary select committee on amendments to the Criminal Procedure Code and Penal Code. The Commission recommended that marital rape be categorised as a crime punishable under the federal penal code. This proposal had continuously been raised by a coalition of women's rights groups, the Joint Action Group Against Violence Against Women, which had spearheaded the anti-violence campaign since the 1980s. Muslim women had complained that state laws provided inadequate safeguards and the legal system was slow in providing protection in cases of domestic violence.

This recommendation was immediately criticised by Islamic authorities. One of the most vocal critics was the *mufti* of Perak, Harussani Zakaria, who declared that it was not wrong in Islam for a husband to force his wife to have sex with him. Describing the proposal as 'against the teachings of Islam', Harussani stated that a husband was not obliged to provide financially for a wife who refused him sex, based on the rule of *nusyus* (disobedience).[109] When asked for her response on Harussani's statement, a woman evangeliser avoided answering the question by criticising the use of the term 'rape' and suggested that 'sexual violence' was more appropriate as Islam did not permit a husband to 'cause pain' to his wife.[110] A *Syariah* lawyer was quoted as saying that a wife only had the right to refuse sex with her husband if he had venereal diseases, was HIV positive or a drug addict; in those cases, the wife also had the right to ask for a divorce.[111]

While Abdullah, as prime minister then, was not known to have made any public stand on this issue, Abdul Hamid, his adviser on Islamic affairs did. Hamid avoided dealing with the core issue and opted for a procedural stand. He stated that existing state Islamic laws had provisions for the offence of 'ill treatment' of wives. Sharizat, the minister for women, family and community development, also avoided a direct response by saying that, 'We need to be careful . . . in an issue like this, which involves Syariah law'.[112] In other words, the UMNO was taking no risks on this issue by standing up to conservative religious forces.

As part of his effort to promote women's rights, Abdullah has declared his intention to ensure that women will hold at least 30 per cent of senior executive positions in the civil service. Nearly two years into his administration, it is still relatively early to determine if he will enforce this declaration. However, what has not been raised so far is the issue of the role of women as leaders in his own party.

There was not a single elected women member in UMNO's Supreme Council before the 2004 general assembly.[113] In this party election, three women secured victory, among the 25 people elected to sit in the Supreme Council. This was the highest number of women ever elected to the Supreme Council, an indication of the unsatisfactory improvement in gender representation in the UMNO's top hierarchy. The election of three women to the Supreme Council does not, however, mean a marked improvement in gender representation at the leadership level, compared with 50 years ago when Khadijah questioned why women were not elected to senior posts in the UMNO.

The role of women as leaders at lower levels of the party hierarchy was even worse. Before the 2004 party assembly, only one of the 191 divisions was led by a woman, and she had secured this position by appointment, not election, due to the re-delineation of the division. Despite constituting more than half of the total membership, women rarely have been elected to senior positions at the branch or division levels. When UMNO's secretary-general, Radzi Ahmad, was asked why there was such poor representation of women at leadership levels, his reply was that 'women like it that way'.[114]

However, at the 2004 UMNO women's wing assembly a few months after this statement was made by Radzi, numerous women delegates touched on the issue of gender equity as well as the need to create a more women-friendly social and professional environment.[115] Although they did not voice their criticisms openly, these women members were clearly unhappy that they had been excluded from holding leadership positions in the UMNO, at national, divisional and branch levels.

Conclusion

This study attempted to understand why the UMNO women's wing could not function as an effective lobby group on behalf of the interests of women in general and Malay women specifically. Khadijah fought hard for a greater participation of women in the federal and state legislatures. She ended up being expelled by the party. Fatimah supported reforms to ensure equal wage for similar work.

After the equal wage proposal was approved for civil servants because of popular pressure, Fatimah was reprimanded by male UMNO members for impoverishing the government treasury by supporting the cause. When Aishah managed to contribute to the drafting of a more progressive version of Islamic family laws, she was publicly criticised by delegates during UMNO assemblies for her endeavour. Many UMNO male members of the parliament or state assemblies resisted the standardisation of Islamic family laws or diluted its strict conditions before polygamy could be permitted, measures intended to protect the interests of the Muslim women.

Among these three UMNO women leaders, there were differences in leadership style and in their understanding of the role of women in society. It appears that no matter how skilful or capable they were, or whether they blended in well with the 'system' or challenged it, their gender reform agenda ended up being resented and criticised by the more patriarchal-minded male members in the party.

This was partly because, during the immediate post-war period, a Malay woman was still regarded as an appendage to her husband. Her status was determined not based on her own merits, but on who her husband was. An active female leader was often the daughter or wife of a highly placed father or husband.[116] The ejection of Khadijah from the UMNO effectively shielded it from any further open charge of sexism within the party. Following Khadijah's expulsion, the subordinate position of the women's wing in the party was entrenched. The incident remained a warning to future leaders of UMNO's women's wing of the consequence of disobedience or confrontation.

The subservient role of senior women leaders to the UMNO president has persisted. Rafidah Abdul Aziz, successor to Aishah in 1984, lost her position as president of Wanita UMNO during the 1996 assembly. Rafidah had lost out to a candidate strongly endorsed by the then party deputy president, Anwar. Rafidah, however, remained active in politics only because of the support of the party president, Mahathir, who retained her in cabinet as minister of international trade and industry and appointed her to the UMNO Supreme Council.[117] Siti Zaharah Sulaiman, who had defeated Rafidah, remained only as a deputy minister in the cabinet. Mahathir favoured Rafidah over Siti, a key factor that contributed to her success in regaining her post as president of Wanita UMNO in 2000.

Another rising star, Azalina Said, who was appointed by Mahathir to head Puteri UMNO, then had little support within the party. Indeed, she was subjected to serious allegations of misuse of funds and corruption while serving as the protem chairperson of Puteri UMNO. In November 2002, Azalina still managed to secure the presidency of Puteri UMNO with Mahathir's backing, while little more was said of these allegations of impropriety.[118]

The cases of Rafidah and Azalina provide further evidence of the relative powerlessness of women in this patriarchal Malay party. This situation meant that the only feasible way for the women's wing to bring about gender reform was through a top-down approach, by soliciting the support from the top male leadership. Viewed from this angle, gender reforms have occurred in spite of the UMNO, rather than based on solid popular support from within the party.

Inevitably, Wanita UMNO and Puteri UMNO are regarded by Maznah as 'pragmatists' on gender issues.[119] While these early UMNO women leaders appear to be more or less ahead of their time in terms of their gender perspective, rapid modernisation and economic development during the decades after 1970 have arguably nurtured new generations of Malay women with different social outlooks. This period saw the opening up of educational and employment opportunities for these women, hence rendering them economically more independent than their mothers. The rise of this new generation of middle class and working class Malay women marked a phase of growing autonomy for them. Nevertheless, this process of empowerment was undermined by the trend of increasing Islamisation, in which some of these young educated women were willing participants and leaders. The conservative strand of Islamic theology propagated by some Islamic movements made no attempt to revamp the traditional role of women in society and in the family (nor was there a review of the issue of polygamy) by taking into account changing gender sensibilities.

In addition, state-led Islamisation fostered a class of influential Islamic social actors who more often than not constituted a reactionary force, resisting progressive gender reforms involving Muslim women. They found they had much support among some UMNO leaders at state level. The situation that this new young generation of women had to face, involving rapid modernisation and the growing influence of reactionary Muslim groups, has been described as one where Malay women are 'empowered but domesticated'.[120]

The UMNO realised that it was losing the support of the younger generation of the Malay women in the aftermath of the *reformasi* and the 1999 general elections. Preliminary electoral analysis of gender patterns of voting seems to indicate that despite the belated pre-electoral efforts by the UMNO to explicitly woo women voters, a significant proportion of Malay women did not vote for the BN. Realising their lack of credibility, the BN subsequently made a number of policy concessions on gender issues to demonstrate its ostensible attempt to accord women more rights. A new wing catering specifically to young women, Puteri UMNO, was also launched to conduct a massive recruitment drive among this segment of the population.

A lot of discrete propaganda work has gone into projecting Puteri UMNO as more progressive than PAS on a whole range of gender issues, in order to win over young Malay women. Puteri UMNO cultivated an image of caring for the plight of Malay women, sympathetic to their desire to be less encumbered by undue social and religious restrictions. Through the UMNO-controlled English media, production of new Malay novels and government-sponsored films, young women were targeted to sell them the idea of a 'new Malay woman'. The response to this propaganda could be assessed through the capacity of Puteri UMNO to rapidly recruit members. Nevertheless, one should not view the Puteri UMNO initiative as a credible indicator of the UMNO's determination to improve the attitude of party members to gender issues. Sexist remarks have been liberally made in parliament by some male UMNO parliamentarians to belittle and dismiss especially young female members of the opposition. These UMNO

MPs were neither restrained nor reprimanded by their party leadership for their dishonourable behaviour.

Careful nurturing of the public image of the government as one that is women-friendly does appear to have won over a good portion of the Malay female electorate from PAS, as evidenced in the results of the 2004 general elections. The new premier, who received an overwhelming endorsement from the electorate, has also been consistently portrayed as a caring husband with progressive gender outlook. Nevertheless, in spite of his professed commitment to gender issues, Abdullah has been overly cautious, loathe to take a clear stand on controversial women's rights, especially those that have an Islamic standpoint. Abdullah's cautiousness is understandable in view of the growing influence of Islamic authorities in government.

Nevertheless, some of Abdullah's predecessors were arguably no less concerned with some of the problems confronted by Malay women as Muslims, yet were confronted with male chauvinism from among UMNO leaders and members. What is clear is that the top leadership is aware of the political risks involved in and out of the UMNO when tackling women's issues. In this context, the tokenism approach to gender issues will probably continue under Abdullah. Women-friendly social policies will remain as a 'favour' or reward granted graciously by the enlightened national leaders, for which women are expected to be grateful and to reciprocate through continued support for the BN.

Notes

1 I would like to thank Hilary Chiew for kindly helping me with the research for this study.

2 *The Star* (23 September 2004).

3 *The Star* (24 September 2004). Abdullah first promoted this concept during the 2004 general elections. For an in-depth discussion on Islam Hadhari, see Chapter 4 in this volume.

4 Manderson (1980).

5 Shaharuddin (1988).

6 Khadijah was born into a Minangkabau family in Pariaman in West Sumatra in 1918. Her initiation to the anti-Dutch struggle in colonial Indonesia can be traced back to her early teens, when she was expelled from school for her participation in this movement. She continued her engagement in the movement and gained fame as a woman nationalist leader in the Indonesian anti-colonial struggle. At the end of the Second World War, in anticipation of the imminent retreat of the Japanese military from Sumatra, Khadijah and her sister founded the women's section of the revolutionary army, *Puteri Kesateria*. Khadijah also started a paramilitary training school for young girls, in anticipation of the resistance war against the Dutch who were returning to re-colonise Indonesia. She got stranded subsequently in Singapore, due to the worsening political situation in Indonesia and eventually married a Johor Malay, who took her as his second wife. Shortly after, the British colonial government imprisoned her without trial for about a year, accusing her of smuggling gold and opium into Malaya in exchange for arms to be used in the struggle to liberate Indonesia.

7 Khadijah's memoirs suggest that she did not see a distinction between the struggle for liberation from colonialism and the emancipation of women. When she worked

as a teacher in Sumatra, she founded an anti-colonial organisation, *Semangat Bunda* (literally, Spirit of the Mother), named after Raden Adjeng Kartini, a well-known Javanese feminist during the late nineteenth century. Kartini's struggle to liberate young girls through education was used by Khadijah to inspire and instil an anti-colonial spirit among *Semangat Bunda* members (Khadijah 2001: 45–46). Her understanding of egalitarianism was all encompassing, regardless of race, class, social status and gender.

8 Dancz (1987: 98).

9 Khadijah recalled this incident bitterly in her memoirs, highlighting the fact that Fatimah was only appointed in her place 'barely nine months before independence', implying that it was she who had done the work for which Fatimah had received the credit.

10 Nik Safiah and Rokiah Talib (2003: 94).

11 Her concern about the social condition of (Malay) women can be traced back to the time when she was residing in smaller towns and villages. Fatimah often discussed the widespread illiteracy, limited wage-earning work and poverty of womenfolk she observed with her husband, Abdul Kadir Yusof, a government official. Kadir was unusual in his time for his progressive and liberal views about the role of women in society. It was Kadir who strongly encouraged Fatimah to commit herself politically as a means to solve these social problems affecting women.

12 Azizah (1990: 210).

13 In effect, she appeared to think that if all women were good mothers and wives, the institution of the home and family would be safe from social ills and the nation would be strong and prosperous.

14 Quoted in Azizah (1990: 237). Fatimah disapproved of feminist movements in the West, which she regarded as inappropriate for the culture and values of Malaysian women. Ensuring that husbands were equally obliged to do housework was, for her, going too much overboard for, in Fatimah's view, this was duty of women only (Azizah 1990: 184).

15 Manderson (1980: 192).

16 Azizah (1990: 184).

17 Azizah (1990: 201, 202).

18 Nik Safiah *et al*. (2003: 28).

19 UMNO PKI (1974: 18).

20 Nik Safiah and Rokiah Talib (2003: 90).

21 Manderson (1980: 148–159).

22 Manderson (1980: 180–184).

23 Winning over the top leadership to her point of view was reputedly Fatimah's primary political strategy (Kamilia 1998: 106).

24 Manderson (1980: 180–184).

25 Rohana (2003: 91).

26 Manderson (1980: 185–189).

27 Aishah (1992: 196).

28 Aishah (1992: 198–201). The drafting committee under the chairmanship of Professor Ahmad Ibrahim came under pressure from some religious scholars (*ulama*) to amend their recommendations as they were considered to be too restrictive of men's rights, as they saw it. The committee had to concede to some of these demands in the hope that the *ulama* would support the final draft, which still contained other liberal provisions (Zainah 2001: 233, 238).

29 Zainah (2001: 233). Zainah would go on to add: 'It grants women extensive rights and protection from injustice. The new law introduced five strict conditions that a husband has to fulfil before permission can be granted for polygamy. A woman is entitled to apply for divorce (*fasakh*) on twelve different grounds. She is entitled to initiate divorce if her husband breaks the marriage contract by failing to maintain her

for more than four months, or by abusing her or by deserting her for over a year. She is entitled to a division of the matrimonial property whether she has financially contributed to its acquisition or not. The labor and time she has put in as mother and wife are taken into consideration' (Zainah 2001: 233).

30 At that time, Fatimah was the president of the National Council of Women's Organisations, an umbrella body for women NGOs, and her husband was the attorney general and the minister of law, a post he held until 1978 (Azizah 1990: 32). The couple must have contributed in some way, through their respective positions, to aid the reform of this legislation (Zainah 2001: 233).

31 Aishah (1992: 204) reckoned that the four states of Johor, Pahang, Perlis and Sabah had not approved it when her memoir went to print.

32 Zainah (2001: 245).

33 Nik Safiah and Rokiah Talib (2003: 60).

34 Dancz (1987: 170).

35 Even though UMNO Wanita members were required to adhere to party line, Khadijah's expulsion created a major tension between this wing and the male-dominated leadership. The argument by the party leadership to placate this unrest was that the UMNO had to remain united to achieve Independence. But the feeling that Khadijah was unjustly wronged persisted. Khadijah recalled how many UMNO women delegates attending the Independence parade on 31 August 1957, when seeing her, gathered around her and cried (Khadijah 2001).

36 Aishah (1992: 170).

37 Aishah consulted the influential UMNO deputy president, Ismail Abdul Rahman, before deciding to contest the post of president of the women's wing. Ismail, in his opening address of the joint Women and Youth assemblies in 1972, called for leadership renewal and the delegates complied. Aishah fairly easily defeated Fatimah, 191 to 123 votes (Dancz 1987: 160).

38 Chandra (1979).

39 Bumiputera literally means 'sons of the soil' and is a term normally used in reference to the Malay community, though it encapsulates all indigenous peoples in Malaysia.

40 Ong (1995: 171).

41 Lie and Lund (1994); Ong (1995: 172).

42 Narli (1984: 130).

43 Narli (1984).

44 Nik Safiah (1990).

45 Nik Safiah (1990: 85).

46 Nik Safiah (1990: 85).

47 Nik Safiah (1990: 85, 86).

48 Maznah (1994).

49 A *fatwa* is a theological and religious-based legal opinion given by a mufti to advise Muslims on issues related to the faith in accordance with the *Syariah*.

50 Norani (2003: 131).

51 In a poll conducted by Merdeka Centre among 1,017 Malaysians, 59 per cent of the Malay respondents declared that they trusted the *ulama* (*New Sunday Times*, 'Malays trust ulama to tell the truth more than anyone else', 29 February 2004).

52 Norani (2003: 138).

53 Zainah (2001: 237).

54 The proposed amendment allows a wife to get a share of the wealth amassed during her marriage if her husband decides to take on a new wife. It also requires the husband to bring both his current and soon-to-be new wife to the Syariah Court to get its approval for his second marriage (*The Star*, 16 September 2005).

55 *The Star* (18 September 2005).

56 *The Star* (23 September 2005).

57 PAS had planned two years earlier to introduce a private member's bill in parliament to impose the death penalty for apostasy (*The Star*, 6 October 2000). The Hudud Enactment that PAS introduced in Kelantan included the prescription of death for apostasy. In 2000, parliamentary secretary in the Prime Minister's Department Noh Omar announced that the draft Restoration of Faith Bill had been sent to the Attorney General's office to be fine-tuned before being submitted to parliament. He also said that this bill would serve as the model statute to be adopted by all state governments (*The Star*, 18 September 2000). In fact, the Perlis state assembly had passed a similar bill a few months earlier that prescribed for the rehabilitation of Muslims who deviated from the faith.
58 *The Star* (30 September 2000).
59 Domestic violence as defined in the DVA (1994) is an act which compels 'the victim by force or threat [to] engage in any conduct or act, sexually or otherwise, from which the victim has a right to abstain' (quoted in Maznah 2002b: 233).
60 Khoo (2003: 112).
61 Commenting on the involvement of other ethnic communities in the *reformasi*, the *de facto* leader of the movement, Wan Azizah, vividly described the situation as follows, 'the Malays mostly got *belasah* (whacked); the Indians [were] mostly the lawyers [for arrested protesters]; and the Chinese [were] the co-ordinators' (quoted in Khoo 2003: 138).
62 Many Malaysian women activists did not share this view. They saw Wan Azizah merely as representing the patriarchal discourses of conservative Islam (Budianta 2003: 145). In addition, as noted by Maznah (2001: 125), the strongest political party in this reform movement was the male-dominated Islamic party, PAS.
63 Funston (2000).
64 A similar strategy has been used in conjunction with the 1990 general elections. Women's groups came out with what they then called the Women's Manifesto.
65 They were the Women's Development Collective (WDC), All Women's Action Society (AWAM), Sisters in Islam (SIS) and *Persatuan Sahabat Wanita Selangor* (PSWS).
66 They were development, participatory democracy, culture and religion, violence, land, health services, law, work, AIDS and the environment.
67 Based on an article in *The Star* on 2 September 1999, the seven MPs were Tengku Mahmud Monsor (BN Setiu, Terengganu), Abdullah Ahmad Badawi (BN Kepala Batas, Penang and the then deputy prime minister), Hishammuddin Tun Hussein (BN Tenggara, Johor), Wong Kam Hoong (BN Bayan Baru, Penang), Tan Seng Giaw (DAP Kepong – on behalf of all DAP MPs), M. Kulasegaran (DAP Teluk Intan, Perak), Tan Kok Wai (DAP Cheras).
68 They were *Parti Rakyat Malaysia* (Malaysian People's Party), Tan Seng Giaw, on behalf of the DAP, Wan Azizah, on behalf of Keadilan, and Mohd Nasir Hashim, for the Malaysian Socialist Party, a party still awaiting registration by the government to allow it to function officially.
69 Tan and Ng (2003: 114).
70 Tan and Ng (2003: 114).
71 *The Star* (2 September 1999).
72 This gender card was, of course, just one among other more familiar issues exploited by the BN, such as the government's record of maintaining racial harmony and sustaining economic growth. The *reformasi* demonstrations were portrayed as 'mob rule' and social disorder. For a detailed description of the pre-election political dynamics, see Funston (2000).
73 See the article of Maznah Mohamad in *Aliran Monthly* (April 1999).
74 *The Star* (21 July 1999).
75 *Sunday Star* (25 July 1999).
76 Maznah (2001: 136), Tan and Ng (2003: 115).

77 *The Star* (21 July 1999).
78 *The Star* (25 July 1999).
79 In contrast, PAS did not nominate even a single woman candidate to contest in the 1999 elections (Maznah 2001: 126).
80 In a presentation made on 18 January 2005, Bridget Welsh shared her preliminary assessment of the voting trends based on analysis of voting pattern in 20 seats from 458 polling stations in 1999 general elections and five seats from 89 polling stations in 2004 general elections. She found that during the 1999 general elections, a polling district with a high proportion of men appeared to correlate more strongly with support for BN than was the case for women (*Malaysiakini*, 24 January 2005). Pending more conclusive analysis at a greater scale, this information suggests that female voters were not impressed by the women-friendly messages propagated by BN preceding the 1999 general elections.
81 This idea was conveyed by Welsh to the author in a brief conversation on 18 January 2005, after her presentation mentioned above.
82 *Utusan Online* (21 August 2000).
83 *The Star* (22 August, 2000).
84 *BBC News* (2 August 2001).
85 Zainah (2001: 238).
86 *Malaysiakini* (24 June 2003).
87 Apparently, Fong was taking the queue from earlier remarks by the premier, who had criticised Malaysian men as being too 'lazy' to get useful qualifications while women in universities were studying 'serious' subjects. As a consequence, women would continue to be chosen for top jobs.
88 *Malaysiakini* (25 August 2001).
89 *Malaysiakini* (19 October 2001).
90 Some wondered whether the name UMNO Puteri derived its inspiration from the title *Puteri Reformasi*, given to Anwar's daughter, Nurul Iza.
91 *The Star* (29 April 2001).
92 Maznah (2004: 139).
93 Maznah (2004: 139) gave the example of a much publicised, government-sponsored film entitled, *Embun*, or 'Dew'. The heroine in the file was portrayed as a brave fighter, but not necessarily a self-sacrificing mother. The film's director, Erma Fatima, was a committee member of Puteri.
94 Into the fourth year after its launch, Puteri UMNO's membership had hit the 200,000 mark (*The Sun*, 4–5 September 2004).
95 *Malaysiakini* (9 February 2002).
96 *Malaysiakini* (8 September 2004).
97 *New Straits Times* (31 May 2003).
98 *Malaysiakini* (3 June 2001).
99 *Malaysiakini* (30 January 2002).
100 *Malaysiakini* (24 January 2005), quoting the study undertaken by Bridget Welsh.
101 *Malaysiakini* (28 January 2005).
102 *The Star* (20 August 2000).
103 Lai (2003).
104 Maznah (2001: 128).
105 This coalition comprised 12 women's groups, Sisters in Islam (SIS), All Women's Action Society (Awam), Malaysian Police's Wives and Families Association (Perkep), Women's Aid Organisation (WAO), National Council of Women's Organisations (NCWO), Persatuan Suri dan Anggota Wanita Perkhidmatan Awam (Puspanita), Persatuan Pekerja Wanita (PERWNIS), Wanita Perkim Kebangsaan, Wanita Inovatif Jayadiri (Wijadi), Wanita Ikram, Women Crisis Centre (WCC) and Women's Candidacy Initiative (WCI).

106 Shahidan's remark was ostensibly his response to the problem that many Muslim men had crossed the national border, into southern Thailand, to marry for a second time, thus bypassing the need to get the consent of their first wife.
107 *Malaysiakini* (21 March 2003).
108 *Malaysiakini* (18 and 19 March 2003).
109 *Utusan Online* (8 August 2004).
110 *Utusan Online* (8 August 2004).
111 *Utusan Online* (8 August 2004).
112 The remarks made by Hamid and Sharizat were quoted in Salbiah (2004).
113 In the past, women were rarely elected to the Supreme Council. Aishah Ghani was one person who had succeeded in getting a seat in the Supreme Council, before she was elected Wanita UMNO chief. The Wanita UMNO president is automatically a member of the council. The UMNO president has the right to appoint a certain number of party members to the council.
114 *The Star* (18 July 2004).
115 *The Star* (23 September 2004).
116 Wazir-Jahan (1983).
117 Zhou (1997: 126–127).
118 Maznah (2004: 139).
119 Maznah (2004).
120 Maznah (2004: 135), citing the paper presented by Sharifah Zaleha Syed Hassan in 2002 at a conference.

References

Aishah Ghani (1992), *Memoir Seorang Pejuang* (Memoir of a fighter), Kuala Lumpur: Dewan Bahasa dan Pustaka and Malaysian Education Ministry.

Azizah Mokhzani (1990), *Fatimah Srikandi Sumber Inspirasi*, Kuala Lumpur: Majlis Kebangsaan Pertubuhan Wanita Malaysia.

Budianta, Melani (2003), 'The blessed tragedy: the making of women's activism during the *Reformasi years*', in Ariel Heryanto and Sumit K. Mandal (eds), *Challenging Authoritarianism in Southeast Asia*, New York and London: RoutledgeCurzon, 145–177.

Chandra Muzaffar (1979), *Protector?*, Pulau Pinang: Aliran.

Chandra Muzaffar (1987), *Islamic Resurgence in Malaysia*, Petaling Jaya: Fajar Bakti.

Dancz, V.H. (1987), *Women and Party Politics in Peninsular Malaysia*, Oxford: Oxford University Press.

Funston, John (2000), 'Malaysia's tenth elections: status quo, *Reformasi* or Islamization?', *Contemporary Southeast Asia* (April) 22 (1): 23–59.

Kamilia Ibrahim (1998), 'The involvement of Malay women in politics and the need for a paradigm shift', in Sharifah Zaleha Syed Hassan (ed.), *Malaysian Women in the Wake of Change*, Kuala Lumpur: University of Malaya, 105–110.

Khatijah Sidek (2001), *Memoirs of Khatijah Sidek: Puteri Kesateria Bangsa*, Bangi: Penerbit UKM.

Khoo Boo Teik (2003), *Beyond Mahathir: Malaysian Politics and its Discontents*, London: Zed Books.

Lai Suat Yan (2003), 'The women's movement in Peninsular Malaysia, 1900–99: a historical analysis', in Meredith L. Weiss and Saliha Hassan (eds), *Social Movement in Malaysia: From Moral Communities to NGOs*, London: RoutledgeCurzon, 45–74.

Lie, Merete and Lund, Ragnhild (1994), *Renegotiating Local Values: Working Women and Foreign Industry in Malaysia*, Surrey: Curzon.

Manderson, Lenore (1978) 'Aspects of the leadership of the Pergerakan Kaum Ibu UMNO Malaysia: the Sumatran connection', *Review of Indonesian and Malayan Affairs* (December) 12 (2): 17–42.

Manderson, Lenore (1980), *Women, Politics, and Change: The Kaum Ibu UMNO, Malaysia, 1945–1972*, Kuala Lumpur: Oxford University Press.

Maznah Mohamad (1994), 'Poststructuralism, power and Third World feminism', *Kajian Malaysia* (June/December) 12 (1 & 2): 119–143.

Maznah Mohamad (2001), 'Women in the UMNO and PAS Labyrinth', in Maznah Mohamad and Wong Soak Koon (eds), *Risking Malaysia: Culture, Politics and Identity*, Bangi: Penerbit Universiti Kebangsaan Malaysia, 112–138.

Maznah Mohamad (2002a), 'Puteri UMNO: sound and fury signifying nothing new', *Aliran Monthly* 8.

Maznah Mohamad (2002b), 'At the centre and the periphery: the contributions of women's movements to democratisation', in Francis Loh Kok Wah and Khoo Boo Teik (eds), *Democracy in Malaysia: Discourses and Practices*, Richmond, Surrey: Curzon Press, 216–240.

Maznah Mohamad (2004), 'Women's engagement with political Islam in Malaysia', *Global Change, Peace & Security* (June) 16 (2): 133–149.

Nadi Insan (1980), 'Ibu Khatijah Sidek: pejuang nasionalis wanita', *Nadi Insan* (March): 5–11.

Narli, Ayse Nilufer (1984), 'Development, Malay women and Islam in Malaysia: emerging contradictions', *Kajian Malaysia* (December) 2 (2): 123–141.

Ng, Cecilia and Chee Heng Leng (1999), 'Women in Malaysia: present struggles and future directions', in Cecilia Ng (ed.), *Positioning Women in Malaysia: Class and Gender in an Industrializing State*, Basingstoke: Macmillan, 169–189.

Nik Safiah Karim (1990), *Wanita Malaysia: Harapan dan Cabaran* (Malaysian women: hope and challenge), Kuala Lumpur: 'K' Publishing.

Nik Safiah Karim and Rokiah Talib (2003), *Tan Sri Fatimah: Potret Seorang Pemimpin*, Subang Jaya: Pelanduk Publications.

Norani Othman (2003), 'Islamization and democratization in Malaysia in regional and global contexts', in Ariel Heryanto and Sumit K. Mandal (eds), *Challenging Authoritarianism in Southeast Asia*, London: RoutledgeCurzon, 117–144.

Ong, Aihwa (1995), 'State versus Islam: Malay families, women's bodies, and the body politic in Malaysia', in Aihwa Ong and Michael G. Peletz (eds), *Bewitching Women, Pious Men: Gender and Body Politics in Southeast Asia*, Berkeley: University of California Press, 159–194.

Rohana Mohamed Nor (2003), 'Perjuangan Politik Khadijah Sidek', MA Thesis, Kuala Lumpur: University of Malaya, History Department.

Salbiah Ahmad (2004), 'Fighting *fiqh* fatigue', *Malaysiakini* (September 28).

Shaharuddin Maaruf (1988), *Malay Ideas on Development: From Feudal Lord to Capitalist*, Singapore: Times Books International.

Sharifah Zaleha Syed Hassan and Cederroth, Sven (1997), *Managing Marital Disputes in Malaysia*, Surrey: Curzon Press.

Tan Beng Hui and Ng, Cecilia (2003), 'Embracing the challenge of representation: the women's movement and electoral politics in Malaysia', in Francis Loh Kok Wah and Johan Saravanamuttu (eds), *New Politics in Malaysia*, Singapore: Institute of Southeast Asian Studies, 107–126.

Ting, Helen (2004), 'Khadijah Sidek and Fatimah Hashim: two contrasting models of (Malay) feminist struggle?', paper presented at the Fourth International Malaysian Studies Conference, Bangi: Universiti Kebangsaan Malaysia.

UMNO Pergerakan Kaum Ibu (1974), *Buku Cenderamata Jubli Perak Wanita UMNO Malaysia Pada 25hb Ogos*, Kuala Lumpur: Utusan Melayu (M) Berhad.

Wazir-Jahan Karim (1983), 'Malay women's movements: leadership and processes of change', *International Social Science Journal*, 35 (98): 719–731.

Zainah Anwar (2001), 'What Islam, whose Islam? Sisters in Islam and the struggle for women's rights', in Robert W. Hefner (ed.), *The Politics of Multiculturalism*, Honolulu: University of Hawaii Press, 227–252.

Zhou Mei (1997), *Rafidah Aziz Sans Malice*, Singapore: Yuyue Enterprise.

Newspapers

BBC News http://news.bbc.co.uk
Malaysiakini www.malaysiakini.com
News Straits Times
The Star
The Sun
Utusan Online www.utusan.com.my

4 PAS politics

Defining an Islamic state

Liew Chin Tong[1]

Introduction

During the 2004 general elections, the *Parti Islam Se-Malaysia* (PAS, or Malaysian Islamic Party) unexpectedly registered a dire performance, a stunning result given the party's similarly unanticipated impressive performance in the previous election in 1999. External factors, such as the retirement of the controversial Mahathir Mohamad as prime minister in October 2003, the ascendance of his deputy, Abdullah Ahmad Badawi, and the declining influence of the Anwar Ibrahim saga – a decisive factor in the 1999 election – undoubtedly played a role in determining the outcome of PAS' performance in the 2004 general elections. However, the intense internal debate in PAS about the role of Islam in politics and governance is equally, if not more, important in understanding the rapid and unexpected fall of the party.

This chapter traces the history of PAS' handling of the Islamic state issue. While PAS had never attempted to outline the tenets of an Islamic state, when it eventually did so, it came to have two blueprints of what this concept meant, a reflection of the factionalism in the party. A two-year intra-party conflict, between September 2001 and November 2003, over the constitution of an Islamic state preoccupied and divided its leaders and its members, much to the detriment of PAS.

This debate about PAS' understanding of an Islamic state evolved after a challenge by Mahathir to the party to present its blueprint for an Islamic state in Malaysia. The 'mainstreamers' in PAS responded to the challenge with the hope of projecting an image that was acceptable to most Malaysians, but the ideological 'purists' in the party strongly opposed such a move, fearing a dilution of the party's identity and the moral high ground it occupied over their political opponents on Islamic matters. This struggle between these two camps partly explains the collapse of PAS during the 2004 general elections.

PAS: a brief history

On 23 August 1951, at the Second *Ulama* Conference organised by the United Malays' National Organisation (UMNO) at the Sultan Sulaiman Club in Kuala Lumpur,[2] it was decided that an independent *ulama* union would be formed.

Members of the religious section of the UMNO had mooted this proposal to establish a union. On 24 November 1951, the *Persatuan Islam Sa-Malaya* was formally established at the Butterworth UMNO headquarters.[3] Haji Abdullah Fahim, a former head of the UMNO religious department, and Haji Ahmad Badawi – the grandfather and father of Malaysia's current prime minister and the UMNO president – were among the PAS founders. The party has since competed with the UMNO for Malay-Muslim support. In Malaysia's first general elections in 1955, PAS was the only member of the opposition to win a seat. Since 1955, PAS has also consistently secured at least 30 per cent of votes from among the electorate in Peninsula Malaysia.[4]

PAS has maintained particularly strong support in the Malay-belt states of Perlis, Kedah, Kelantan and Terengganu. The party won control of the Kelantan and Terengganu state governments in the 1959 elections, but lost power in Terengganu in 1961 because of defections to the UMNO. Except for the period 1977 to 1990, PAS has always governed the state of Kelantan. The party regained power in Terengganu in 1999, but immediately ceded control of this state government to the UMNO in the subsequent election. PAS claims to have a million members and has branches in all states in the country, including Sabah and Sarawak. At times, it has won seats outside the four predominantly Malay states, but only in Peninsula Malaysia.[5] PAS has shown no capacity to secure mass support in Sabah and Sarawak.

It is evident that PAS cannot win national power on its own. The party's electoral performances have been exceptional only when it has cooperated with other parties, as evident during the general elections of 1974, 1990 and 1999. When PAS was a member of the UMNO-led ruling *Barisan Nasional* (BN, or National Front) coalition from December 1972 until November 1977, the Islamic party secured 14 parliamentary seats and 46 state seats during the 1974 election (see Table 4.1). In 1990, when PAS was a member of the opposition coalition, the *Angkatan Perpaduan Ummah* (APU, or Muslim Unity Movement), comprising an UMNO breakaway faction, the party regained control of Kelantan after a 13-year hiatus, won seven parliamentary seats and 33 state seats. PAS remained a member of APU from April 1989 until July 1996, when this coalition was dissolved.[6] In 1999, PAS became a member of another opposition coalition, the *Barisan Alternatif* (BA, or Alternative Front), comprising prominent opposition parties such as the Democratic Action Party (DAP) and *Parti Keadilan Rakyat* (Keadilan, or the People's Justice Party),[7] an organisation linked to former UMNO deputy president, Anwar. During the general elections held that year, PAS registered a remarkable electoral performance, securing control of another state government, in Terengganu, and winning an unprecedented 27 parliamentary and 98 state seats, doubling its previous best performance in 1974 of 14 parliamentary and 46 state seats when it was a member of BN (see Table 4.1).[8]

An opposition coalition involving PAS would not have materialised in 1999 had not the party moderated its stand on some key issues, such as its overt goal to establish an Islamic state in Malaysia. As a party driven by a creed that was hardly likely to secure broad-based support in multiracial Malaysia, any attempt

Table 4.1 Seats won by PAS, 1955–2004

Year	*Par. seat*	*Total (peninsula)*	*Total (national)*	*Vote (%)*	*State seat*	*Total (peninsula)*
1955	1	52	na	na	na	na
1959	13	104	104	21.3	42	282
1964	9	104	104	14.6	25	282
1969	12	104	144	20.9	40	282
1974	14	114	154	na	46	312
1978	5	114	154	15.5	11	312
1982	5	114	154	14.5	17	312
1986	1	133	177	15.3	15	351
1990	7	133	180	6.7	33	351
1995	7	146	193	7.3	33	394
1999	27	146	193	15.0	98	394
2004	6	166	219	15.32	36	445

Note
na: not available.

Sources: NSTP (1990); Khong (1991); Gomez (1996); Funston (2004). Bernama web site (www.bernama.com/election2004).

to expand its power base meant tempering the need to overtly articulate its primary objectives. This, in turn, had led to internal disagreements in the party, which were kept in check during the early years when PAS was in the BA and led by the late Fadzil Noor. However, differences over the fundamental political goal of the party, to broaden PAS' power base or to preserve the ideological purity of its theocratic vision, have become the key argument within the party, which came to a head in the period leading up to 2004 election. The party's drafting of an Islamic state blueprint, after being prodded on by Mahathir in 2001, evolved into an ideological struggle which split the party into two camps, the 'mainstreamers' and the 'purists'.

Mainstreamers vs. purists

Political parties are often assumed to be cohesive and united, but this is not supported by empirical fact. Similar to most political parties, PAS has never been a unified unit, although party propaganda – and the government – often suggest that it is. In 1980, Funston noted that factions in pre-1980s PAS consisted of '[a] group representing a more conservative interpretation of Islam, and another placing greater emphasis on Malay nationalism at the expense of Islam'.[9] In more recent years, the cause of internal friction in PAS is attributable to its articulation of an Islamic state agenda for Malaysia, on the one hand, and its need to retain close relations with other opposition groups in order to advance its presence in the political system, on the other.

The 'bureaucrat vs. enthusiast' model developed by Roche and Sachs in their study of leadership in social movements, based on their observation of the British Labour Party between the 1930s and 1950s, helps provide insights into

the nature of conflict within PAS,[10] which is adapted here as the rivalry between the 'mainstreamers' and the 'purists'.

PAS is, of course, structured and conditioned by historical factors and constraints placed on it by the state, under the hegemony of the UMNO. As the BN government ostensibly upholds the idea of multiracial rule, key opposition parties such as PAS that take a seemingly extreme position normally struggle for political survival. The BN's much espoused rhetoric that it is a coalition that comprises parties representing the interests of all ethnic and religious communities in Malaysia means that it can attract much support, provided the opposition parties remain in a 'flank' position by continuing to articulate views that promote, say, a theocratic state or socialism (which also means, according to the government, tacit endorsement for communism).

There has always been, however, an effort by PAS to emancipate itself from being a 'permanent opposition', by reaching out to non-traditional constituents and taking on a more centrist posture. Certain sections of PAS moved in this direction after September 1998, with the rise of the *reformasi* (reformation), an unprecedented mass anti-government movement that saw the influx of members of the public and non-governmental organisations (NGOs) into mainstream politics. The *reformasi* was the outcome of an UMNO crisis that led to the removal of Anwar from public office. To achieve its objective of securing power by tapping into this *reformasi*, PAS had to cooperate with other opposition parties to form a centrist united opposition similar in form to the BN.

To facilitate cooperation with other parties, especially the 'counter-opposition'[11] – those who are more opposed to PAS than they are to the government – PAS had, however, to moderate its Islamic state agenda. These two intertwined issues, cooperation with other parties and the modification of the party goal, influenced the process of 'positioning' PAS as a 'mainstream' party – English terms used by party president, Fadzil, during his speech, in Malay, to the *Muktamar* (general assembly) in 2002.[12]

Within PAS, these efforts to moderate its goal are often checked by the anxiety and fear of losing its 'authenticity', and by extension, its core supporters who have consistently remained with the party. 'Mainstreaming' inevitably dilutes party ideology. It is this struggle of 'positioning the party'[13] in multi-ethnic Malaysia that defined the debate in PAS over what constitutes an Islamic state.

Why define an Islamic state?

Since its inception, PAS has been calling for more Islamic content in governance, though a motion to call for the immediate implementation of an entirely Islamic form of government was defeated at the 1954 *Muktamar*.[14] The PAS constitution stipulates that the 'basis' of the party is Islam.[15] The first of PAS' two objectives is 'to struggle for the existence in this country of a society and government that implements Islamic values and laws in accordance with God's will'.[16] And, since the ascendance of the *ulama* (religious leaders) in the PAS hierarchy in 1982,[17] the call to establish an Islamic state has occupied a more significant place in the

party discourse with the once prominent debate on Malay nationalism receding to the background. In short, promoting Islamic values in government has become PAS' *raison d'etre*.

Nevertheless, despite the importance of its Islamic state agenda, details about the form of this kind of statehood that PAS champions are scant. Indeed, PAS had never attempted to articulate what it actually understands by an Islamic state until confronted by Mahathir's challenge to do so in writing. When forced to define an Islamic state, PAS produced two very different, if not opposing, versions, a reflection of the split in the party that this issue had caused. One version was partially revealed by the president, Fadzil, in his policy speech to the *Muktamar* on 31 May 2002, just three weeks before his untimely demise. The current party president, Abdul Hadi Awang, who has long adopted a strong stand on the need to impose an Islamic state in Malaysia, released the other version on 12 November 2003.

For over a long period of time, PAS had publicly stated that unless it was in power, it did not have to define its understanding of an Islamic state. The reasoning for adopting this position was that a blueprint would reduce PAS' flexibility to use the Islamic state as a political weapon. The late Haji Yusof Rawa, PAS president from 1982 to 1989, once remarked:

> We in PAS have been accused of having only general ideas about the structures and functions of an Islamic state which establishment we call for. Let people continue to say those things. To us, it is not practical to go into details of what we want to do in an Islamic state. If [the people] want to see us operate it well, they must elect us. They owe to God something if their vote deprives us [of the opportunity] to govern an Islamic state. All operational aspects of how and when to do certain things or launch certain policies can be taken up later when we do have an Islamic state.[18]

Yusof's successor, Fadzil, president from 1989 to 2002, argued in a similar vein that the party need not categorically define the concept of an Islamic state as it is already 'self-explanatory in the party's constitution'.[19] Yet, PAS' *Musyidul Am* (Spiritual Leader) Nik Aziz Nik Mat claimed that the reference to the establishment of an Islamic state in PAS' Constitution was deleted during the era of party president Asri Muda (1971–1982).[20] A comparison of the old and new party constitutions confirms Nik Aziz's assertion. One of the objectives of the old party constitution was to establish 'Islamic rule' (*pemerintahan Islam*).[21] Islam and *syariah* are regarded, in the current Constitution, as the party's guiding lights to politics and nation building (pembinaan bangsa).[22] Nik Aziz argued that the party championed an Islamic society (*masyarakat Islam*), not an Islamic state.[23]

Two specific reasons made it unrealistic for PAS to provide details of its understanding of an Islamic state. On the one hand, anything going beyond the status quo would attract unfavourable comments from non-Muslims, and possibly trigger off disagreements among a substantial number of Muslims. On the other hand, anything perceived as not Islamic enough would mean criticism from PAS'

opponents, as well as ignite controversy within the party, especially from among the ranks of purists.

There were, also, attempts to play down the Islamic state agenda to facilitate multi-ethnic coalition building. When PAS formed the BA with other opposition parties, an Islamic state was not mentioned in the coalition's manifesto, *Towards a Just Malaysia*, though certain quarters in PAS interpreted the reference to *ad-deen* – Islam as a way of life that encompasses everything – as the code word for an Islamic state. The BA parties were simply 'uniting for justice'.[24] Fadzil went even further to suggest 'the issue of Islamic state did not arise in the context of the (BA) coalition'.[25]

Politics is often said to be the art of the possible and such craft is often supported by ambiguity. This was the case with PAS' handling of the Islamic state question. Martinez claims that at least 75 per cent of her PAS-voting respondents were unsure what constituted an Islamic state.[26] Three crucial events in September 2001, however, altered the domestic political scene permanently. First, PAS' ambiguity about an Islamic state was made more difficult by the terrorist attacks on the US on September 11, which subsequently cast 'political Islam' in a poor light. Second, the DAP withdrew from the BA on September 22. Third, PAS was forced to respond to Mahathir's declaration on September 29 that Malaysia was an Islamic state. Mahathir then went on to challenge PAS to present its version of Islamic state.

While PAS could ignore the DAP's request to spell out its position on an Islamic state,[27] it had no choice but to face up to Mahathir's '929 bombshell.'[28] The issue of an Islamic state and the call to implement *hudud* law had been PAS' best weapon against the UMNO's alleged secular rule. Just before September 11, in a tit-for-tat response to Mahathir's demand that PAS issue a 'white paper' on an Islamic state, Fadzil challenged Mahathir officially to declare in Parliament that Malaysia was an Islamic state or to insert such a declaration in the Royal Address of the Yang di-Pertuan Agong during the opening of the next session of Parliament.[29] Mahathir, perhaps seeing the need to enhance his Islamic credentials after strongly supporting the US' war on terror, decided to go on the offensive. Mahathir subsequently claimed that Malaysia was *already* an Islamic state.

This was not the first time Mahathir had made such an assertion,[30] but the 929 Declaration was unique because his audience during this speech comprised mostly non-Muslims from a predominantly non-Muslim component party of the BN. Mahathir had given this speech at the general assembly of the *Parti Gerakan Rakyat Malaysia* (Gerakan, Malaysian People's Movement Party). Mahathir subsequently took the declaration to the BN Supreme Council for endorsement, especially by the UMNO's non-Muslim partners in the coalition.[31] Mahathir made it clear that his statement was a response to Fadzil's dare. He pointed out that PAS was hoping to put the BN in a bind because such a declaration, while needed by the UMNO to shore up its support among Muslims, would be vehemently opposed by coalition partners.[32] The UMNO's subservient BN partners – dependent on the UMNO's support among the Malay electorate and

its largesse to occupy a place in government – backed Mahathir's declaration unquestioningly.

The gist of the 929 Declaration was that – as Mahathir argued in his UMNO speech in June – the *ulama* and the international community recognised Malaysia as an Islamic country. In addition, as Muslims ruled Malaysia it therefore had to be an Islamic state (an argument adopted by the *muzakarah*). Mahathir also attacked PAS on *hudud* (criminal punishments), arguing that most member countries of the Organisation of Islamic Conference (OIC) did not implement the *hudud* yet were still considered Islamic countries. *Hudud* was therefore non-essential to the Islamic state claim.[33]

The government subsequently brought in a group of six scholars from Egypt's Al-Azhar University, where most Islamists in Malaysia were educated, to certify Malaysia's Islamic state credentials.[34] By adopting this controversial stand, Mahathir had passed the ball to PAS' court, an issue that would kick-start a contentious debate in PAS.

From *memorandum* to *dokumen*

PAS was caught out by Mahathir's challenge. As an immediate response, Fadzil, in turn, challenged the prime minister to announce the 929 Declaration in Parliament and allow a debate on it,[35] while deputy president Hadi Awang called for dialogue. Mahathir ignored them, refusing any dialogue 'so long as the party does not expound its interpretation of this concept'.[36]

On 16 October 2001, Hadi told reporters that a committee, chaired by Fadzil and comprising 'professionals and academicians', was drafting a memorandum to be presented to the prime minister that would clarify PAS' definition of an Islamic state. Interestingly, key party ideologue Hadi also told the media that he and party *Musyidul 'Am* Nik Aziz, who headed PAS' highest policy-making body, the *Majlis Syura Ulama*, were not involved in the preparation of the memorandum.[37] Fadzil confirmed these details in Parliament a week later, promising to submit the memorandum by December (2001) or even earlier.[38] The direction in which PAS was moving became apparent when its leaders flew to London 'to pick the brains of some of the best-known Muslim scholars . . . who live in one of the most modern societies in the world and who practise their faith in the melting pot of Europe'.[39] The memorandum was aimed at persuading non-PAS voters, Muslims and non-Muslims alike, that the party's model for an Islamic state was compatible with life in a contemporary multi-ethnic society.

On 19 December 2001, PAS Secretary-General Nasharuddin Mat Isa said that the party was 'in the final stages of polishing' its memorandum on the concept of an Islamic state.[40] In March 2002, Nasharuddin announced that the memorandum was ready and would be made available soon. According to him, PAS' Central Committee, which discussed the draft at a meeting on 9 March 2002, was satisfied with it though he neglected to mention that the Majlis had yet to endorse it. At this juncture, PAS also decided that instead of submitting the memorandum to the prime minister, it would appeal directly to the *rakyat*.[41]

Between 2001 and 2003, four drafts were disseminated either publicly or among PAS' allies and NGO activists. Three of them conformed to Fadzil's views on the concept. A four-page first draft was circulated among party leaders and allies for consultation sometime between December 2001 and March 2002.[42] This draft contained seven 'core characteristics' of an Islamic state, and these principles were articulated in Fadzil's last policy speech to the *Muktamar* in May 2002. A notable innovation in this speech was his call for PAS to position itself as a 'mainstream' party.[43]

Fadzil told his PAS audience that the '*Memorandum Negara Islam: Pemerintahan Islam Dalam Abad ke-21*' (Memorandum on Islamic state: Islamic rule in the 21st century) would be released soon. Without spelling out the details, he provided a glimpse of the key themes:

1 a civil society (*Masyarakat Madani*) and a civil state (*Negara Hadhari*);
2 the principle of equality (*al-Musaawah*);
3 sovereignty of law based on *Syariah* and Islamic jurisprudence;
4 a government based on, and aimed at, achieving justice (*al-'Adalah*);
5 appreciation of true meritocracy (*As-Solahiyah*);
6 a true welfare state; and
7 an innovative and dynamic government.[44]

Fadzil passed away shortly after the *Muktamar*. After that momentum towards releasing this memorandum slackened.

Attempted launch, June/July 2003

Some PAS leaders attempted to get the stalled memorandum off the ground again around June 2003. In mid-June Singapore's *The Straits Times* reported that the document was ready and had been approved by Majlis Syura Ulama,[45] which was confirmed by Nasharuddin – 'one of the few people in the party "authorised" to talk about the party's Islamic state blueprint'.[46] The blueprint was, Nasharuddin said, awaiting translation into Chinese and Tamil. While no date had been set for the launching, it would definitely be released to the public before the next election.[47] He described the memorandum as 'a general framework of how a state should be governed, taking into consideration that we are a multi-racial society', and later tested the mood by unveiling piecemeal features of it.[48] It included, he said, the supremacy of *syariah* over the Federal Constitution, the preservation of the Westminster parliamentary system and a promise that non-Muslims would not be classified as *dhimmi* (a derogatory term for non-Muslims).[49]

About this time, PAS gave its blueprint to the BA leaders – a 20-page draft entitled '*Memorandum PAS kepada Rakyat Malaysia: Penghayatan Pemerintahan Islam Dalam Demokrasi Abad ke-15H/21M*' (PAS' Memorandum to the people of Malaysia: An appreciation of Islamic rule in 21st century democracy) (hereafter referred to as the '*Memorandum*').[50] This document was a fuller version than previous drafts. The seven core themes of an Islamic state, announced by Fadzil

a year earlier, were repeated almost exactly, though the explanatory notes were slightly longer. Fadzil's reference to 'Negara Hadhari' was however dropped, clearing the way for Prime Minister Abdullah to later use the term 'Islam Hadhari' to promote his understanding of the implementation of Islamic values in a multi-ethnic context.[51]

The *Memorandum* caused an uproar in the media and was censured by PAS' partners in the BA. Syed Husin Ali, president of *Parti Rakyat Malaysia* (PRM, or Malaysian People's Party), told the party congress that 'if PAS is set on "bull-dozing" its controversial policies without consultation', PRM may be forced to reappraise its relationship with that party.[52] Even Anwar, the jailed former deputy prime minister and advisor to Keadilan, was concerned about PAS' dogmatic stance on *hudud*.[53] Such public outbursts were a marked shift away from PRM and Keadilan's usual silence over PAS' ideological position.

PAS was alarmed by the storm over the *Memorandum*, especially the criticisms it was subjected to by its BA allies. Hadi, who succeeded Fadzil as PAS president, issued a statement reiterating the party's stance that the *hudud* would only be applicable to Muslims. He also reverted to a 'two-tier' (federal-state) argument stating that Islamic laws will only be implemented in PAS-governed states, not at the federal level.[54] In the face of this reaction, PAS called off its attempt to launch the *Memorandum*.

At the *Muktamar* in September 2003, to the chagrin of some delegates,[55] top party strategist Mustafa Ali announced that the party would not make public its Islamic state blueprint.[56] The adverse impact the release of the document would have on PAS' relationship with its BA partners was the reason cited for not publicising the blueprint. Mustafa also said, when he appeared on the *HardTalk* programme, hosted by the British Broadcasting Corporation (BBC), that there was no mention of setting up an Islamic state in PAS' Constitution and *hudud* would only be implemented in states controlled by the party.[57]

A new document

In an interview with *Malaysiakini* in October 2003, Hadi said, for the first time, there were two parts to the blueprint: one dealing with the principles of Islamic state and the other on the implementation of such a system in a democratic plural society.[58] Nonetheless, according to Hadi, the blueprint was no longer relevant as Mahathir was retiring soon and it would only be released in the form of a manifesto for the coming election.[59]

Then, PAS suddenly changed track. The meeting of the party's Central Committee on 12 October 2003 decided to launch its Islamic state document on the first day of Ramadan (27 October). After a further short delay, the *Dokumen Negara Islam* (Islamic State Document, hereafter referred to as the '*Dokumen*') was launched on 12 November 2003.[60] Hadi's interview with *Malaysiakini* was just prior to this announcement. However, the interview was published after the announcement was made on 12 October 2003, indicating the decision to launch the blueprint was made in haste.

The *Dokumen* does not resemble any of the previously known drafts. The only similarity it has with previous drafts is that the core part also consists of seven principles, but very different principles, namely:

1 a state that is based on the supremacy of law (*Negara undang-undang*);
2 vicegerency (*Khilafah*);
3 righteousness and god-fearing (*Taqwa*);
4 consultation (*Syura*);
5 justice and equality (*al-'Adaalah wal Musaawah*);
6 freedom (*al-Hurriyah*); and
7 absolute sovereignty (*As-Siyaadah wal-Haakimiyah*).[61]

Why the shift?

Until June/July 2003, PAS had consistently stood by the principles outlined in the *Memorandum*, which was the only document specifically mentioned in the media. Extensive consultations based on these principles were conducted and while the *Memorandum* had never been put to a vote, the principles drafted by the Fadzil Committee were 'tested' at the *Muktamar* in 2002. This raises a number of questions about the *Dokumen*, including: how long had it existed in writing? Who authored it? What consultation process was followed? And, why had the party shifted from the decision of not disclosing the *Memorandum* to releasing the *Dokumen* rather hastily?

When PAS decided to define its Islamic state, the mainstreamers wanted to take this opportunity to move the party to the middle ground so that the party could secure support beyond the Malay heartland. They intended to ensure that the Islamic state PAS called for would appeal to – or 'at least not to instil fear in'[62] – most Malaysians, Muslims and non-Muslims alike. The *Memorandum* would serve the purpose of defusing the 929 Declaration in a way that would not stigmatise PAS further in the post-9/11 hysteria against 'Islamic extremism'. They wanted to hammer home the point that Islam was compatible with democracy. Further, the 'context of coalition', with remaining BA members, continued to inform the thinking of the mainstreamers despite the coalition's declining effectiveness after the departure of the DAP.

The purists, however, were in fear that the holy ideals they held dear to would be compromised for 'temporal' political interest by the mostly non-religious educated mainstreamers, many of whom only joined or actively participated in PAS after the 1998 political crisis. Their beloved party would lose its distinctiveness if Islam was interpreted in a way not dissimilar to the UMNO's 'watered-down' version. Further, some purists felt that they would be held responsible in their afterlife had they not insisted on implementing or championing Islamic principles.

Both sides were for the 'good' of the party, but they arrived at their conclusions from a very different standpoint, very much a zero-sum competition as there could only be one Islamic state blueprint representing the party's position. It was a two-year intensive struggle for those involved. In the end, it was the purists who had the numbers.

When the party's Central Committee decided in mid-October 2001 to produce a *Memorandum* on Islamic state, Fadzil entrusted the project to the *Pusat Penyelidikan PAS* (PAS Research Centre), helmed by Dzulkifli Ahmad. Mainstreamers enlisted to co-author the *Memorandum* included Hassan Ali, Hatta Ramli and Kamarudin Jaffar.[63] Party ideologues Nik Aziz and Hadi, as indicated earlier, were not included in the drafting panel. Other important leaders in the purist camp excluded from the drafting process were the then vice-president Hassan Shukri, head of *Dewan Ulama* Harun Taib, the then Information chief Azizan Abdul Razak, former professor of Islamic Studies at the National University of Malaysia (UKM) Haron Din and former party vice-president Deang Sanusi Mariok. It was very unusual for PAS to exclude these individuals from the drafting of arguably the most important official document of the party as they had exceptional Islamic training at Middle-Eastern universities. These men were also members of the Majlis Syura. Their exclusion sowed the seed of bitter competition between the purists and the mainstreamers.

Fadzil, who chaired the drafting committee, knew the political impact he wanted the *Memorandum* to have and used all his political skills to ensure things went his way. According to Kamarudin Jaffar:

> It was a thought out decision to present PAS' thinking on Islam and the State in a way at least not to instil fear in anybody; even the very title [was written in a way] that would not create fear. We worked on it for a fairly long time. We wanted to speak in the language the public are more familiar with, to solve issues, to solve political questions. An opinion poll by Merdeka Centre showed that most people can easily identify PAS with Islam. So we felt that there was no need to constantly remind people that PAS is Islam.[64]

The draft was discussed at the Central Committee at least three times before the *Muktamar* 2002, when Fadzil disclosed its seven principles. Fadzil expanded the Central Committee meeting to include in the discussion members of the Majlis, which has the final say on party policies. This was effectively a tactic to bypass the Majlis as the *Memorandum* was more likely to receive majority backing at the Central Committee level.[65]

Unfortunately, Fadzil passed away in June 2002. According to an insider, the purists held the view that the mainstreamers would compromise the party's direction.[66] Thus, with the demise of Fadzil, some purists tried to regain their authority and come down hard on the mainstreamers. In February 2003, the *Memorandum* was awaiting approval from the Majlis before being released, but instead of making a decision, the decision was delayed until the aborted launch in June/July 2003.

The *Dokumen* was clearly a product of the purists. According to Badruzaman Yusoff, the secretary of PAS' Dewan Ulama, the Majlis entrusted the drafting of the *Dokumen* to a group of 'experts', comprising 'two former professors in *syariah* and a PhD holder in Islamic administration and politics. . . . It was reviewed by a group of *ulama* made up of five M.A. holders in *siyasah syar'iyyah*

(Islamic politics)', as well as experts in *usuludin* (theology) and *usul fiqh* (jurisprudence).[67] According to PAS internal sources, Haron Din was the key person appointed by the Majlis to draft an alternative version.[68] This was confirmed by the prominent role Haron played at the launch, and the subsequent promotional activities, of the *Dokumen*. It is clear that the mainstreamers were relegated to marginal roles in the drafting process of the *Dokumen*.

Two-tier strategy

When Hadi Awang succeeded Fadzil as party president in June 2002, he was already a busy man as the *Menteri Besar* (Chief Minister) of Terengganu. At that time, Hadi was about to table the controversial Terengganu *Syariah Criminal Offences (Hudud and Qisas) Enactment*. Prior to becoming PAS president, Hadi was said to be more interested in delivering religious lectures and *ceramah* (public rally) speeches than running the party machinery. The running of the national party office was left to the original post-1998 mainstreamer team put together by Fadzil, which included his political secretary Hatta Ramli, Secretary-General Nasharuddin, press secretary and former deputy editor-in-chief of *Utusan Melayu* Suhaimi Moktar and research head Dzulkifli Ahmad. After months of uncertainties and lack of direction from Hadi, the team finally worked out a tough balancing act of advocating democracy at the federal level but implementing *hudud* in the Muslim-majority states of Kelantan, Terengganu, Kedah and Perlis.

This two-tier strategy was a consensus, at least, between Hadi and the mainstreamers from late December 2002 until the *Muktamar* in September 2003. As president, Hadi had to move between the purists and mainstreamers. After the passage of Terengganu *Syariah* legislation in July, assented by the Sultan in September 2002, Hadi was initially seen to favour quick implementation by suggesting that the laws would be gazetted by the end of that year.[69] He back-tracked in December 2002 and announced that there was no immediate plan to enforce the law.[70]

Hadi first supported the two-tier approach on 30 December 2002, with a promise that PAS would consider the multiracial composition of the country before taking any drastic action like turning Malaysia into an Islamic state. Any decision at the federal level, he said, would depend on the understanding between PAS and its allies in the BA. PAS would ensure the successful implementation of an Islamic framework in the Malay-belt states so that they would serve as role models for the other states.[71] Key mainstreamer Dzulkifli felt that Hadi's interview was 'brilliant' and concluded that the PAS president 'is now leading a *mainstream* Islamic political party that has taken *centre-stage position* in national politics'.[72]

Instead of waiting for the Majlis to approve the *Memorandum*, the mainstreamers were prompted by Hadi's statement and a compelling prospect of electoral debacle to act fast to promote the two-tier strategy. At the national internal electoral preparatory convention on 18 January 2003, 1,500 national, state and divisional leaders gathered.[73] The internal assessment then was that

Mahathir's resignation announcement on 22 June 2002, a day before Fadzil passed away, was a *sandiwara* (play acting), therefore an election would have to be called before 31 October 2003 – the announced retirement date.[74] This viewpoint was further fuelled by several controversial decisions made by Mahathir, which gave no impression that he was about to stand down as prime minister. These decisions included the teaching of mathematics and science in English in all schools, as well as the end of government funding for the non-government *Sekolah Agama Rakyat* (People's Religious Schools), which were the key issues discussed at this convention.[75] There was a feeling, at least among the mainstreamers, that the influence of PAS and BA had peaked in 2000, during the Lunas by-election.[76] However, it was also felt that the party still had a fighting chance of remaining relevant at the national level and of gaining an additional state government in Kedah, partly thanks to Mahathir's controversial policies that were apparently unpopular among the Malay electorate.[77]

The continued collaboration between PAS and its partners in the BA in the impending general election was a major concern. Hadi officially announced the two-tier strategy and claimed that it was the coherence of the BA that had stopped the party from advocating *hudud* at the federal level:

> [Recognising] that the issues of Islamic state and implementation of *hudud* and *syariah* were the causes of the previous split in BA, therefore, PAS had to make a huge sacrifice and a major *ijtihad* to exclude the questions of Islamic state and implementation of *hudud* at the Federal level. The provisions for Islam that had already been stipulated in the Federal Constitution and currently practiced at the Federal level are sufficient. . . . If we win the coming election, BA or the opposition would form a democratic and just government complying with the existing Federal Constitution at the federal or central level.[78]

The hope was that with PAS making concessions at the federal level, 'the BA could be regrouped into a solid fraternity embracing once again DAP or that the DAP be given the liberty to have an electoral pact with the BA fraternity'; and that the leadership of DAP and Keadilan would appreciate the 'democratic freedom' of PAS to advocate its ideology and implement it in the four Malay states.[79]

The mainstreamers saw the two-tier strategy as a continuation of Fadzil's 'no-Islamic-State-in-the-context-of-coalition' policy. 'It should have been an open-secret a long time ago, so as not to land us in this tragic predicament of mistrust and dissension amongst BA members', pronounced Dzulkifli.[80] However, the purists saw this announcement as PAS effectively abandoning the *negara* Islam agenda at the federal level and would only attempt to add more *negeri* Islam (sub-national state-level) to its fold. If the *Memorandum*, which still advocated *syariah* amendments to the Federal Constitution, was seen as betraying the holy cause, it is not difficult to understand why the two-tier strategy would send shockwaves among the purists. It was beyond their imagination.

The mainstreamers felt that PAS and the opposition could be 'severely trounced and humiliated' in the election, therefore the party could not 'persist in our partisan ways with little regards for the broader and wider interests of the nation and the *rakyat*, nay humanity'.[81] To Dzulkifli, the drafter of the strategy, 'the bottom-line for a political party is of course about winning votes and support'.[82] The purists differed on both points. The doomsday warning was too far-fetched to the purists who believed that with the aid of God they could prevail in the election. More importantly, the purists held the view that the 'bottom line' of their political participation was to win the blessing of Allah, not just votes.

Although well known for his hard-line stand on issues, Hadi held fast to the middle ground two-tier strategy for a long period. The party organ, *Harakah*, prominently reported Hadi's written response to Syed Husin Ali's earlier mentioned speech on its front page under the title 'Kelantan, Terengganu are models for Islam rule – central (federal) level will be a *negara* BA'.[83] In mid-August 2003, the party was caught off guard when Deputy Information Minister Zainuddin Maidin called PAS 'hypocrites' for advocating a two-tier strategy – one to 'appease' the Malays and the other for the non-Malay voters.[84] The strategy was not reported in Malaysia's mainstream media when it was announced in January, but a score of BN leaders followed Zainuddin to denounce the approach as PAS' 'double speak'.[85] Hadi, however, maintained his support for the two-tier strategy, even under great external and internal pressure.[86]

The high profile contest for the post of Deputy President – the first in more than twenty years since Yusof Rawa's election to the position in 1981 – ended in a shock to many, including Hadi himself, with the election of the arch-conservative Hassan Shukri over top mainstreamer and Hadi's close Terengganu associate Mustafa Ali. It did not augur well for Hadi's nascent leadership and eventually influenced his turn to a purist political position, with which he was more familiar.

PAS' treatment of the Islamic state policy and the two-tier strategy came under heavy fire at the annual meeting of *Dewan Pemuda* (Youth Meeting) and in the *Muktamar* proper, which effectively spelt its end and the rise of the *Dokumen*. The purists' backlash was partly influenced by the media attack on PAS in August, shortly before the *Muktamar*. The resolution debated at the Dewan Pemuda was indicative of the extent of the backlash, partly because the two-tier strategy was announced at the January meeting attended by all levels of party leaders while the *Memorandum* was only circulated among the elite. The Kedah and Penang Youth leaders, with support from Malacca, Negeri Sembilan and Selangor members, moved that there should be no delay and compromise in releasing the party policy on Islamic state:

1 that National PAS should be consistent with Islamic principles, *without compromising with anyone*;
2 that PAS should educate the people to understand the benefit, justice, uniqueness and beauty and the appropriateness of an Islamic state;
3 that PAS should continue its commitment that non-Muslims would be provided choices between Islamic laws and the current laws in criminal cases;

4 that the leadership should accelerate the building of an Islamic state and rebuke negative views on Islamic laws; and
5 that the leadership should ensure that the states currently under PAS rule would be models of Islamic state that could be implemented elsewhere after winning the next election.[87]

An amendment to the substantive motion changed 'without compromise' to 'with views and suggestions from component parties of BA'.[88] Ninety delegates (53 per cent) voted for the amended resolution, that is to press ahead with the establishment of an Islamic state but consult BA parties at the same time; fifty (29 per cent) supported the 'no-compromise' hard-line original motion; and thirty delegates (18 per cent) rejected the motion altogether.[89] In other words, only 18 per cent agreed with the mainstreamer assessment that a workable relation in the BA required PAS to forego its Islamic state agenda at the federal level. During the *Muktamar*, delegates from states outside the Malay-belt expressed their displeasure over the non-inclusion of their states in the *hudud* plan.

Post-*Muktamar*, Haron Din was drafted in as PAS' new Information chief. Two weeks after the *Muktamar*, Hadi announced that the *syariah* criminal enactments in Terengganu would be gazetted on the first day of Ramadan (27 October). Less than a month after the *Muktamar*, the Majlis Syura forced the Central Committee to release the *Dokumen Negara Islam* drafted by Haron and ended the two-year process of writing a proposal for an Islamic state. The mainstreamers were allowed some face-saving concessions in the form of a speech by Hadi at the launch but were essentially sidelined.

Conflict over an Islamic state

The PAS *Memorandum* and the *Dokumen Negara Islam* were proxies for tussles between the purists and mainstreamers in PAS over the party's path. A comparison of how the two versions handle the issues of democracy, *syariah* and the place of non-Muslims in an Islamic state will reveal the underlying ideological differences between the two groups in PAS.

Democracy

The *Memorandum* sets itself in the context of democracy in the twenty-first century. It is about searching for a way to ensure Islamic rule flourishes together with democracy. Terms such as civil society, equality, welfare state and meritocracy informed the thinking of its authors. It claims it is compatible with the spirit of parliamentary democracy and champions the causes of universal values. Its full title *PAS' Memorandum to the People of Malaysia: An Appreciation of Islamic Rule in 21st Century Democracy* clearly indicates that its audience was the *rakyat* (people). Its language reveals an acute awareness that PAS' electoral fate is in the hands of the voters.

Democracy has a very different place in the *Dokumen*; indeed, one could even ask whether the concept has a place in the minds of the drafters. The word

'democracy' appears only once, in Paragraph 4 of the *Preamble*, which states that PAS has been consistent in the observation and practice of parliamentary democracy.[90] The word used in the *Dokumen* that is closest to democracy is *syura* (consultation). *Syura* is conducted in matters that relate to administration and implementation within a certain context. But *syura* 'could only be conducted in matters subject to "*ijtihad*" (individual interpretation)'. Where there exist clear injunctions and verses pertaining to the issue (*dinaskan secara qat'i*), '*syura* will have no power to change it'.[91] On the other hand, *ijtihad* is encouraged in the *Memorandum* as the basis of a dynamic and innovative administration.[92]

Hadi's speech at the launch of the *Dokumen* – delivered in Malay – had this to say: 'We have tried various Western approaches like democracy, capitalism, pragmatism, liberalism, etc', but the problems of humankind persist.[93] The official English translation provided by the party does not hint at such criticism of democracy. It only says that 'the Muslim communities the world over have experimented with the various man-made ideologies and failed', thus the Islamic state project was a response to 'the failures of the faulty system of the liberal West'.[94]

The tone of the *Dokumen* is paternalistic. It acknowledges that basic rights and freedoms 'not contravening *syariah*' would 'have a place' in the Islamic state.[95] But, it characterises Islam as 'the religion that is obeyed' and emphasises that 'the citizens are expected to render their obedience and trust to the leadership of the country for as long as they obey Allah'.[96] Further, it stresses that Muslims have 'no choice except to completely abide by their religion'.[97]

Democracy, in its more restrictive and procedural sense, is about how a society decides its leadership. *Masyarakat Madani* (civil society) – a term popularised by Anwar when he was deputy prime minister – is the first and foremost principle of the Islamic state mentioned in the *Memorandum*. It is based on 'the practices of *syura*, election and democracy'.[98] The government conducts its business through *syura* and parliamentary democracy. Separation of power of the branches of government would be upheld to ensure freedom, responsibility and check-and-balance.[99]

The *Dokumen* has a markedly different view on leadership. The booklet begins with a *hadith* that reads:

> Listen and Obey even if you are led by a leader from a slave from Habsyah, his hairs the like of raisins, for so long as he listens and obeys the Book of Allah.[100]

The *Dokumen* suggests the most pious (*bertaqwa*) and the best person among the *ummah* should lead the state.[101] The principle of vicegerent (*Khilafah*) implies that the Caliph is the proxy (*pengganti*) of God on earth tasked to execute Allah's will. He would be considered a 'traitor' were he to implement man-made law instead of God's rule.[102] The *Dokumen* claims that the Islamic state possesses absolute sovereignty and the vicegerent is acting on behalf of God.[103] The *rakyat* is expected to be obedient to the State and the Caliph. They are, however, entitled to demand transparency at all levels of the leadership and withdraw their obedience to the leader if he breached their trust.[104]

Interestingly, the political institutions proposed by both versions did not include an *ulama* council. In the past, Yusof Rawa, PAS president during the 1980s, had said:

> What will exist in an Islamic state is clear. There is going to be an elected parliament but all legislations will have to be scrutinised by the *Ulama* Council. If UMNO's Islam is true, why are they afraid of being scrutinised by the *Ulama*?[105]

Hadi and other PAS leaders, however, have repeatedly claimed that PAS was not advocating a theocracy. 'No Islamic governments in the past 1400 years are theocratic in nature', Hadi declared at the launch of the *Dokumen*.[106] He explained that the absolute power in Islam belongs to Allah; therefore there is no clergy class.[107] Nonetheless, PAS has consistently given much clout to the *ulama* class. The idea of a pious Caliph in the *Dokumen* would further reinforce such a view.

The *Dokumen* sheds no light on how the *ummah* will decide who among them is the most pious man to be chosen as the Caliph, and how the parliament is to be formed. The *Dokumen* promises to strengthen the practices of parliamentary democracy and constitutional monarchy 'based on the teachings of Islam'.[108] The principle of *Syura* requires

> The *Dewan Rakyat* (House of Representatives) to be a meeting place that realises freedom of speech through representatives. The *Dewan Negara* (Senate) acts as a body that reviews and decides on matters passed by the *Dewan Rakyat*.[109]

But it says nothing beyond that. The English translation on *syura* alludes to the '*elected* members of the House of Representatives'.[110] The master text is neutral on that. As many parliaments in authoritarian states around the world are not elected by popular vote, it is not clear what type of democracy the drafters of the *Dokumen* had in mind.

Syariah

Syariah is the area where the two blueprints are most at odds. *Syariah* is the collective name for Islamic laws mainly based on *Quranic* revelations, but also derived from the *Sunnah* (recorded practices of the Prophet), *ijma* (consensus of opinions), *qiyas* (analogical deductions) and *ijtihad.*[111] The usual case put forward by contemporary champions of *syariah* is that these divinely derived laws governed all aspects of Muslim life until the encroachment of Western colonialism.[112] The extension of such logic is that Muslims must return the rightful place of *syariah* in the state.

It is important to ground the debate if *syariah* should be adopted, or to what extent, in the context of contemporary reality of a nation-state framework, which includes boundary, citizenship, a bureaucracy and open political activity.[113] The primary point of reference in such a framework is citizenship, not religion.[114]

For PAS, the *syariah* should be the source that informs all laws. This is where the party differentiates itself from the UMNO, which has also moved in this direction but has seen no need to amend the Federal Constitution after declaring Malaysia as an Islamic state. The early sections of the *Memorandum* reassert PAS' traditional primary objective of struggling for the establishment of a government that implements Islamic laws.[115] The *Memorandum* seeks to reassure the party faithful that it is not betraying the party's founding principles. Then, however, it refers to the second objective of the party: defending the purity (*kesucian*) of Islam, as well as the independence and sovereignty of the country.[116] It stresses that PAS has placed its priority on defending the nation in the face of the recent crises in the country. That was the common basis on which the partnership within the BA was built.[117] PAS' aspiration as expressed in the first objective of the party would be a long-term goal, which the drafters of the *Memorandum* knew 'may not have been shared by BA allies'.[118]

The *Memorandum* understands the complexity of a multi-ethnic, multicultural, multi-religious society. The current civil laws and the Constitution 'would have to be adjusted to suit the needs' of Islamic governance from the perspective of *syariah*.[119] At the same time, the *Memorandum* stresses that *syariah* is not to be implemented at the expense of 'peace, harmony and prosperity' in society.[120] Therefore, *syariah* has to be realised gradually (*pendekatan bertahap/tadarruj*) and priority should be given to educating society to understand the rationale behind *syariah* legislations.[121] The appreciation of Islamic governance in twenty-first-century Malaysia would take into consideration 'political reality and benefits from the existing government administrative structures' in order 'not to bring huge changes and reshuffles that would shock the people'.[122] This was a shift from PAS' post-1982 position – in the mid-1980s, Yusof Rawa was critical of the concept of *tadarruj* when accusing the UMNO of using the term as a lazy excuse to continue its piecemeal Islamisation.[123] This reveals the pitfall of the *Memorandum*'s 'mainstream' positioning, which the purists would interpret as resembling the UMNO's 'insincere' attitude towards Islam.

A further distinctive element to the *Memorandum* is that the word '*hudud*' is *not* mentioned at all. *Hudud* are punishments that must be carried out for criminal offences prescribed by the Quran.[124] While the call for *syariah* to be the source of laws was born with PAS, the notion of *hudud* as a defining feature of *Syariah* enter the debate about forms of Islamic legislation rather late, and may not have intra-party consensus.

The discourse on *hudud* only emerged in the 1990s. There is no reference to it in the writing of leading party ideologue Professor Zulkifli Muhammad, deputy president from 1956 to 1964,[125] or in the speeches of Yusof Rawa, during his seven-year presidency from 1982.[126] '*Hukum-hukum Allah*' (God's punishments) was the term that was frequently used. The first time *hudud* appeared in a speech by Fadzil was in 1992 when PAS had already decided to enact such laws in Kelantan, after the state came under the party's control in 1990. Since then, it has been a divisive issue. The Kelantan *hudud* code was passed in 1993, while

the PAS Terengganu government passed this legislation in 2002. The *hudud* issue allows PAS to differentiate itself from the UMNO in stark terms, but it is hard to gauge its electoral effectiveness. Nevertheless, the moral imperative, which is foremost to the purists, may be the primary concern behind the push to legislate *hudud*.

In the *Memorandum*, *syariah* is part of the Islamic democracy designed to be compatible with contemporary Malaysia. It is time- and place-specific. The absence of reference to *hudud* reflects the thinking of Fadzil who argued, 'The concept of an Islamic state is wide and not just based on the *hudud* law'.[127] He saw *syariah* as a set of universal ethics for better government, including good governance, elimination of corruption and discrimination on the ground of race.[128] However, *syariah* and *hudud* define the Islamic state in the *Dokumen*. *Hudud* is unquestionably a divine truth, and 'Any contention in this regard, amounts to contesting the divine wisdom'.[129]

The *Dokumen* is a legalistic-literalist interpretation of Islamic texts, with extensive quotations from the Quran. The tone is exclusivist as it forbids Muslims from taking recourse to sources of law other than that ordained by God.[130] The state stipulated by the *Dokumen* is answerable only to God. The institutions needed to determine God's will are not made explicit and there is no attempt to make it compatible with any man-made system.

To the purists, laws proposed by PAS are not man-made, similar to any other legislation. A member of the Terengganu PAS government said, in reference to the state's *syariah* legislation, only views and suggestions based on God's laws would be considered. The state government would not entertain opinions based on human logic.[131]

But, whatever PAS may say, as Hooker points out, the *Kelantan Syariah Criminal Code (II), 1993* was similar to any other law in Malaysia, written in an English statute form with minimal references to *fiqh*.[132] Further, 'the draftsman must be ashamed of himself for having put forward such a sloppy piece of work' containing various inconsistencies.[133]

To elevate the legal standing of *syariah*, both the *Memorandum* and the *Dokumen* would amend Articles 3 and 4 of the Federal Constitution. The former states that Islam is the religion of the Federation. PAS has consistently argued that Islam should be considered '*ad-deen*' (Islam as a way of life), which requires a broader meaning than the English term 'religion'.[134] Article 4 (1) stipulates the supremacy of the Federal Constitution and that any law passed subsequently that was inconsistent with the constitution would be nullified. PAS would want to replace this with the supremacy of *syariah* and to grant the state greater power in legislating Islamic enactments.[135]

In this regard, Hadi's assurance that the status quo of 'dualism of laws and judiciary', that is *syariah* and civil, would be maintained, is contestable.[136] This so-called 'dualism' currently only exists in matters relating to family and inheritance, but with the *Dokumen* advocating *hudud* to replace common law for Muslims, the status quo is inevitably challenged. Hadi also created confusion

with his suggestion that 'the *Quran* allows those who are not Muslims to practice the laws of their *own religion* and the laws which they choose for themselves'.[137]

Non-Muslims in an Islamic state

The *Memorandum* is keenly aware of sensitivities associated with Malaysia's multi-cultural society. It acknowledges that 'the language and phrases used [in the *Memorandum*] could be taken as providing an "exclusivist" perception and considered as sidelining the non-Muslim. Herein lies the difficulty and risk' of such an endeavour of writing an Islamic state.[138] The entire piece is sensitive to the needs of non-Muslims, as well as Muslims who are yet to be persuaded by PAS. The authors had in mind not only Buddhists, Christians, Hindus and Sikhs, but went so far as to keep a place for 'the groups who have no religion, such as liberal humanists or free-thinkers', so that they would not be put off by the potentially 'exclusivist' tone.[139] The imprint of Fadzil is apparent. He had advocated an 'inclusive' perspective of an Islamic state in a framework of plural society 'with no one being excluded, humiliated as second class citizen, or refused their human and civil rights'.[140]

The *Memorandum* conveys the message that it champions equality. Equality is the principle that informs three of its seven 'main characteristics'. A 'social contract' – inspired by Prophet Muhammad's *Madinah Charter* and informed by the principle of equality (*al-Musaawah*) – would bind all citizens in *equal citizenship* whether they are Muslims, People of Book or *Musyrikin* (idol worshipers).[141] The principle of justice (*al-'Adalah*) is to be upheld in all aspects of life and encompasses all ethnic, religious and cultural boundaries. Affirmative action would be institutionalised democratically.[142] Responsibility and social status would be determined by the principle of *asiahiyah* or true meritocracy. 'No one should be discriminated against on the grounds of gender, religion, ethnicity and language preference'.[143] Equality, in the *Memorandum*, is also explicitly extended to women in all areas.[144]

Equality is treated very differently in the *Dokumen*. Guided by the Quranic verse 'let there be no compulsion in (Islam) religion' (*Surah al-Baqarah*, 2: 256), the *Dokumen* promises that non-Muslims would continue to enjoy freedom of religion and cultural expression without hindrance from the Islamic state.[145] While promising egalitarianism on the one hand, the *Dokumen* on the other hand suggests that the level of one's piety (*taqwa*) is the only basis of inequality. One wonders whether this would legitimise unequal treatment of non-believers. The principle of *Al-Musaawah* (equality) in the *Dokumen* refers to the equal status of the members of *ummah*.[146]

As previously mentioned, the Islamic state in the *Dokumen* is to be led by the most pious and the best person within the *ummah*. The English version translated *ummah*, inaccurately, as 'society'.[147] *Ummah* refers to the *Muslim* congregation or community, which means one has to be a Muslim in order to be the leader of the state. Hadi confirmed that the King and the prime minister had to be Muslims.[148]

He had also argued that non-Muslims would have a limited policy-making role in an Islamic state.[149] That was not unusual, according to him, as 'a communist country will not choose an American to be president and when the Republican Party wins in the US, they will not choose a Democrat to be president'.[150]

The position of non-Muslims in an Islamic state often centres on problems relating to unequal citizenship. The BN sponsored booklet, *Malaysia Adalah Sebuah Negara Islam* (Malaysia is an Islamic State), was withdrawn precisely due to protest against classifying non-Muslims as '*dhimmi*', a term widely seen as derogatory. It originally referred to non-Muslims who were not enslaved but lived in societies conquered by Muslims.[151] *Dhimmi* relegates such non-Muslims to the status of lesser citizens who are supposed to live a quiet life and be obedient to Muslims.[152] The concept was influenced by the writing of the eleventh-century Shafi'i jurist, al-Mawardi.[153] Any implementation of his ideas by the UMNO or PAS, according to Martinez, would render non-Muslims second-class citizens and abrogate their rights as defined under the Constitution. The *Memorandum* is, however, clear on this issue: all *rakyat* in the Islamic state have equal rights and responsibility towards the country.[154] Elsewhere, Fadzil denounced the use of the term '*dhimmi*'.[155] The *Dokumen*, however, sidesteps the question of equal citizenship. Although the English translation of the *Dokumen* assures 'that the non-Muslim members of the Islamic state possess and enjoy their rights as citizens of the state',[156] there is no reference to such an issue in the master text.

On the issue of the implementation of Islamic laws, the *Dokumen* 'allows' the non-Muslims to choose between being subjected to it or the existing penal code (Common Law).[157] Hadi suggested that in a hypothetical situation of a non-Muslim killing a Muslim, 'it would be up to the victim of injustice to choose the law. Or the judiciary will have to make a decision'.[158] The meaning of this is unclear, but may possibly be inconsistent with Hadi's repeated promises elsewhere that non-Muslims would not be tried under Islamic laws. *Syariah* advocated by the *Memorandum* applies only to Muslims.[159]

There is, generally, far less focus on non-Muslims in the *Dokumen* than in the *Memorandum*. Hadi's speech at the launch of the *Dokumen* contains, however, a list of ten 'guarantees' (*jaminan*) to non-Muslims. These *jaminan* are:[160]

1 that the Islamic state accepts the need to work through the Federal Constitution with necessary amendments;
2 that the rights of all Malaysian citizens to practice their religious beliefs are guaranteed;
3 that the rights of every citizen to practice, advance and promote their cultural heritage are guaranteed;
4 that there will be no compulsion on non-Muslims in the matter of conversion to Islam;
5 that the dualism of law and judiciary would be maintained;
6 that there will be no discrimination based on race, origin and gender;[161] meritocracy is emphasised by Islamic state;

7 that the democratic rights of each individual citizen, as stipulated in the Federal Constitution, are guaranteed;
8 that individuals from all ethnic groups regardless of ethnicity are entitled to be elected and involved in the political process, judiciary and administration;
9 that the right to education and mother-tongue education are guaranteed; and
10 that the rights of women with regard to education, work, as well as the right to dignity and self-worth are guaranteed.

These *jaminan* are provided for in Hadi's speech simply because they were not in the *Dokumen*. The official English translation of Hadi's speech is aware of this discrepancy. 'I am quite sure that you are well aware that my short speech is primarily targeted at tackling unresolved burning issues that may have not been dealt with in great detail in the document'.[162] There is no reference to such an awareness of the deficiency of the *Dokumen* in the Malay original text of his speech.[163]

Hadi's speech and the list of *jaminan* are signs of at least some sensitivity towards non-Muslims who make up about 40 per cent of the population.[164] The list of *jaminan* was actually a compromise reached after several mainstreamers argued strongly in the Central Committee that the *Dokumen* must be accompanied with an explanation note during the launch.[165] The *Dokumen*, however, shows little interest in non-Muslims, or for that matter, Muslim non-PAS believers. It sets itself as an edict to erect a Caliphate, not as a political manifesto for the next election.

Repercussions: the political fallout

The long-term consequence of the rigidly written *Dokumen* is that PAS may no longer be able to adapt the idea of an Islamic state to whatever is seen as good by the voters. Inevitably, the *Dokumen* damaged PAS' relations with its BA partner, Keadilan, its ex-ally DAP and civil groups. Intra-party relations were also strained further.

PAS' relationship with Keadilan deteriorated after the launch of the *Dokumen*. Keadilan was considered the leader of BA when it was formed in 1999,[166] which is why its president, Wan Azizah Wan Ismail, wife of Anwar, continues to chair the BA Presidential Council meeting to this day. PAS was the *de facto* leader of the coalition after emerging from the 1999 election with 27 parliamentary seats, as opposed to Keadilan's five – four of them in the PAS-stronghold of Kelantan and Terengganu. The *Dokumen* derailed the common agenda of the BA. In his speech at the launch of the *Dokumen*, Hadi said:

> PAS and its coalition partners in BA will ensure that implementation of the Islamic state will not marginalise any party. My hope is that Malaysians join PAS and its partners in BA to realise an obligation placed on us since time immemorial.[167]

This statement gave the impression that Keadilan was consulted and had agreed that the BA would be vehicle for the realisation of PAS' Islamic state agenda when this was not the case. As a Malay-majority multi-ethnic party contesting mainly multi-ethnic constituencies, Keadilan was certainly placed in a difficult position by the *Dokumen*. The joint declaration released after a BA convention in September 2003 and the *BA Manifesto 2004* launched during the 2004 general elections campaign were overshadowed by the *Dokumen* and went unnoticed.

When PAS delved more into its Islamist agenda, it distanced itself from pro-opposition groups in civil society. The hope for a lasting rainbow coalition encompassing all pro-opposition groups that looked promising at the height of *reformasi* now seemed lost. The ascendancy of the purists in PAS and the release of the hard-line *Dokumen* made it difficult for groups linked to the *reformasi* to support PAS. DAP criticised the *Dokumen* and severed any hope of PAS-DAP cooperation by ordering its members who were holding positions in PAS-led Kelantan and Terengganu state governments to resign or face expulsion from the party.[168] (In the event, they refused to resign and were expelled.) Before the 2004 general elections, the leading civil rights group, Aliran, and pro-opposition web newspaper *Malaysiakini* disendorsed PAS.[169]

Following the debacle of the 2004 election, PAS blamed the unprofessional conduct of the Election Commission for its defeat. The Election Commission and other arms of the government had undermined PAS in various ways, such as mobilising 'phantom voters', that is people who are not supposed to vote in that constituency. The extremely high voter turnout in Terengganu is but another example. However, the scale of PAS' defeat meant that it was difficult for the party to deny that it had lost favour among the electorate. Key mainstreamer Kamarudin Jaffar commented that PAS' electoral disaster was because of the party's 'miscalculation of the Pak Lah (new Prime Minister Abdullah) factor, over-confidence and the mishandling of issues like the Islamic state agenda'.[170]

This was a valid argument. PAS was not prepared for a transition at the federal level as the party believed that Mahathir was not serious about stepping down. When Abdullah eventually assumed the premiership, PAS leaders believed that Abdullah would do no better than Mahathir in electoral terms. However, Abdullah's strength was his strong Islamic credentials – son of an *alim* (religiously learned), grandson of a *mufti* and a graduate of Islamic studies himself – which the purists wrongly thought would be cancelled out by Abdullah's non-committal attitude towards *hudud* and Islamic state.

The *Dokumen* may have been intended as a tool for PAS to 'fish for votes', as Abdullah claimed.[171] The authors of the *Dokumen* might have thought that in order to challenge Abdullah's Islamic credentials, the party needed a more legalistic and literalist interpretation of Islam. Yet, PAS supporters in the Malay heartland may not have been so concerned about a legalistic approach to Islam. They were probably more concerned about candidates who are seen as close to the grassroots, pious and incorruptible.[172] PAS' long-term supporters would continue to support the party whether or not it produced an Islamic state document.

Conclusion

This intra-PAS conflict, between those willing to compromise on ideological questions in order to court new support and those who fought for ideological purity at all costs, is not uncommon among ideological parties. This type of conflict is particularly widespread among parties that have been in the opposition for a long period, and with little prospect of gaining power in the near future. For this reason, there was no overwhelming reason for the purists to compromise on their stand. The internal struggles within the British Labour Party in the 1930s and the Australian Labour Party in the 1950s also illustrate this point.[173]

However, conflict also arises when there is an opportunity for a party to gain access to more public office and power. The mainstreamers in PAS wanted to seize the opportunity to push for rapid change to accommodate non-Muslims, at times ignoring the feelings of the purists, which led to a severe backlash and a bitter factional dispute in the party. That the purists prevailed at the end of the two-year struggle to define the party's Islamic state agenda was a result of the latter's backlash against the mainstreaming project.

However, the protracted intra-PAS conflict over the definition of the Islamic state proved to be quite detrimental to the party in a number of ways. Going into the 2004 general elections, PAS was confident of not only retaining control of the Kelantan and Terengganu state governments, but its party leaders felt they also had the capacity to secure control of at least one more state government in the Malay heartland, Kedah. In the event, PAS performed miserably throughout the Malay heartland, struggling even to retain control of Kelantan. Party president, Hadi, was surprisingly and embarrassingly defeated in his parliamentary seat in Marang, in Terengganu. Following PAS' exceptional performance during the 1999 general elections, party purists were probably of the opinion that their stand on the need to implement an Islamic state in Malaysia would be well-endorsed in the Malay heartland. The fact remained, however, that PAS had always managed to perform well in an election only when it had strong cooperative ties with other leading opposition parties. In this regard, the fall-out between PAS and the DAP, and subsequently with Keadilan just prior to the 2004 elections, should have served as a warning to the Islamic party that its continued inroads into the Malay heartland were not assured.

PAS remains divided over this issue of an Islamic state in spite of the outcome of the 2004 election results. It appears that within the party there is some consensus that the purist victory over the Islamic state issue cost the party dearly during the 2004 elections. In the June 2005 PAS election, party members elected a 'mainstreamer' team to spearhead reforms, but the extent of change remains to be seen.

Notes

1 The chapter is an abridged version of an honours degree thesis submitted to the Australian National University in 2004. I would like to express my gratitude to John Funston, Ian Proudfoot and David Adams for their guidance. My thanks also to Terence Gomez, Bridget Welsh and Greg Fealy for their valuable comments.

2 Funston (1980: 92). See also Liew (2003).
3 Safie (1981: 18, 19, 25, 26). At its golden jubilee in 2001, PAS cited the earlier date as its official birthday.
4 Funston (2001: 187).
5 In the 2004 elections, PAS won a seat in the Johor state government, but only because the UMNO candidate was disqualified. After the 1999 general elections, when it registered its best ever electoral performance, PAS members were seating in state assemblies in Perlis (3), Kedah (12), Kelantan (41), Terengganu (28), Penang (1), Perak (3), Pahang (6) and Selangor (4).
6 PAS main ally in APU was the UMNO faction that evolved into a new opposition party, *Parti Semangat '46* (Spirit of 1946 Party). APU was dissolved when Semangat '46 members disband the party to re-join UMNO.
7 The party was called Parti Keadilan Nasional (National Justice Party) until its merger with Parti Rakyat Malaysia (Malaysian People's Party) in 2003.
8 PAS was also a part of the *Harakah Keadilan Rakyat* (HAK, or People's Justice Movement) during the 1986 general elections. PAS fared poorly in this election as HAK involved a tie-up with minor parties of no prominence.
9 Funston (1980: 201).
10 Roche and Sachs (1955).
11 Sartori (1976: 138).
12 Fadzil (2003: 391, 392).
13 Quoted in Fadzil (2003: 392).
14 Funston (1980: 95).
15 PAS (2002: Clause 3).
16 PAS (2002: Clause 5: 1).
17 See Liew (2005).
18 Hussin (1993: 99, 100).
19 'No need for pas to expound concept of Islamic state', *Bernama* (7 September 2001).
20 'Negara Islam: Nik Aziz Terus Berdalih' (*Berita Harian*, 27 November 1999). While Asri only assumed the presidency in 1971, he was *de facto* leader of the party since 1965 when the then president Dr Burhannuddin Al-Helmi was detained under the Internal Security Act (ISA).
21 Kamarudin (2001: 131).
22 PAS (2002: Clause 6: 2).
23 *Berita Harian* (27 November 1999). He repeated this statement at a dialogue with Christian church groups in May 2000.
24 Barisan Alternatif (1999).
25 'Pas Gugur Hasrat Demi Pakatan', *Berita Minggu* (5 August 2001).
26 Martinez (2001: 480).
27 Lim (2001: 33, 34).
28 '929' is the shorthand version of Mahathir's declaration on 29 September 2001 that Malaysia was an Islamic state. The term was popularised by the DAP during its 'No to 929' campaign.
29 'Pas trying to avoid the real issue', *New Straits Times* (9 September 2001).
30 Three months earlier, Mahathir posed this rhetorical question at the UMNO general assembly: 'Is Malaysia not an Islamic country (*Apakah Malaysia bukan negara Islam*)?' In a section entitled 'Malaysia recognised as an Islamic country' (*Sebagai Negara Islam Malaysia Diiktiraf*), he declared that 'The world has acknowledged Malaysia as an Islamic country (*negara Islam*) and many other Islamic governments regard Malaysia the best model nation for them.... [T]hey are awed by [Malaysia's] development and the development of Islam in Malaysia'. He then already challenged PAS to 'put in writing' the type of government that is 'non-infidel and non-secular' which PAS aspired to set up. See Mahathir (2001a).
31 'No need to amend federal constitution', *New Straits Times* (6 October 2001).
32 Mahathir (2001b).

33 Mahathir (2001b).
34 Baradan (2001). Mahathir later claimed that Malaysia is an Islamic fundamentalist state as its policies adhered to the fundamental teachings of Islam. 'Malaysia an Islamic fundamentalist state: Dr Mahathir', *Bernama* (17 June 2002).
35 'Malaysia should be officially proclaimed as an Islamic state – Fadzil', *Bernama* (30 September 2001).
36 'No dialogue until PAS explains its concept of Islamic state', *Bernama* (13 October 2001).
37 'Hadi: PAS to define Islamic state in memo to PM', *New Straits Times* (17 October 2001).
38 'PAS to submit memo on concept by year-end', *New Straits Times* (25 October 2001). Fadzil later suggested that the memorandum would only be submitted to the prime minister if PAS would be given the opportunity to explain it in Parliament, with the session aired live on television. 'Fadzil wants to do it in house with TV coverage', *New Straits Times* (28 October 2001).
39 'PAS seeks endorsement abroad for Islamic state', *New Straits Times* (24 November 2001).
40 'BA divided over PAS' Islamic state "White Paper"', *Malaysiakini* (20 December 2001), 'PAS memo on Islamic state "almost ready"', *New Straits Times* (20 December 2001).
41 'PAS to distribute draft of Islamic state', *New Straits Times* (18 March 2002).
42 Phone interview with Tan Yoke Suan, former assistant executive secretary of Selangor Chinese Assembly Hall, 18 November 2003.
43 Fadzil (2002: 380).
44 Fadzil (2002: 399).
45 'PAS draws up blueprint for an Islamic state', *The Straits Times* (12 June 2003).
46 'PAS presents its controversial future', *The Straits Times* (1 July 2003). (This article had previously appeared in *The Star*.)
47 'Islamic state blueprint: PM post reserved for Muslims', *Malaysiakini* (12 June 2003).
48 *New Straits Times* (1 July 2003).
49 *New Straits Times* (1 July 2003).
50 I would like to thank Tan Yoke Suan and Hew Wai Weng for bringing my attention to this document. See PAS (2003c).
51 It is worth noting that Yusof Rawa once delivered a policy speech at a PAS Muktamar entitled *Ke Arah Tajdid Hadhari* (Towards Civilizational Renewal). See Kamarudin (2000: 185–217).
52 'PRM may review relationship in BA with PAS', *Malaysiakini* (6 July 2003).
53 'Clear explanation on hudud vital, says Anwar', *Malaysiakini* (17 July 2003).
54 'Hadi: PAS will not discard Islamic state goal', *Malaysiakini* (7 July 2003).
55 'Delegates chide Pas for failing to issue blueprint on Islamic state', *Bernama* (13 September 2003). 'Pimpinan Harus Kekalkan Dasar Negara Islam', *Harakah Daily* (12 September 2003).
56 'Mustafa: no Islamic state "Blueprint", only general guidelines', *Malaysiakini* (14 September 2003); 'Kandungan "Blue Print" Negara Islam Tidak Perlu Didedahkan', *Harakah Daily* (14 September 2003).
57 *Hardtalk Asia: religion as a vote winner? (Audio)* (London: BBC, 2003). The recording was conducted in Kuala Lumpur in early September.
58 'ISA dan OSA Halang PAS Dedah Penyelewengan Kerajaan (Exclusive Interview with Ustaz Hadi Awang, Part 2)', *Malaysiakini* (14 October 2003).
59 *Malaysiakini* (14 October 2003).
60 'Dokumen Negara Islam Dilancar 17 Ramadhan', *Harakah Daily* (22 October 2003).
61 PAS (2003a). Except for principle no. 5, which is an amalgamation from nos. 2 and 4 in the *Memorandum*, all the other principles were new.
62 Interview with Kamarudin Jaffar, PAS Parliamentary Whip and Member of Parliament for Tumpat, Parliament House, Kuala Lumpur, 9 June 2004.

63 Interview with Kamarudin, 9 June 2004.
64 Interview with Kamarudin, 9 June 2004.
65 Confidential interview with a senior PAS leader. Kuala Lumpur, June 2004.
66 Confidential interview. Kuala Lumpur, June 2004.
67 Badruzaman (2003).
68 Confidential interview, Kuala Lumpur, June 2004.
69 'Sultan approves Terengganu's Syariah laws', *New Straits Times* (20 September 2002).
70 'Terengganu delays hudud enforcement', *New Straits Times* (11 December 2002). At the same time, it was announced that a delegation led by State Education, Dakwah and Syariah Implementation Committee Chairperson Harun Taib would be sent to Saudi Arabia, Iran and Sudan to study the implementation of Islamic laws there, prompting Farish Noor to accuse the party for 'learning from the worst'. See Farish (2002).
71 'Islamic state-PAS to discuss with other BA members', *Bernama* (30 December 2002). 'PAS in no hurry to turn nation into Islamic state', *New Straits Times* (31 December 2002).
72 Emphasis added. Dzulkifli (2003).
73 'PAS Bersedia Hadapi Pilihan Raya', *Harakah Daily* (18 January 2003).
74 Dzulkifli opined, 'Judging by his declared intention of resigning by October this year and after naming his deputy as his successor, the latest date for the next election would look like October this year. The premier is in desperate need of nothing short of a thumping landslide victory' (Dzulkifli, 2003). PAS leaders maintained their disbelief that Mahathir would step down before a general election.
75 *Harakah Daily* (18 January 2003).
76 Keadilan had defeated the BN in a by-election in the Kedah state constituency of Lunas on 29 November 2000. Lunas was considered a safe seat for UMNO.
77 Dzulkifli conceded that 'Yes, it may be true that we do not have the groundswell and momentum of *reformasi* . . . of the pre-1999. Yes, it is also true that despite better economic prognosis only envisaged in 2003, [BN] electoral funds are already in place . . . . The BA component parties are still struggling to survive, much less to be comfortable to mobilise election machineries.'
78 Abdul Hadi (2003b).
79 Dzulkifli (2003).
80 Dzulkifli (2003).
81 Dzulkifli (2003).
82 Dzulkifli (2003).
83 'Kelantan, Terengganu Model Pemerintahan Islam; Peringkat Pusat Akan Menjadi Negara BA', *Harakah* (16–31 July 2003).
84 'PAS changes strategy in facing next general election', *Bernama* (16 August 2003). 'Zainuddin Maidin called PAS hypocrites', *Bernama* (14 August 2003).
85 For instance, 'Abdullah: PAS' new strategy an election ploy', *Bernama* (18 August 2003) and 'It's typical PAS double-talk, says Najib', *Bernama* (17 August 2003).
86 'Islamic state and hudud laws remain part of PAS struggle', *Bernama* (17 August 2003); 'Negara Islam: PAS Hormati federalism: Pemangku Presiden', *Harakah Daily* (30 August 2003).
87 Wan Nordin Nasrawi, 'Pimpinan Harus Kekalkan Dasar Negara Islam.' *Harakah Daily* (12 September 2003). Emphasis added.
88 Wan Nordin Nasrawi (2003).
89 Wan Nordin Nasrawi (2003).
90 *Dokumen*, p. 16.
91 *Dokumen*, p. 35.
92 *Memorandum*, p. 12.
93 Abdul Hadi (2003a).
94 Abdul Hadi (2003a).

95 The English translation expressed an intention to comply with the *Universal Declaration of Human Rights*, but the Malay text pays no tribute to the Declaration.
96 *Dokumen*, p. 44.
97 *Dokumen*, p. 44.
98 *Memorandum*, p. 9.
99 *Memorandum*, p. 16.
100 *Dokumen*, p. 7, PAS (2003b), *The Islamic State Document*, p. 9.
101 *Dokumen*, p. 21.
102 *Dokumen*, pp. 31, 32.
103 PAS, *The Islamic State Document*, p. 28.
104 *Dokumen*, p. 44.
105 Quoted in Hussin (1993: 99).
106 Abdul Hadi (2003a). Nasharudin was furious when *New Straits Times* misquoted him as using the term 'theocratic' state. He said PAS intended to form a democratic government with its coalition partners. See Nasharudin (2003).
107 'Ust Hadi: Kami Bukan Mahu Bentuk Negara Teokratik', *Harakah Daily* (25 October 2003).
108 *Dokumen*, p. 45.
109 *Dokumen*, p. 35.
110 PAS, *The Islamic State Document*, p. 25. Emphasis mine.
111 Abdur Rahman (1984: chapter 3).
112 For instance, see Abu Bakar (1986).
113 Hooker (1983: 15).
114 Hooker (2003: 88).
115 *Memorandum*, p. 4.
116 PAS, *Perlembagaan PAS*.
117 *Memorandum*, p. 6. Fadzil expressed similar views in his 2001 Muktamar speech.
118 *Memorandum*, pp. 6, 7.
119 *Memorandum*, p. 10.
120 *Memorandum*, p. 15.
121 *Memorandum*, p. 15.
122 *Memorandum*, p. 20.
123 Kamarudin (2000: 138–140).
124 Lewis *et al*. (1971: 20).
125 Kamarudin (2001).
126 Kamarudin (2000).
127 *Bernama* (30 September 2001).
128 *Berita Minggu* (5 August 2001).
129 PAS, *The Islamic State Document*, p. 21.
130 *Dokumen*, p. 26.
131 'Pas will only consider views based on Hukum Allah', *New Straits Times* (18 June 2002).
132 Hooker (2003: 89).
133 Hooker (2003: 93).
134 See, for instance, 'Q & A on Islamic State', *Harakah Daily* (13 November 2003).
135 For instance, Hadi revealed that a PAS-led federal government would begin implementation of Islamic laws by amending Article 4 to enable the states to implement laws that were currently against the Federal Constitution. See Biliwi and Zalina (2001) for an interview with Hadi on this matter. I am grateful to Foo Yueh Chuan for drawing my attention to this interview.
136 Abdul Hadi (2003c).
137 *Harakah Daily* (13 November 2003).
138 *Memorandum*, p. 8.

139 *Memorandum*, p. 8.
140 Fadzil (2001).
141 *Memorandum*, p. 9.
142 *Memorandum*, p. 10.
143 *Memorandum*, p. 18.
144 *Memorandum*, p. 18.
145 *Dokumen*, p. 24.
146 *Dokumen*, p. 38.
147 PAS, *The Islamic State Document*, p. 18.
148 *Harakah Daily* (13 November 2003).
149 'Is any opposition better than no opposition?', *Aliran* 22 (9) (2002).
150 *Harakah Daily* (13 November 2003). Hadi believed that the DAP opposed the formation of an Islamic state because its leaders could not become prime minister. 'DAP against Islamic state because no chance to become PM: Hadi', *Bernama* (4 December 2003).
151 Gibb and Kramers (1961: 75, 76).
152 Gibb and Kramers (1961: 75, 76).
153 Martinez (2001: 498).
154 *Memorandum*, p. 14.
155 Fadzil (2001).
156 PAS, *The Islamic State Document*, p. 19.
157 *Dokumen*, p. 27.
158 *Harakah Daily* (13 November 2003).
159 *Memorandum*, p. 10.
160 Abdul Hadi (2003c). (This is my translation of Hadi's speech.)
161 Abdul Hadi (2003c). The original text reads: 'Bahawa tidak akan berlaku pendiskriminasian mengikut kaum, keturunan dan jantina. Sebaliknya Negara Islam mengutamakan amalan meritokrasi'. PAS' official English translation is 'That there will not be discrimination based on religious [*sic*], racial and gender. Opportunities and entitlement will be merit- and principle-based'. 'Religion' is not mentioned in the Malay version.
162 Abdul Hadi (2003c).
163 Abdul Hadi (2003c). Original text: 'Tuan-tuan mungkin menyedari bahawa ucapan ringkas saya ini lebih banyak diarahkan kepada menjawab beberapa persoalan pokok yang sering ditimbulkan oleh sebahagian daripada rakyat di negara ini'. (You may be aware that my short speech is targeted at tackling unresolved burning issues that are usually raised by a segment of the population in this country.)
164 This point was not lost on Syed Husin Ali who, when commenting on the launch, praised only the *jaminan* and nothing else. He told *Harakah* that these guarantees should be included in the *Dokumen* proper. 'Keadilan Alu-Alukan Sepuluh Jaminan Negara Islam Pas', *Harakah Daily* (12 November 2003).
165 'Islamic state proposal-damage control sets in', *Malaysiakini* (19 November 2003).
166 Interview with Lim Kit Siang, February 2003.
167 Abdul Hadi (2003a).
168 On 21 November 2003, then DAP Secretary-General Kerk Kim Hock issued this directive.
169 'One vote, two messages', *Malaysiakini* (20 March 2004). *Aliran* 22 (9) (2002).
170 See *Malaysiakini* (26 March 2004).
171 'Nothing significant in PAS Islamic state blueprint, says Abdullah', *Bernama* 13 November 2003.
172 Funston (1980), Kessler (1978).
173 Roche and Sachs (1955), Warhurst and Parkin (2000), Warhurst and Parkin (1983).

References

Abdul Hadi Awang (2003a), The Speech in Conjunction with the Launching of the Document of Islamic State.

Abdul Hadi Awang (2003b), 'Taklimat Perdana Pemangku Presiden: Formula Untuk Kejayaan'.

Abdul Hadi Awang (2003c), Ucapan Sempena Majlis Pelancaran Dokumen Negara Islam.

Abdur Rahman I. Doi (1984), *Shariah: The Islamic Law*, Kuala Lumpur: A.S. Noordeen.

Abu Bakar Abdullah (1986), *Ke Arah Perlaksanaan Undang-Undang Islam Di Malaysia: Masalah Dan Penyelesaiannya*, Kuala Terengganu: Pustaka Damai.

Ahmad Ibrahim and Ahilemah Joned (1987), *The Malaysian Legal System*, Kuala Lumpur: Dewan Bahasa dan Pustaka.

Badruzaman Yusoff (2003), 'Penjelasan Dokumen Negara Islam', Kuala Lumpur.

Baradan Kuppusamy (2001), 'Mahathir calls in scholars over Islam debate', *South China Morning Post*, 29 October.

Barisan Alternatif (1999), 'Towards a just Malaysia', Kuala Lumpur.

Biliwi Singh and Zalina Abidin (2001), 'Exclusive interview with Ustaz Hadi Awang', *The Journal of Selangor Bar*, May: 1–6.

Dzulkifli Ahmad (2003), 'What's next for the alternative front?', *Harakah* (16–31 January).

Fadzil Noor (2001), 'Ucapan Sambutan Jubli Emas Pas Pusat: Melangsungkan Perjuangan', Kelantan.

Fadzil Noor (2003), *Koleksi Ucapan Dasar Muktamar Pas Kali Ke 36 Hingga 48*, Ladang, Johor: PAS Kawasan Ladang.

Farish A. Noor (2002), 'Learning from the Worst'. *Malaysiakini*, 16 December.

Funston, John (1980), *Malay Politics in Malaysia: A Study of the United Malays National Organisation and Party Islam*,. Kuala Lumpur: Heinemann.

Funston, John (2001), 'Malaysia: developmental state challenged', Singapore: ISEAS.

Funston, John (2004), 'The Malay electorate in 2004: reversing the 1999 result?', paper presented at the ISEAS Workshop on 'The Political Economy of Malaysia: Current Trends and Future Challenges', 8–9 September, Singapore.

Gibb, H.A.R. and Kramers, J.H. (eds) (1961), *Shorter Encyclopaedia of Islam*, Leiden: E.J. Brill.

Gomez, Edmund Terence (1996), *The 1995 Malaysian General Elections: A Report and Commentary*, Singapore, Institute of Southeast Asian Studies.

Hidayat Nurwahid and Zulkieflimansyah (2003), 'The Justice Party and democracy: a journey of a thousand miles starts with a single step', in *Asia Program Special Report*, Washington, DC: Woodrow Wilson International Center for Scholars.

Hooker, M.B. (1983), 'Muhammadan law and Islamic law', in M.B. Hooker (ed.), *Islam in South-East Asia*, Leiden: Brill, pp. 160–182.

Hooker, M.B. (2003), 'Submission to Allah? The Kelantan Syariah Criminal Code (Ii) 1993', in Virginia Hooker and Norani Othman (eds), *Malaysia: Islam, Society and Politics*, Singapore: ISEAS.

Hussin Mutalib (1993), *Islam in Malaysia: From Revivalism to Islamic State?*, Singapore: Singapore University Press.

Kamarudin Jaffar (ed.) (2000), *Memperingati Yusof Rawa*, Kuala Lumpur: IKDAS.

Kamarudin Jaffar (ed.) (2001), *Zulkifli Muhammad: Pemikiran Dan Perjuangan*, Kuala Lumpur: IKDAS.

Kessler, Clive (1978), *Islam and Politics in a Malay State: Kelantan 1838–1969*, Ithaca: Cornell University Press.

Khong Kim Hoong (1991), *Malaysia's General Election 1990: Continuity, Change and Ethnic Politics*, Singapore: Institute of Southeast Asian Studies.

Lewis, B., Menage, M.V.L., Pellat, C.H. and Schacht, J. (eds) (1971), *The Encyclopaedia of Islam (New Edition)*, Leiden: E.J. Brill.

Liew Chin Tong (2003), 'Remembering the "Pas-side" of Abdullah family', *Malaysiakini*, 21 November.

Liew Chin Tong (2005), 'Rise of leadership by ulama in PAS' *Malaysiakini*, 17 and 18 January.

Lim Kit Siang (2001), *B.A. & Islamic State*, Petaling Jaya: Democratic Action Party.

Mahathir Mohamad (2001a), 'Presidential Speech to Umno General Assembly ("Malays Forget Easily")', Kuala Lumpur.

Mahathir Mohamad (2001b), 'Majlis Perasmian Persidangan Perwakilan Ke-30 Parti Gerakan Rakyat Malaysia'.

Martinez, Patricia A. (2001), 'The Islamic State or the State of Islam in Malaysia', *Contemporary Southeast Asia*, 23 (3): 474–503.

Nasharudin Mat Isa (2003), Media Statement on Islamic State: PAS.

NSTP (1990), *NSTP Research and Information Services. Elections in Malaysia: A Handbook of Facts and Figures on the Elections 1955–1989*, Kuala Lumpur: Balai Berita.

PAS (2002), *Perlembagaan Parti Islam Se Malaysia (Pas)* (Pindaan 2001), Batu Caves: Parti Islam SeMalaysia.

PAS (2003a), *Dokumen Negara Islam*, Bandar Baru Bangi: Parti Islam SeMalaysia.

PAS (2003b), The Islamic State Document, Bandar Baru Bangi: Parti Islam SeMalaysia.

PAS (2003c), Panel Memorandum Negara Islam. Memorandum Pas Kepada Rakyat Malaysia-Penghayatan Pemerintahan Islam Dalam Demokrasi Abad Ke-15h/21m, Kuala Lumpur: Parti Islam SeMalaysia.

Roche, John P. and Sachs, Stephen (1955), 'The bureaucrat and the enthusiast: an exploration of the leadership of social movements', *Western Political Quarterly*, 8 (1/4): 248–261.

Safie Ibrahim (1981), *The Islamic Party of Malaysia: Its Formative Stages and Ideology*, Pasir Puteh: Nuawi Bin Ismail.

Sartori, Giovanni (1976), *Parties and Party Systems: A Framework for Analysis*, vol. I, Cambridge: Cambridge University Press.

Syed Ahmad Hussein (2002), 'Muslim politics and the discourse on democracy' in Francis Loh Kok Wah and Khoo Boo Teik (eds), *Democracy in Malaysia: Discourses and Practices*, Richmond, Surrey: Curzon Press, pp. 74–107.

Wan Nordin Nasrawi, 'Pimpinan Harus Kekalkan Dasar Negara Islam'. *Harakah Daily* (12 September 2003).

Warhurst, John and Parkin, Andrew (1983), *Machine Politics in the Australian Labor Party*, Sydney: Allen & Unwin.

Warhurst, John and Parkin, Andrew (2000), *The Machine: Labor Confronts the Future*, St Leonards: Allen & Unwin.

5 Voting for change?

Islam and personalised politics in the 2004 general elections

Khadijah Md. Khalid

Introduction

There is no doubt that the clear victor of the 2004 Malaysian general elections[1] was the United Malays' National Organisation (UMNO), the leading member of the ruling *Barisan Nasional* (BN, or National Front) coalition. The outcome of the eleventh general elections was particularly important to the UMNO because its candidates had been overwhelmingly rejected in the Malay heartland, particularly in the north and north-east Malay states of Peninsular Malaysia, that is Perlis, Kedah, Kelantan and Terengganu, in the previous election in 1999. In that election, the UMNO had lost control of a large number of parliamentary and state seats in the Malay heartland to the supposedly fundamentalist Islamic party, *Parti Islam SeMalaysia* (PAS, or Malaysian Islamic Party).

During the 2004 elections, the BN secured an impressive victory, winning 199 of the 219 parliamentary constituencies. PAS, on the other hand, which had made considerable gains in 1999 by winning 27 seats in parliament and by forming two governments in the states of Kelantan and Terengganu, registered a very disappointing performance five years later. In 2004, PAS lost control of the Terengganu state government, barely managed to hold on to power in Kelantan and won only six seats in parliament.[2]

Following the exceptional electoral performance of the BN in 2004, many local and foreign analysts[3] were quick to attribute this victory to the successful promotion of the moderate and progressive brand of Islam propagated by Abdullah Ahmad Badawi, the newly appointed prime minister. Abdullah had taken over the premiership from Mahathir Mohamad on 1 November 2003. Many analysts were quick to claim that Abdullah's type of Islam, conceptualised and advocated as *Islam Hadhari*, was instrumental in winning the hearts and minds of the Malaysian electorate, particularly the rural Malays, prompting them to switch their support from PAS to the UMNO. According to Kuppuswamy, for example, 'this mandate has also proved that the general public, including the Muslims in the Malay heartland, are not happy with the Islamisation policies of PAS and (that) the moderate version of Islam espoused by the current PM is more acceptable'.[4]

Some analysts concluded that the type of Islam propagated by PAS was of an 'extremist' sort, evidenced in its form of governance of Terengganu and Kelantan,

contributing to the massive rebuff of this party by the electorate.[5] Yeoh, the Chief Executive Officer of the Asian Strategic Leadership Institute (ASLI), expressed a similar sentiment when discussing how more urban Muslims viewed PAS' performance. According to Yeoh, 'the massive swing away from PAS, especially in the Malay heartland states of Kelantan, Terengganu, Kedah and Perlis, is a relief for many progressive moderate Muslims and a rejection of the PAS brand of Islam'.[6] Malay-Muslim voters had opted for the UMNO because they appreciated the merits and relevance of the seemingly progressive Islamic agenda advocated by the Abdullah government within the context of Malaysia's multi-ethnic and multicultural society.

The primary argument in this study is that even though the theme of Islam loomed large during the campaign period, other factors had contributed appreciably to the UMNO's impressive electoral performance during the 2004 elections. Much of the hype and focus on Islam by a number of analysts has diverted attention from these important factors that had had a bearing on the electoral performance of both the leading Malay-based parties.

To help draw attention to these other crucial factors, this study will address the following key questions. To what extent was the discourse on Islam instrumental in persuading the Malays, particularly those living in the Malay heartland, to switch their support from PAS to the UMNO during the 2004 elections? To what degree did the Islamic agenda of the new prime minister appeal to the Malay electorate? How central is the role of Islam in terms of influencing voting patterns among the Malays?

This study is divided into three parts. The first section provides an overview of the ideological rivalry between the UMNO and PAS, with special reference to the electoral performances of these parties in the past two general elections (November 1999 and March 2004). The following part explains the underlying reasons for the perceived importance of Islam in understanding the voting trends among the Malay-Muslim electorate. In the concluding segment, the significance of Islam in Malaysia's electoral contests is discussed, within the larger context of recent changes and developments in domestic politics and society.

Winning the hearts and minds of Malay-Muslims

UMNO-PAS rivalry in the tenth general elections

There has long been much ado about the intense rivalry between the UMNO, an avowedly staunch advocate of a Malay-nationalist agenda, and PAS,[7] a party that claims to represent the true teachings of Islam and serves to protect the interests of all Muslims. This intense rivalry between PAS and the UMNO has persisted since the first general election in independent Malaya was held in 1955, but it was during Mahathir's long premiership, from 1981 to 2003, that the competition between the two parties became particularly contentious to the point that it severely divided the Malays. This split among the Muslim community was an

ironic outcome of Mahathir's administration, given his attempt to accommodate dissenting Islamists in his new government and to increase the role of Islam in society and the public sector during his premiership.[8]

Mahathir had begun his premiership in 1981 by launching a series of programmes and campaigns aimed at promoting a form of governance based on Islamic values. Mahathir's successful co-optation of the popular and charismatic activist Anwar Ibrahim, of the *Angkatan Belia Islam Malaysia* (ABIM, or Malaysian Islamic Youth Movement), into the UMNO made the party increasingly attractive to young Malays, at the expense of PAS, during most of the 1980s and 1990s. However, a serious factional dispute in the UMNO in 1987, which led to the formation of the now defunct *Parti Semangat '46* (Spirit of '46 Party), led by former finance minister Razaleigh Hamzah, helped PAS seize control of the state of Kelantan in the 1990 general elections.

The ongoing conflict between the UMNO and PAS is primarily attributable to the differing views of these two parties over the establishment of an Islamic state in Malaysia.[9] The fundamental problem between the two rivals lies in their understanding of the form of Islam that should be promoted in a multi-ethnic and multicultural society such as Malaysia.

PAS' objective is to establish a theocratic state governed strictly by *hudud* (divine) and *syariah* (Islamic) laws for Muslims, with the common law being applied to non-Muslims. The UMNO, on the other hand, subscribes to secular rule for Malaysia, in spite of the incorporation of Islamic values in its form of governance.

Apart from PAS' dispute with the UMNO over the need to establish an Islamic state, the former also sees the latter as a party unfit to represent the interests and aspirations of the Malays. The UMNO-led government's development agenda has been criticised by PAS as being detrimental to the spiritual development of the Muslim *ummah*. PAS has attributed many of the social ills in Malaysian society, particularly among the Malays, to the liberal socio-economic policies promoted actively by the BN government under Mahathir. Meanwhile, the Abdullah government has been accused of retaining these apparently decadent policies that Mahathir advocated.

While PAS has placed the blame for the inequities and social ills in Malaysia on Mahathir and his grand economic goals, the UMNO has claimed that the Islamic party's reactionary view of Islam has contributed significantly to the poor material development of the *ummah* in the Malay heartland. To UMNO leaders, the economic backwardness of Malays, vis-à-vis the non-Malays, specifically the Chinese, is attributable to their preoccupation with the kind of Islam that PAS propagates, which emphasises matters pertaining to the after-life at the expense of material progress in the world. However, the unprecedented 1997–1998 economic and political crises that occurred in Malaysia appeared to confirm allegations by PAS about the problems with Mahathir's form of economic and business development.

The general election in 1999 was held at a time when Malaysia was still deeply mired in the repercussions of the 1997–1998 currency and political crises. A large number of the Malay electorate – most well-manifested in the Malay

heartland – had voted against the UMNO in this election as they had become extremely disenchanted with the excessiveness of the Mahathir regime that had culminated in the sacking of Anwar as the country's deputy prime minister and finance minister in September 1998.[10] Studies have revealed that among urban Malays there was also a significant swing in the support from the UMNO to the opposition, specifically in the more economically well-developed states of Selangor, Penang and Negri Sembilan.[11]

Many Malays were reputed to have been shocked and appalled by the 'un-Malay' and 'un-Islamic' treatment meted out against Anwar by Mahathir. The UMNO-controlled media was deployed to tarnish Anwar's reputation. He was also beaten up in prison and subsequently charged in court of crimes that were widely believed to be untrue. Even among the so-called moderate Malays, Anwar was seen to be a victim of a very flawed and unaccountable political system that was desperate to maintain and protect the business interests of Mahathir and his allies that were on the brink of collapse at the height of the currency crisis.

Among poor Malays, Mahathir's pro-big business development strategies, implemented at the expense of promoting the rural economy, had seriously tarnished the UMNO's standing as the protector of this community. When Anwar, a very popular Malay grassroots leader, was ousted from government, this act by Mahathir further undermined the UMNO's reputation as a party acting in the interests of the community.

During the 1999 elections, the UMNO's reputation as the champion of the Malays, a title the party had come to enjoy after it was formed in 1946, was severely dented. The party was surprisingly and firmly trounced in Terengganu and in electoral contests between PAS and the UMNO, the latter encountered an embarrassing number of defeats. Interestingly enough, it was PAS, not Anwar's new party, *Parti Keadilan Rakyat* (Keadilan, or the People's Justice Party), that had benefited the most from the growing disenchantment of the Malays with the UMNO. PAS, reputedly an ultra-conservative Islamic party that had often been associated with parochialism and indistinct economic development plans, had emerged for the Malay electorate as the leading alternative to the UMNO.

Under the leadership of Fadzil Noor, widely seen as a moderate voice in PAS, the party had succeeded in projecting an image of being more tolerant and accommodating of non-Muslims, which helped it attract the support of more liberal-minded Malays. Before the 1999 elections, PAS decided to soften its stance on the establishment of an Islamic state and collaborated closely with the other opposition parties, including Keadilan and the socialist-based multiracial Democratic Action Party (DAP), via the newly formed *Barisan Alternatif* (BA, or Alternative Front). These ideologically different parties found common ground on issues such as justice, human rights, democracy, corruption and good governance. Through the BA, PAS emerged as a serious threat to the hegemony of the UMNO after the 1999 elections.[12]

The growing popularity of PAS among the Malay electorate in 1999 was reflected in the results of both the parliamentary and state elections. As Table 5.1 indicates, PAS succeeded in wresting away from the UMNO many Malay-majority

Table 5.1 UMNO's performance in Malay-majority seats (in percentages)

State	*UMNO votes (1990)*	*UMNO votes (1995)*	*UMNO votes (1999)*	*UMNO votes (2004)*	*Change (1995–1999)*	*Change (1999–2004)*
Kelantan	32	43	37	49	−6	12
Terengganu	64	55	41	55	−14	14
Perlis	61	68	56	63	−12	7
Kedah	61	59	50	56	−9	6
Pahang	73	69	53	68	−16	15
Melaka	77	87	66	76	−21	10
Perak	64	70	54	61	−16	7
Penang	76	77	52	62	−25	10
Selangor	68	82	51	61	−31	10
Johor	79	86	75	81	−11	6
Negri Sembilan	72	86	55	71	−31	16
All (Peninsula)	58	62	49	59	−13	10

Source: Maznah (2003: 73).

constituencies. PAS won 27 of the 193 seats in parliament and secured the mandate to form the government in the Malay-majority states of Kelantan and Terengganu. Among the opposition, PAS had the largest number of seats in parliament, usurping the DAP, which had won only 10 seats, as the dominant opposition party in Malaysia. Fadzil was subsequently appointed as leader of the opposition in parliament. For the first time in the history of independent Malaysia, a Malay was chosen as the opposition leader.

The remarkable performance of PAS in the Malay heartland in this federal and state election was a deep embarrassment to the UMNO. During this election, four UMNO cabinet ministers were defeated by relatively unknown PAS candidates, while Najib Razak, the minister of defence, a senior vice president in the party and the eldest son of the much respected former prime minister Tun Abdul Razak, won by a slim majority of just 241 votes. For the first time in the UMNO's history, the party had control of less than half the total number of seats in parliament, seriously undermining its hegemony over the BN.[13]

UMNO–PAS rivalry and the 2004 elections

The Islamic party's sense of ascendancy in Malaysian politics in general, and in the Malay world in particular, following the 1999 elections was short-lived. Five years later, in 2004, PAS not only failed to win more seats in Malay-majority constituencies in Kedah and Perlis, but it also lost power in the state of Terengganu after just one term in office. The UMNO also nearly unseated PAS from power in the state of Kelantan.

In the 2004 elections, the percentage of the popular support for the BN in the Malay heartland states of Perlis, Kedah, Terengganu and Kelantan was 56.1 per cent.

The highest swing in votes for the BN occurred in Terengganu, where the party managed to secure an additional 14.9 per cent of the vote compared with its support in 1999, followed by Kelantan (11.5 per cent), Perlis (7.3 per cent) and Kedah (4.1 per cent).[14] However, it is also noteworthy that PAS registered a marginal rise in its share of the popular vote, from 15 per cent in 1999 to 15.8 per cent in 2004.

In addition to losing 21 parliamentary seats and power in the state of Terengganu, PAS only retained control of Kelantan because it had won three seats more than the UMNO in the state legislative assembly elections. In the Terengganu state assembly after the elections, the breakdown of the distribution of seats was 27 representatives from the UMNO, one from the Malaysian Chinese Association (MCA), a component member of the BN, and four from PAS. In Kelantan, the state legislative assembly now comprises 24 representatives from PAS and 21 from the UMNO.

PAS had won control of government in Kelantan in 1990 and had comfortably retained power here until this general election. The reputedly ultra-conservative Abdul Hadi Awang, who had become the president of PAS following the demise of Fadzil in 2002, lost his position as the leader of the Opposition in parliament and as *Mentri Besar* (chief minister) of Terengganu. Hadi was surprisingly defeated in his Marang parliamentary seat, but managed to retain the state seat of Ru Redang. He is now Opposition Leader in the Terengganu state assembly.

Table 5.1 indicates that the UMNO performed remarkably well in Malay-majority parliamentary constituencies during the 2004 elections. The volume of support for the UMNO in constituencies, where two-thirds of the electorate were Malays, rose from 49 per cent to 59 per cent. However, the percentage of support for the UMNO in Malay-dominated areas in 2004 was still less than what the party had managed to secure in 1995. Unlike voters in Malay-majority constituencies in the Malay heartland, members of this ethnic community in Melaka, Penang, Selangor and Negri Sembilan appeared less willing in 2004 to switch their votes from the BA, specifically Keadilan and PAS, to the UMNO. For example, in Malay-majority constituencies in Selangor, the percentage of votes for the UMNO was 82 per cent in 1995, 51 per cent in 1999 and 61 per cent in 2004.[15]

Under Hadi's leadership, PAS had misunderstood the reason for the growing support for the party by many Malay-Muslims in the 1999 elections. While Hadi viewed this burgeoning support as an endorsement for his party's stand on Islam, the probable reason for the swing away from the UMNO was the electorate's growing disillusionment with Mahathir, coupled with his treatment of Anwar. Even though many Muslims, and not specifically those in the Malay heartland, appeared to be turning more to Islam, it did not appear that they were prepared to support the full and strict implementation of *hudud* and *syariah* laws.

The concept of Islamic state as propagated by PAS was widely criticised, even by other opposition parties, as a factor that would alarm non-Muslims, as implementation of *hudud* and *syariah* would involve day-to-day living issues. The nature of the discourse in the mainstream and alternative media suggested that in spite of the perceived growing Islamic consciousness among members of

the Muslim community, they generally were in favour of secular rule under the BN government.

Moreover, the BN-controlled media succeeded in portraying leaders and supporters of PAS as a group of reactionary Muslim extremists who were anti-progress, anti-development and anti-feminist.[16] The global 'war on terror' launched by Washington in the aftermath of the September 11 event in the US was quickly embraced by the Mahathir government which presented arguments that suggested that PAS was a party that condoned and advocated the use of terror.[17] As noted by one American analyst, 'That PAS is widely perceived as a Taliban-in-waiting is partly due to government scare tactics'.[18] PAS, however, did not help its own case when party leaders made a decision to declare a *jihad* against the US following the war in Afghanistan and Iraq, which tarnished its image among non-Malays as well as moderate Muslims.[19]

Introducing Islam Hadhari

Following PAS' impressive victory in the 1999 elections, Mahathir and his successor, Abdullah, became preoccupied with ways and means to counter the rising tide against the UMNO, particularly in the Malay heartland. As PAS' popularity among the Malays began to seriously undermine the UMNO's hegemony, the BN government actively started promoting what it termed was 'a more moderate and tolerant brand of Islam'. The UMNO began actively condemning the ostensibly radical Islam propagated by PAS, claiming that it was threatening national unity. The UMNO also asserted that PAS had manipulated Islam to achieve its political objective of securing power.

PAS was persistently criticised by many UMNO leaders for sowing the seeds of hatred among young Malay students against BN government leaders. The UMNO argued that PAS' attempt at cultivating a spirit of odium among young Malays towards the BN would contribute to Malay disunity as well as interracial disharmony. PAS, in turn, fairly successfully managed to portray the government as an institution that indulged in violent acts, citing the case of the action taken by the police against protests on the streets by the *reformasi* (reformation) movement. The *reformasi* was the result of Mahathir's forceful eviction of Anwar from government, which led for a long while to a number of huge street demonstrations against the BN.

The alleged role of the numerous independent *sekolah pondok*, or *madrasahs* (Islamic religious schools), in propagating a 'culture of hate' towards the UMNO, particularly in the Malay heartland, prompted the government to review the financial aid accorded to these institutions. As observed by one foreign analyst, 'within Malaysia, (Abdullah) Badawi has moved to limit the influence of the private Islamic schools that have often been seen as ideological training grounds for future terrorists'.[20]

As a means to counter what Mahathir believed was PAS' form of political Islam, which emerged as an even more serious threat to the UMNO after the sacking of

Anwar, he felt that his successor as prime minister had to possess adequate, if not impressive, Islamic credentials that could help his party win back the support of many disillusioned Malays. Mahathir himself would admit that Abdullah was chosen as his deputy because of the latter's impeccable Islamic credentials which could be used to help win over the hearts and minds of rural voters. Abdullah was also seen as the only leader who could help unite the divided Malay community following the Anwar debacle.

Abdullah was subsequently entrusted with the task of wooing back the Malay electorate from PAS. The smooth transition of power from Mahathir to Abdullah, who officially became Malaysia's fifth prime minister in November 2003, was very much welcomed by many quarters from within the Malay community, as well as the international community,[21] but not necessarily by a majority of the non-Malays.

After more than 20 years of Mahathirism,[22] Abdullah was eager to introduce new initiatives that would help discard the idea that his premiership would be conditioned by the many legacies of his predecessor. More importantly, Abdullah was particularly concerned with the need to rebuild the UMNO's image as a party committed to championing the interests of the Malays.

His new initiatives included the call to combat corruption, the introduction of the report card system to record the attendance of BN members when parliament was in session, the founding of the National Integrity Institute and the establishment of an Independent Royal Commission on the Police Force, to help improve the Malaysian public's eroding image of this institution. Abdullah's most important new contribution to Malaysian politics was his promotion of his own personal imprint of a form of Islam acceptable to all Malaysians.

Islam Hadhari,[23] or civilisational Islam, can be interpreted as an attempt by prime minister Abdullah to dissociate himself from the type Islam of promoted by Mahathir, a practice of faith that was apparently far too biased towards the idea of material development with inadequate attention to matters spiritual.[24] For Abdullah, 'Islam Hadhari is an approach that emphasises development, (but) consistent with the tenets of Islam and focuses on enhancing the quality of life'.[25]

The Abdullah government introduced the concept of Islam Hadhari in the UMNO/BN manifesto for the 2004 general elections. In his election campaigns, Abdullah repeatedly stressed that while his Islam Hadhari was progressive and inclusive, PAS' understanding of Islam, that it wanted to foist on all Malaysians, was reactionary and exclusive. For Abdullah, Islam Hadhari was suitable and relevant in the context of Malaysia's multi-ethnic and multi-religious society.

Islam Hadhari, as espoused by Abdullah, served to achieve two basic goals. First, the concept helped to situate the role of Islam and the Muslim *ummah* in the context of the development of the Malaysian economy. Muslims would be encouraged to seek knowledge, namely in science and technology, which could, in turn, help improve the socio-economic standing of the *ummah* as well as generate economic growth. Second, Islam Hadhari would help bridge differences between Muslims and non-Muslims, thus serving to overcome racial polarisation that remained a serious problem in the country.

Although Abdullah made a concerted effort to articulate his understanding of Islam Hadhari, most analysts appeared baffled about the difference between this concept and that of the Islamic agenda of past UMNO-led BN governments.[26] Some analysts pointed out that the primary tenets of Islam Hadhari strongly resembled the secular-based Vision 2020 agenda promoted by Mahathir. Islam Hadhari was most strongly criticised by PAS leaders. Husam Musa, a PAS youth leader, saw Islam Hadhari 'as just a political concept promoted by UMNO and does not represent the faith itself'.[27] He further argued that the public should first be educated about this 'political product' before it is promoted in the 'market place'.[28]

What was clear with the introduction and active propagation of Islam Hadhari was that while the UMNO had long criticised PAS for abusing Islam to secure electoral support from among Muslims, the UMNO was now overtly resorting to the same strategy. The UMNO's fear of the further 'greening' of the Malay heartland, as PAS extended its influence over the Malay electorate, meant that it was now imperative for it to counter the Islamic party's ascendancy by promoting its own type of Islam.

For both the UMNO and PAS, Islam was seen as the most important and effective means to secure political support. The UMNO, however, hoped that with Islam Hadhari, the party had found a means to propagate a concept that though inherently divisive in the Malaysian context, yet was one that could attract the support of non-Muslims as well. One analyst would note that Abdullah's Islam Hadhari had made quite an impression on members of the non-Muslim community.[29]

Leaders of the Western world also appeared enamoured by Abdullah's Islam Hadhari, seen primarily in the comments they made during the Malaysian prime minister's official visits to the US, France and Britain a few months after the March 2004 elections. For example, British prime minister Tony Blair described Malaysia as a model Islamic country that should be emulated by the rest of the Muslim world.[30]

But it was in the Malay states of Perlis, Kedah, Terengganu and Kelantan that Islam Hadhari was most aggressively promoted, particularly during the 2004 election campaign period. Inevitably, many analysts interpreted the BN's landslide victory in the 2004 elections as public endorsement of Islam Hadhari and the primary issue that had contributed to the BN's landslide victory.[31]

An almost equal number of analysts had similarly concluded that PAS' impressive electoral performance in 1999 was primarily because of its Islamic appeal. However, one analyst who refuted the significance of Islam in the 1999 elections was Funston who argued that 'Islamic issues were prominent in the (1999) campaign because the conflict between Mahathir and Anwar has to a large extent been defined in Islamic terms. But Islam was never the major election issue. PAS made gains not because it represented fundamentalism but by identifying with the mood for change'.[32]

The importance of Islam in the 2004 elections was probably overly exaggerated and almost certainly misunderstood. At best, the issue of Islam in this general

election should be understood in terms of its link with the personality and image of the new prime minister that the BN actively sought to promote. Abdullah was packaged by the ruling coalition as a compassionate, more accommodating Muslim leader who would serve to heal the wounds that had erupted among Malays under Mahathir.

Islam, personality politics and the 2004 elections

A great deal has been said about the importance of personalities in understanding Malaysian politics.[33] For the early 1980s until 2003, Malaysia's domestic politics and its external conduct were significantly influenced by the ideas and idiosyncrasies of one man – Mahathir.[34] During the more than 20 years of Mahathirism,[35] the influence of institutions including the UMNO in Malaysian politics diminished as power came to be centred in the office of the prime minister.[36] Long conditioned by the personalised nature of Malaysian politics, both the media and public inevitably focused on Abdullah and his personality in order to determine how the form of governance would change under his rule. There was much concern that Abdullah would not be able to put his own stamp on government given Mahathir's overwhelming influence over the state during his tenure.

From the point he took over as prime minister, however, Abdullah, building on Malaysia's personality-based style of politics, moved decisively with the aid of the UMNO-controlled media to portray himself in a different mould from his predecessor. The theme of Islam would figure prominently in Abdullah's new vision for Malaysia. For this reason too, when Islam Hadhari was introduced just before the 2004 elections, this concept was strongly associated with the personality and character of Malaysia's new leader. Abdullah's understanding of Islam, it was argued in the UMNO-controlled press, would henceforth shape the nature of domestic politics and the future policy orientations of the country.

During the elections, the 'Abdullah factor' was seen as being crucial in order to understand electoral voting trends.[37] Similarly, the untimely demise of the reputedly moderate Fadzil was widely seen as a serious blow to PAS. Fadzil had been very instrumental in getting PAS to work with the DAP and Keadilan to form the opposition coalition, BA.[38] It was also argued that the absence of Mahathir in the 2004 election had a vital bearing on voting trends.[39]

The widely held image of Mahathir, particularly among rural Malays, was that he was 'anti-Malay' and 'anti-Islam', an impression that emerged during the *reformasi* and a view that the ex-prime minister found difficult to shrug off. The sacking of Anwar from the UMNO and the government had not gone down well with poor, rural Malays as he had cultivated and maintained his image as a defender of the causes of Islam and a leader concerned with the issue of rural poverty. Mahathir also became unpopular among the Malay masses because of his critical evaluation of the Malay psyche[40] and his secular interpretation of Islam towards the end of his premiership. While Mahathir's brand of Islam involved a link to economic progress, the irony for poor Malays was that his development policies had done little to alleviate them out of poverty. It was probably for this

reason too that during the 1999 elections the UMNO took a massive thumping from the opposition in the Malay heartland. After this general election, even UMNO members covertly acknowledged that Mahathir had become a liability to the party.

Mahathir's unexpected decision to retire from public office probably eased a great deal the UMNO's mission to win back Malay support. Moreover, Mahathir's controversial even combative style of leadership probably made it easier for Abdullah to promote himself as a more open and caring Malay-Muslim leader.

Malaysians from all walks of life, who had become concerned with issues such as poor governance and corruption under Mahathir, were encouraged by Abdullah's commitment to ensure integrity and accountability in the public sector. Undoubtedly, Abdullah's successful promotion of his anti-corruption agenda, an issue which the Opposition felt had been hijacked from them by him, helped the prime minister consolidate his position within government, though not necessarily within the UMNO. Although Abdullah's relatively clean record in the UMNO, in spite of the party's deeply monetised system of politics,[41] gave him the moral right to espouse his intent to clean up the state, party members became increasingly anxious about the implications of this agenda on them.

After his appointment as prime minister, Abdullah's inner circle of advisers seized every media opportunity they could to present him as a thoughtful and gentle Malay leader who understood the plight of ordinary *kampung* (village) Malays. Abdullah himself did not mind being addressed as 'Pak Lah',[42] a term of undoubted endearment used to win over the Malaysian public. Abdullah's Islamic background and credentials became closely associated with his public persona at home and abroad.

The UMNO-controlled media was actively deployed to project the idea that Abdullah was totally different from Mahathir, not only in terms of approach and style, but also in manner and attitude. The media repeatedly drew attention to Abdullah's Islamic piety, his Malay cultural roots, his simple and humble past, his filial respect and his family's long history of involvement in the UMNO, to contrast him with his predecessor and in order to recover the support of Malays who had opted to vote for PAS in 1999.

In spite of this attempt to expose widely Abdullah's Islamic face and his Islam Hadhari, Malay voters were probably generally quite indifferent to this propaganda, as they were probably indifferent to PAS' understanding of the religion. This view was confirmed when, several months after the 2004 elections, certain quarters within the Malay community, including those in the UMNO, began questioning the lack of information on and support for Islam Hadhari. These criticisms included the inadequate attempts by the UMNO machinery to help educate its members as well as the general public about Islam Hadhari. Abdullah only spelt out the actual substance of Islam Hadhari six months later, during UMNO's General Assembly in September 2004. Abdullah also established a special committee within the party to explain the merits and relevance of Islam Hadhari to UMNO leaders and members. For this reason, it is unlikely that Abdullah's endorsement as prime minister was because of public support for Islam Hadhari.

Rise of PAS 'radicals'

The prominence of Islam during the 2004 elections can also be traced to PAS' growing – and public – fervour for the establishment of an Islamic state under the new leadership of Hadi Awang following the untimely demise of the more moderate Fadzil. What was also noteworthy was PAS' response, namely that by the senior party leaders, to the strategies adopted by the UMNO to win over the support of Malay voters.

Once again, the personalities of individual leaders help explain the dynamics of Malaysian politics. The over-emphasis on Islam by PAS during the 2004 election campaign period was primarily because of the orientation and influence of prominent party personalities, specifically Hadi and Nik Aziz. In his eagerness to counter the growing popularity of Abdullah as a modern and progressive Muslim leader, Hadi committed a series of blunders that upset certain quarters within the Malay populace, including those who were generally sympathetic towards PAS. Hadi's personal attack on Abdullah at a time when he was mourning the demise of his mother did not go down well with many Malays. Hadi probably alienated voters when he claimed that Lim Kit Siang and Karpal Singh, two senior leaders of the DAP, which was once a key member of the BA, were now 'irrelevant' in Malaysian politics. Hadi's statement was subsequently used by the mainstream media to portray him as an uncompromising and arrogant leader, an image that was placed in stark contrast with the unassuming image of the new UMNO leader, Abdullah.

Equally damaging was the disparaging remark by Nik Aziz about the highly respected former academic, Syed Husin Ali, also the deputy president of Keadilan, a key PAS partner in the BA. Nik Aziz dismissed the possibility that Syed Husin would be nominated to contest a parliamentary seat in Kelantan on the grounds that he was a 'socialist'. Nik Aziz was reported to have said, '*Terus terang saya sebut, saya tolak yang berjiwa sosialis. . . . Ini kerana sejak zaman-berzaman apabila disebut sosialis ia dikaitkan sebagai adik sedikit daripada komunis. Bila saya letak calon, saya hendak menang, jadi orang begini (Syed Husin), saya tidak yakin dia akan menang*.' (Honestly I say, I reject those with a socialist soul. . . . This is because from time immemorial, when socialism was mentioned, it was linked as being a slightly different version of communism. When I choose a candidate, I want to win, so a man like this (Syed Husin), I have little faith he will win.)[43] In an interview, Syed Husin's response to this comment was that 'it appeared Nik Aziz had been influenced by the ruling coalition's propaganda to believe that a person with socialist background was "un-Islamic" '.[44]

These puerile remarks by Hadi and Nik Aziz put them in a poor light among Malaysian voters. Their comments only confirmed a common perception, particularly among non-Malays, about the intolerance, arrogance and parochialism of senior PAS leaders. The subsequent heavy defeat that PAS registered in this general election suggested that the conservative leadership of the party as well as its brand of Islam was not acceptable by Malays as well as non-Malays.

Abdullah's repeated message that Islam was being abused and manipulated by PAS as part of its grand strategy to assume political power was a view subscribed to by many Malaysians. PAS was also accused by the UMNO of splitting the Muslim community, while Abdullah was projected as the only person who could heal the serious rifts that had emerged among the Malay electorate.

Islam and rural development under Abdullah

The heavy beating that PAS took at the hands of the UMNO among rural Malays supported the observation that the Islamic party's growing backing prior to this election was because of the mounting disillusionment with Mahathir and his policies by this segment of the electorate. Abdullah's public resolve to promote the rural sector as part of his government's new development agenda was sufficient to woo back Malay voters to the UMNO. Bowring made a similar argument: 'More important in the swing against PAS, however, was not religion but a pick-up in the rural economy and above all, the retirement of Prime Minister Mahathir bin Mohamad'.[45]

Mahathir's economic liberalisation endeavours following the recession in the mid-1980s were perceived as being too heavily biased in favour of big business and foreign capital. The attempt to create Malay capitalists, Malaysian conglomerates and heavy industries benefited only an elite, that is members of the business and professional class who Mahathir saw as the group that would help him fulfil his goal to industrialise Malaysia. The 1997 currency crisis, however, seriously undermined Mahathir's economic agenda and led to the rapid decline of firms developed by business people selected and cultivated by him. When Mahathir resorted to controversial bail-outs of some of these ailing but well-connected companies, this became one factor that contributed to the rejection of the UMNO in the 1999 elections.

When the UMNO failed to address the socio-economic problems of rural Malays, the party was seen as abandoning its traditional role as the 'protector' of Malay interests.[46] It was thus in the interest of the Abdullah government to argue for the need to ensure the participation of members of rural Malaysia in his development strategies. Abdullah realised that for the UMNO to be viewed again as being relevant to the Malays, it was important for the government to specifically target the rural community, to whom aid, in various forms, would be provided.

By focusing on the agriculture sector, Abdullah was able to reach out to the more than 600,000 farmers in the country, many of whom are rural Malays living in the stronghold areas of PAS. As noted by Syed Arabi, 'He (Abdullah) made the rural Malays feel that UMNO is again caring for them when he announced his policy shift by giving ample emphasis to agriculture'.[47]

The commitment of the new government towards improving the socio-economic status of rural Malays was evident in its decision to enlarge the Ministry of Agriculture. Muhyiddin Yasin, a senior cabinet minister closely allied with the prime minister, was given the task of leading this ministry, which was re-named the Ministry of Agriculture and Agro-based Industry. The primary task of this

ministry is to help develop agricultural and agro-based industries to a point where it would become the leading sector in the Malaysian economy in terms of contribution to the GDP.[48]

Conclusion

Since the early 1990s, intra-Malay politics, specifically the contentious UMNO–PAS rivalry, has dominated Malaysian politics and society, particularly in the north and north-eastern Malay states of Kedah, Perlis, Kelantan and Terengganu. The battle for the hearts and minds of the Malay populace had been largely fought through the propagation of brands of Islam which each contending party claimed most fairly reflected the true teachings of this religion.

Throughout the 1990s, the debate on the values and practice of Islam coincided with the aspirations of the ambitious Mahathir to modernise and industrialise the Malaysian economy. In his eagerness to transform Malaysia's economy and society, Mahathir's government was criticised by PAS for neglecting the spiritual and religious development of its citizens. The uneven development of regions in the peninsula – as well as in Sabah and Sarawak – with rural Bumiputeras most intensely marginalised, followed by the shocking treatment of Anwar after his dismissal from government in 1998, alienated Mahathir further from much of the Malay electorate.

One of Abdullah's immediate tasks on his appointment as prime minister was to regain the support of the Malays who had abandoned the UMNO for PAS. The results of the historic 1999 general elections, held at the height of *reformasi*, was a clear warning to the UMNO that it was well on the road to oblivion in the Malay heartland. For Abdullah, whose Islamic credentials gave him some credibility to take on the PAS *ulama* on an interpretation of the religion, one way to secure the support of the disenchanted Malay electorate was through the promotion of a more tolerant and compassionate brand of Islam – Islam Hadhari. The nebulous nature of this concept suggests, however, that Islam Hadhari was more a political ploy to secure support than a real vision for the practice of this religion in a multi-ethnic and multi-religious society. The government remains embroiled in an attempt to define this concept in an articulate and coherent fashion. It is, however, probably unnecessary, for Abdullah's government to define Islam Hadhari as this study has brought into question the importance of Islam in securing the support of the Malay electorate.

The perceived importance of Islam in understanding the impressive 2004 electoral performance of the BN was a result of the active promotion of Abdullah as an exemplary Muslim leader. It was, however, the successful propagation of the idea that Abdullah was committed to the plight of poor Malays, his active promotion of his intent to develop the rural economy and his declaration to create a more transparent and accountable administration that was most crucial in swinging votes to the UMNO. Evidently, the politics of Islam, namely the so-called 'progressive Islamic agenda' of the Abdullah-led BN, was not as relevant or as effective as idea of the 'politics of rural development' in helping

the UMNO regain its status as a party that represented the interests of the Malays. The vote for Abdullah was also a message from the electorate that they were expecting him to fulfil his pledge to institute real and meaningful political and economic reforms in Malaysia.

Notes

1 The eleventh general elections was, undoubtedly, one of the most controversial in Malaysian electoral history. Many voters, particularly those in Selangor and Kuala Lumpur, were denied their right to vote as their names were missing from the electoral roll. In an unprecedented move, the Election Commission (EC) allowed the voting period to be extended by two hours in the state of Selangor. There were many claims of irregularities in the conduct of this general election, especially in the states of Selangor, Terengganu and Kelantan. The prime minister himself would eventually order the EC to investigate why many voters were not allowed to vote. One day after the general elections, opposition parties submitted a memorandum to the *Suruhanjaya Hak Asasi Manusia* (SUHAKAM, or the Malaysian Commission on Human Rights), demanding that the election results and the formation of a cabinet be suspended. The memorandum also contained evidence of a conspiracy by the BN to rig the results and proof that the EC had purposely issued two electoral rolls to confuse voters. For analyses of the 2004 general elections, see, for example, Devaraj (2004) and Loh (2004).
2 PAS had won seven parliamentary seats in the state of Kelantan in this election. However, following a controversial court ruling on 23 June 2004, Kalthom Othman of PAS had to relinquish her Pasir Puteh seat to UMNO's Che Min Che Ahmad.
3 See, for example, the commentaries by Kuppuswamy (2004), Kolesnikov-Jessop (2004) and Teo (2004).
4 Kuppuswamy (2004).
5 See, for example, Yang Razali Kassim (2004a).
6 Yeoh (2004).
7 For a comprehensive study on the evolution of PAS, see Farish (2004a).
8 See, for example, Syed Ahmad (2002) and Abdul Fauzi (2000).
9 See, for example, Chin (2003, 2004b). See also Chapter 4 in this volume.
10 See, for example, Funston (2000a,b); Weiss (2006).
11 See, for example, Maznah (2003); Gomez (2004).
12 See Syed Ahmad (2002); Maznah (2003).
13 Gomez (2004: 9, 10).
14 Premesh (2004).
15 This argument is also based on my own calculation of the electoral results in 68 Malay-majority parliamentary constituencies where more than 66 per cent of the registered voters were Malays, following the 2004 delineation exercise.
16 For an assessment of the role of the media in Malaysian politics, see Mustafa (2002).
17 See Khadijah (2003) and Chin (2004a).
18 Slater (2004: 2).
19 See, for example, Farish (2001).
20 McKay (2004).
21 For a positive commentary on Abdullah by the international press, see, for example, Elegant (2004).
22 Khoo (1995).
23 For a critical analysis on Islam Hadhari, see, for example, Farish (2004b) and Bakri Musa (2004).
24 This viewpoint was offered by Prof. Osman Bakar of Georgetown University, Washington DC, during an interview in January 2005.

25 Quoted in Puah (2004).
26 This argument is based on the author's interview with several individuals representing different research institutes and governmental and non-governmental bodies in the US on the subject of Islam Hadhari. These Americans were generally optimistic about Islam Hadhari and endorsed the widely held view that Malaysia was a moderate, multi-racial and economically developed Muslim country. See also the response of the international media to Abdullah's appointment as prime minister. He was hailed as a moderate and progressive Muslim.
27 As quoted in Beh (2004).
28 Beh (2004).
29 See, for example, commentary by Yang Razali (2004b).
30 *The Star* (24 July 2004).
31 See, for example, Ooi (2005); Yang Razali (2004a,b).
32 Funston (2000a: 56).
33 See, for example, Khoo (1995) and Hwang (2003).
34 Khoo (1995), Saravanamuttu (1996), Camroux (1994), Khadijah (1999).
35 Khoo (1995).
36 See Gomez and Jomo (1999).
37 During the 1999 general elections, an understanding of the personality of key political actors, such as Mahathir, Anwar, Wan Mokhtar Ahmad, former *Mentri Besar* of Terengganu, and Fadzil Noor of PAS, and their role in Malaysian politics was seen as important in an analysis of voting trends. Wan Mokhtar was the longest serving *Mentri Besar* of Terengganu. He was appointed *Mentri Besar* in 1975 and retained this post until he lost his state seat in the 1999 election. The loss of Terengganu to PAS was largely attributed to his ineffective leadership.
38 Fadzil was known to be closely associated with Anwar. The close relationship between the two men was forged when both were active members of ABIM.
39 This comment was made by Heng Pek Koon, Associate Professor, American University, Washington, USA, during an interview in February 2005.
40 See, for example, Mahathir's poem entitled *Melayu Mudah Lupa* (Malays Easily Forget), which was read out during the 2001 UMNO General Assembly, one year before he announced his retirement from active politics.
41 See Gomez (1990).
42 This term, loosely interpreted, means 'Father Abdullah'. The affix 'Pak' is a mark of deep respect for an older figure.
43 Quoted in Utusan Malaysia Online, 11 March 2004, http://www.utusan.com.my/utusan/content.asp?y=2004&dt=0311&pub=Utusan_Malaysia&sec=Muka_Hadapan&pg=mh_02.htm
44 Quoted in *The Sun* (12 March 2004).
45 Bowring (2004). See also the Introduction of this volume.
46 Chandra (1992).
47 Syed Arabi (2004).
48 See, for example, Chin (2004b) and Yong (2004).

References

Abdul Fauzi Abdul Hamid (2000), 'Political dimensions of religious conflict in Malaysia: state response to an Islamic movement', *Indonesia and the Malay World*, 28 (80), 32–65.

Bakri Musa, M. (2004), 'Lofty but empty ideals of Islam Hadhari', *Malaysiakini*, 9 November, http://www.malaysiakini.com/print.php?id=31318

Beh Lih Yi (2004), 'PAS wants UMNO to explain *Islam Hadhari*', *Malaysiakini*, 6 October, http://www.malaysiakini.com/print.php?id=30578

Bowring, Philip (2004), 'Religion takes a back seat in Southeast Asia', *International Herald Tribune*, Saturday, 27 March, http://www.iht.com/articles/512117.html

Camroux, David (1994), 'Looking East . . . and inwards: internal factors in Malaysian foreign relations during the Mahathir era, 1981–1994', Australia Paper No. 2, Faculty of Asian & International Studies, Australia: Centre for the Study of Australia–Asia Relations, Griffith University, October 1994.

Chandra Muzaffar (1992), *Pelindung? (Protector?)*, Penang: Aliran Kesedaran Negara.

Channel News Asia (2004), 'PM Abdullah lodges complaint against Election Commission over glitches', 22 March, http://www.channelnewsasia.com/stories/southeastasia/view/76530/1/.html

Chin, P.Y. (2004), 'Turning agriculture into a money-spinner', *New Sunday Times*, 11 April, 13.

Chin Yong Liow, Joseph (2003), 'Deconstructing political Islam in Malaysia: UMNO's response to PAS' religio-political dialectic', Working Paper Series No. 45, Institute of Defense and Strategic Studies (IDSS), Singapore, http://www.ntu.edu.sg/idss/workingPapers/WP45.pdf

Chin Yong Liow, Joseph (2004a), 'The Mahathir Administration's war against Islamic militancy: operational and ideological challenges', *Australian Journal of International Affairs*, 58 (2), June, 24–256.

Chin Yong Liow, Joseph (2004b), 'Exigency or expediency?: Contextualising political Islam and the PAS challenge in Malaysian politics', *Third World Quarterly*, 25 (2), 359–372.

Devaraj, Jeyakumar (2004), 'The 2004 BN victory: by fair means or foul?', *Aliran Monthly* (5).

Elegant, Simon (2004), 'A new vision for Malaysia', *Time Asia*, 22 March, http://www.time.com/time/asia/magazine/article/0,13673,501040322-600931,00html

Farish A. Noor (2001), 'Living in the shadow of 11 September: how external variable factors have shaped the domestic politics of Malaysia', *Dialogue and Cooperation*, Occasional Papers Series, Southeast Asia and Europe, Friedrich Ebert Stiftung, Singapore.

Farish A. Noor (2004a), *Islam Embedded: The Historical Development of the Pan-Malaysian Islamic Party PAS (1951–2003)*, vols 1 and 2, Kuala Lumpur: Malaysian Sociological Research Institute.

Farish A. Noor (2004b), 'Race, racism and Islam Hadhari', *Malaysiakini*, 2 October, http://www.malaysiakini.com/columns/30474

Funston, John (2000a), 'Malaysia's tenth elections: status quo, *reformasi* or Islamization?', *Contemporary Southeast Asia* 22 (1).

Funston, John (2000b), 'Election fervour: political contest in Thailand and Malaysia', No. 9, September 2000, Singapore: Institute of Southeast Asian Studies, http://www.iseas.edu.sg/pub.html

Gomez, Edmund Terence (1990), *Politics in Business: UMNO's Corporate Investments*, Kuala Lumpur: Forum.

Gomez, Edmund Terence (2004), 'Introduction: politics, business and ethnicity in Malaysia: a state in transition?', in Edmund Terence Gomez (ed.), *The State of Malaysia: Ethnicity, Equity and Reform*, London: RoutledgeCurzon.

Gomez, Edmund Terence and Jomo, K.S. (1999), *Malaysia's Political Economy: Politics, Patronage and Profits*, Cambridge: Cambridge University Press.

Hwang In-Won (2003), *Personalized Politics: The Malaysian State under Mahathir*, Singapore: Institute of Southeast Asian Studies.

Khadijah Md. Khalid (2003), ' "September 11" and the changing dynamics of Malaysia US relations', *Asian Review*, 16, Institute of Asian Studies, Chulalongkorn University, Bangkok, 91–112.

Khoo Boo Teik (1995), *Paradoxes of Mahathirism: An Intellectual Biography of Mahathir Mohamad*, Kuala Lumpur: Oxford University Press.

Kolesnikov-Jessop, Sonia (2004), 'Moderate Islam wins in Malaysia', *United Press International* (UPI), 22 March (reproduced in *The Washington Times*, http://www.washtimes.com).

Kuppuswamy, C.S. (2004), 'Malaysia-elections 2004: an analysis', South Asia Analysis, Paper No. 961 (24 March).

Loh Kok Wah, Francis (2004), 'Understanding the 2004 General Election: looking beyond the Pak Lah factor', *Aliran Monthly*: 3, http://www.aliran.com/monthly/index.html

McKay, John (2004), 'Malaysia's new mood', *TCS: Tech Central Station*, 30 June, http://www2.techcentralstation.com/1051/printer.jsp?CID=105-063004A

Maznah Mohamad (2003), 'The contest for Malay votes in 1999: UMNO's most historic challenge?', in Francis Loh Kok Wah and Johan Saravanamuttu (eds), *New Politics in Malaysia*, Singapore: Institute of Southeast Asian Studies.

Mustafa K. Anuar (2002), 'Defining democratic discourses: the mainstream press', in Francis Loh Kok Wah and Khoo Boo Teik (eds), *Democracy in Malaysia: Discourses and Practices*, Richmond: Curzon Press.

Ooi Kee Beng (2005), 'Malaysia proves Islam can drive economic growth', *Taipei Times*, 6 September, 9, http://www.taipeitimes.com/News/editorials/archives/2005/09/06/2003270597

Premesh Chandran (2004), 'Election 2004 in perspective', *Malaysiakini*, 23 March, http://www.malaysiakini.com/print.php?id=22623

Puah, Pauline (2004), 'PM: Islam Hadhari not a new Muslim "sect"', *Malaysiakini*, 23 September, http:www.malaysiakini.com/print.php?id=30272

Saravanamuttu, Johan (1996), 'Malaysian foreign policy in the Mahathir period, 1981–1995: an iconoclast come to rule', *Asian Journal of Political Science*, 4 (1) (June), 1–16.

Slater, Dan (2004), 'Democracy takes a thumping: Islamist and democratic opposition in Malaysia's electoral authoritarian regime', *Kyoto Review* (Feature/March), http://kyotoreview.cseas.kyoto-u.ac.jp/issue/issue4/article-355.html

Syed Ahmad Hussein (2002), 'Muslim politics and the discourse on democracy', in Francis Loh Kok Wah and Khoo Boo Teik (eds), *Democracy in Malaysia: Discourses and Practices*, Richmond: Curzon Press.

Syed Arabi Idid (2004), 'PAS assumptions spelt failure', *The Star Online*: Malaysian elections 2004, http://thestar.com.my/election2004/story.asp?file+/2004/3/25/e2004_features/7616767&sec=e2

Teo Chu Cheo, Eric (2004), 'Malaysia gives Islam a chance to shine', *The Japan Times*, http://202.221.217.59/print/opinion/eo2004/eo20040419a1.htm

Weiss, Meredith L. (2006), *Protests and Possibilities: Civil Society and Coalitions for Political Change in Malaysia*, Stanford: Stanford University Press.

Yang Razali Kassim (2004a), 'Islamism's Malaysian setback', 15 August, http://www.techcentralstation.com/051804B.html

Yang Razali Kassim (2004b), 'Enter the Badawi era: implications of Malaysia's general election 2004', IDSS Commentaries, 5 April, www.ntu.edu.sg/idss/publications/Perspective/IDSS102004.pdf

Yeoh, Michael (2004), 'Analysis of the 11th general election', 29 March, http://66.102.7.104/search?q=cache:KbA5A2Er9qkJ:www.asli.com.my/documents/ANALYSIS_GE.pdf+Islam+and+the+2004+Malaysian+General+Election&hl=en

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